

Tax Laws American states 1924. Vol. II.

Virginia Tax Laws 1924, with Sections of the code and Acts of Assembly in relation to the duties of the commissioners of the Revenue and Treasurers.

- 2) X72: (Z7317)
Missouri Inheritance Tax Law compiled from revised Statutes 1909, and Section Acts of 1924.
- 3) X726: (Z7335)
State of Missouri Income Tax Law Nov. 2, 1924. X724: (Z7335)
- 4) Constitution and Laws of Kansas relating to Assessment and Taxation. 1924.
- 5) Indiana X722: (Z7333)
Law relating to the Assessment and Taxation of property concerning the duties and powers of Taxing officers. 1922.
- 6) X722: (Z7377)
Revenue Laws of the state of Washington June 1917. X72: (Z7361)
- 7) Laws relating to the Assessment, Collection, etc. of Property and Inheritance Taxes. 1921. Porto Rico 1920.
X722dj726: (Z7377)

Virginia Tax Laws

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1924

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WITH SECTIONS OF THE CODE AND ACTS OF
ASSEMBLY IN RELATION TO THE
DUTIES OF THE

Commissioners of the Revenue and Treasurers

OF THE SEVERAL COUNTIES AND CITIES

X72 : (Z 7317)

COMPILED AND ISSUED BY THE
AUDITOR OF PUBLIC ACCOUNTS

JUNE 16, 1924.

RICHMOND:
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1924

TAX LAWS

COMMONWEALTH OF VIRGINIA,

OFFICE OF THE AUDITOR OF PUBLIC ACCOUNTS,

RICHMOND, VA., *June 16, 1924.*

This edition of the Tax Laws contains the amendments to those laws made by the General Assembly at the extra session in 1923 and at the regular session of 1924.

ACTS OF ASSEMBLY.

Motor vehicle fuels (gasoline tax) act March 26, 1923, amended by Acts of Assembly, 1924.

Motor vehicle carriers, regulation and taxation of, act April 3, 1923, amended by Acts of Assembly, 1924.

Act imposing additional taxes on recordation of deeds and other writings; on railway and canal corporations; on express companies; on telegraph companies; on telephone companies; on water, heat, light and power companies; and on insurance companies; which applies to the assessment and collection of taxes for years 1924 and 1925 but not thereafter. Approved March 15, 1924.

Act imposing special State tax on water, heat, light or power companies, on telegraph companies, on telephone companies, on electric railway corporations and on motor vehicle carriers, to defray expenses of valuation of their properties by the State Corporation Commission; also to impose an annual State tax on the Virginia Pilots' Association. Approved March 20, 1924.

Blue Sky Law—to prevent unfairness, fraud, etc., in sale of securities, act March 20, 1920, amended by Acts of Assembly, 1923.

State Tax Commission (successor to State Tax Board) and local boards of equalization provided for, act March 20, 1924.

Lands conveyed by the United States pursuant to contract, when assessable, act March 20, 1923.

To release all liens upon real estate for taxes and levies due and payable to the Commonwealth or any political subdivision thereof prior to July 10, 1902, act March 20, 1924.

Claim of Commonwealth and her political subdivisions for taxes, levies, etc., with penalty and interest thereon given preference, act of February 13, 1924.

License not to be issued until certificate of payment of State capitation tax for tax year immediately preceding the last preceding tax year filed by applicant, act March 15, 1924.

TAX SECTIONS, CHANGES IN.

Section 6. Tangible personal property—Definition of.

Section 8, subsection 1. Taxation of bonds, notes and other evidences of debt.—This section amended so as to prescribe penalty for failure to report for taxation; also provides that reporting value at fifty per centum or less of actual value shall be prima facie evidence of intention to evade payment of taxes; also provides what is to be alleged in pleadings in action at law or suit in equity for collection of bonds, notes and other evidences of debt.

Section 11. Taxation of income.—This section amended so as to exempt from taxation dividends from shares of stock of State and national banks, banking associations, trust and security companies.

Section 13. This section not amended but the act of March 15, 1924, mentioned under title "Acts of Assembly," imposes additional tax of two cents for recordation of deeds, deeds of trust and other writings for each of the years 1924 and 1925, but not thereafter.

Section 43. Franchise tax—Changing rates to be assessed annually on maximum capital stock of corporations other than public service corporations.

Section 44. Inheritance tax—Administration placed under Auditor Public Accounts respecting estates of persons dying on and after April 1, 1924.

Section 106. Theatre—License tax to be paid changed.

Section 106½. Moving picture show—License tax to be paid changed.

Sections 108 and 109. Circus, animal show, carnival and other shows—License tax to be paid changed.

Section 129. Labor agent or emigrant agent—License tax to be paid changed and what authorized to be done under license.

Express companies—Additional license tax of 3/20 of one per centum upon gross receipts for each of the years 1924 and 1925 but not thereafter, act March 15, 1924, mentioned under title "Acts of Assembly."

Insurance companies—Additional license tax of 1/8 of one per centum upon gross premiums for each of the years 1924 and 1925 but not thereafter, act March 15, 1924, mentioned, under title "Acts of Assembly."

Railway and canal corporations—Additional franchise tax of 1/16 of one per centum on gross transportation re-

ceipts for each of the years 1924 and 1925, but not thereafter, act March 15, 1924, mentioned under title "Acts of Assembly."

Telegraph companies—Additional license tax of 12½ cents per mile of line of polls or conduits and ¼ of one per centum of gross receipts for each of the years 1924 and 1925 but not thereafter, act March 15, 1924, mentioned under title "Acts of Assembly."

Telephone companies—Additional license tax of ¼ of one per centum of gross receipts and 25 cents per mile of line of polls or conduits for each of the years 1924 and 1925 but not thereafter, act March 15, 1924, mentioned under title "Acts of Assembly."

Water, heat, light and power companies—Additional franchise tax of 1/16 of one per centum of gross receipts for each of the years 1924 and 1925 but not thereafter, act March 15, 1924, mentioned under title "Acts of Assembly."

Valuation of properties by State Corporation Commission, to defray expenses of—Act March 20, 1924—Special tax of 1/10 of one per centum of gross receipts:

- On electric railway corporations;
- On motor vehicle carriers;
- On telegraph corporations;
- On telephone corporations;
- On Virginia Pilots' Association;
- On water, heat, light and power corporations.

• MARRIAGE LICENSES.

To be issued under seal of court, superimposed upon a wafer; State tax \$2.00; furnished by Auditor of Public Accounts for use of clerks of courts, section 5072 of the Code, as amended by act approved March 15, 1924.

CODE SECTIONS AMENDED.

Section 2233. When and how assessors appointed to assess lands and lots.

Section 2244. Duties of assessors; duties of commissioners of revenue.

Section 2248. How and when erroneous assessment of lands corrected and how and when assessment of lands increased on application of owner thereof.

Section 2249. Clerks to certify to Auditor and assessors, or commissioners of the revenue, all changes made by courts and local board in assessments.

Section 2252. Number of the commissioners of revenue; when and how districts changed; voters in a city not to vote for commissioners of a county.

Section 2254. Auditor to furnish printed forms to commissioners of the revenue and local boards of review (equalization); taxpayer to be sworn.

Section 2255. Interrogatories to be returned by each commissioner of the revenue to the examiner of records.

Section 2256. Examiner of records to make report showing result of his investigation.

Section 2257. Commissioner to assess taxes upon examiner's report.

Section 2258. Where interrogatories and answers to be filed.

Section 2265. Auditor to report misconduct or incapacity of commissioner.

Section 2271. What real estate to be taxed; lien for taxes and levies enforceable in equity; value of lands fixed by assessors not to be changed, except, etc.

Section 2272. What real estate exempt from taxation.

Section 2285. How land divided among several owners to be assessed; how assessment corrected if owner dissatisfied.

Section 2290. When lying in different districts of the same county; how assessed.

Section 2302. Taxation of bonds of counties, cities, towns or other political subdivisions of Virginia.

Section 2307. By whom property is to be listed; to whom taxed.

Section 2308. Tax situs of property held in trust in certain cases.

Section 2337. Commissioner to extend levies and taxes; compensation therefor.

Section 2385. Redress against erroneous assessment of taxes.

Section 2402. When no tax on seal to be charged.

Section 2403. Deeds, wills, etc., not to be admitted to record until tax is paid; exceptions.

Section 2417. By whom lists examined and how certified; where preserved.

Section 2422. Compensation of collector.

Section 5072. By whom (marriage) licenses to be issued; wafer to be used; State tax \$2.00.

Section 5379. Personal representatives to furnish the ages and addresses of heirs; affidavit; clerk to record list; cost of recording; list as evidence; commissions of personal representatives.



Auditor Public Accounts.

RATES OF STATE TAXATION.

On real estate, 25 cents on the \$100 assessed valuation (10 cents for support of public free schools under Code, section 2205; 4 cents for public free schools, act March 15, 1918; 8 cents for construction or reconstruction of roads, act March 15, 1918; 7 cents for construction or reconstruction of roads, act September 5, 1919; 1 cent for eradication of tuberculosis, act March 15, 1918).

On tangible property, 25 cents on the \$100 assessed valuation (10 cents for support of public free schools under Code, section 2205; 4 cents for public free schools, act March 15, 1918; 8 cents for construction or reconstruction of roads, act March 15, 1918; 7 cents for construction or reconstruction of roads, act September 5, 1919; 1 cent for eradication of tuberculosis, act March 15, 1918).

Note—Local levies may be imposed upon real estate and tangible personal property at rates to be prescribed by the boards of supervisors of the respective counties and by ordinances of cities and towns.

Class 1—On intangible property, viz.: Bonds, notes and other evidences of debt, etc., including bonds, notes and other evidences of debt held in a fiduciary relation, 35 cents on the \$100 assessed valuation (10 cents for support of government, 10 cents for support of public free schools, under section 9, tax laws; 4 cents for support of public free schools, act March 15, 1918; 3 cents for construction or reconstruction of roads, act March 15, 1918; 7 cents for construction or reconstruction of roads, act September 5, 1919; 1 cent for eradication of tuberculosis, act March 15, 1918).

Note—Local levies not to exceed 20 cents on the \$100 assessed valuation may be imposed on this property—Class 1.

Class 2—Capital—85 cents on the \$100 assessed valuation (60 cents for support of government, 10 cents for support of public free schools under section 9, tax laws; 4 cents for support of public free schools, act March 15, 1918; 3 cents for construction or reconstruction of roads, act March 15, 1918; 7 cents for construction or reconstruction of roads, act September 5, 1919; 1 cent for eradication of tuberculosis, act March 15, 1918).

Note—Local levies not to exceed 30 cents on the \$100 assessed valuation may be imposed on this property—Class 2.

Class 5—Shares of stock, including shares of stock held in a fiduciary relation, 80 cents on the \$100 assessed valuation (55 cents for support of government, 10 cents for support

of public free schools under section 9, tax laws; 4 cents for support of public free schools, act March 15, 1918; 3 cents for construction or reconstruction of roads, act March 15, 1918; 7 cents for construction or reconstruction of roads, act September 5, 1919; 1 cent for eradication of tuberculosis, act March 15, 1918).

Note—Local levies not to exceed 30 cents on the \$100 assessed valuation may be imposed on this property—Class 5.

Class 6—Bonds of counties, cities and towns or other political subdivisions of this State, 35 cents on the \$100 assessed valuation (25 cents for the support of the government, 10 cents for the support of the public free schools under section 9, tax laws).

Note—No local levy can be imposed on this property—Class 6.

Class 4—Money—20 cents on the \$100 assessed valuation (10 cents for the support of the government, 10 cents for the support of the public free schools under section 9, tax laws).

Note—No local levy can be imposed on this property—Class 4.

On shares of bank stock, 25 cents on the \$100 assessed valuation (10 cents for support of public free schools under section 18, tax laws; 4 cents for support of public free schools, act March 15, 1918; 3 cents for construction or reconstruction of roads, act March 15, 1918; 7 cents for construction or reconstruction of roads, act September 5, 1919; 1 cent for eradication of tuberculosis, act March 15, 1918).

Note—Local levies may be imposed on shares of bank stock where the bank is located in a city not to exceed 85 cents on every \$100 of actual value thereof; where the bank is located in a town the town may impose levies thereon not exceeding 65 cents on every \$100 of actual value thereof, and the board of supervisors of the county in which the town in which the bank is located may impose levies not to exceed 20 cents on every \$100 of actual value thereof; where the bank is located neither in a city nor in a town then the board of supervisors of the county in which the bank is located may impose levies not to exceed 85 cents on every \$100 of actual value thereof.

Each male and female inhabitant who has attained the age of 21 years, except males pensioned by this State for military services, is assessable annually with a State capitation tax of \$1.50, one-third when collected to be returned to the county or city in which collected, the remainder for the support of the public free schools.

Note—Any county or city can impose a county or city capitation tax

on male and female residents therein, provided such county or city has been authorized to do so by act of the General Assembly.

Income (less exemptions and deductions allowed by law), 1 per cent on income up to \$3,000.00 and 2 per cent on income in excess of \$3,000.00, for the support of the government.

Note—No local levy can be imposed on income.

Insurance Companies—Specific license tax for all companies (first year), Annual License Tax on Premiums:

\$200. See Note 1.

Industrial sick benefit, on the net premiums at the rate of 1 per cent. See Note 2.

Life, on the net premiums, at the rate of $2\frac{1}{4}$ per cent. See Note 2.

Workmen's Compensation, on the net premiums at the rate of 3 per cent. See Notes 2 and 3.

All other, on the net premiums at the rate of $2\frac{3}{4}$ per cent. See Notes 2, 3, 4 and 5.

Additional tax of $\frac{1}{8}$ of one per centum on premium, act March 15, 1924, for each of the years 1924 and 1925.

The license tax on gross premiums is in lieu of all other license fees, taxes or levies whatever for State, county or municipal or local purposes except the certificate fee of \$1.00, to be paid the Bureau of Insurance by agents of insurance companies. Real estate and tangible personal property of insurance companies are subject to State and local taxation the same as the real estate and tangible personal property of other corporations, as set out above.

Note 1—The license year is from May 1st to April 30th. No license will be issued for less than one year except for the first year in which a company, underwriting agency or broker commences business, in which the license tax shall be such part of the annual license tax as the space of time between the issuing of such license and the 30th of April following shall bear to the whole year.

Note 2—Net premiums are defined as gross premiums received in Virginia less premiums returned on cancelled policies and premiums paid for reinsurance in companies authorized to write business in Virginia.

Note 3—For reciprocal and inter-insurance exchanges, and for mutual insurance companies qualifying under Chapter 259 of the Acts of Assembly of 1920, dividends returned to policyholders are allowed as a deduction from gross premiums in determining net premiums, in addition to the deductions allowed under Note 2.

Note 4—Premiums for total disability and double indemnity insurance are taxed at the rate of $2\frac{3}{4}$ per cent.

Note 5—Mutual fire insurance companies organized under the laws of and operating solely in Virginia are taxed at the rate of 1 per cent of their net premiums as defined in Note 2.

On rolling stock of steam railroads, \$1.75 on the \$100 assessed valuation (\$1.50 for support of government, and 10 cents for support of public free schools under section 28, tax laws; 4 cents for public free schools, act March 15, 1918; 3 cents for construction or reconstruction of roads, act March 15, 1918; 7 cents for construction or reconstruction of roads, act September 5, 1918; 1 cent for eradication of tuberculosis, act March 15, 1918.)

Note—No local levy can be imposed on rolling stock of steam railroads.

Public Service Corporations.—Real estate, tangible and intangible personal property of public service corporations are subject to State and local taxation the same as the real estate, tangible and intangible personal property owned by others, as set out above; and public service corporations are required to pay franchise taxes or license taxes to the State on business done in Virginia, as follows:

Public service corporations, in addition to the State tax on real estate, tangible and intangible personal property, and money, are required to pay franchise taxes or license taxes, on business done in Virginia, as follows:

A railroad operated by steam or electricity, a lumber or mining company which is a common carrier, also a canal company, is required to pay annually a State franchise tax of 1 and $\frac{6}{16}$ of one per cent on gross transportation receipts (1 and $\frac{1}{4}$ of one per centum under section 28, tax laws, $\frac{1}{16}$ of one per centum, act March 23, 1918, and $\frac{1}{16}$ of one per centum, act March 15, 1924, for each of the years 1924 and 1925).

Also special tax of one-tenth of one per centum of gross receipts of an electric railway corporation to defray expenses of valuation of its properties by the State Corporation Commission, imposed by act approved March 20, 1924.

Exceptions:

1. In the case of any railway or canal corporation operated wholly within this State, whose actual operating expenses exceed its gross transportation receipts, the annual State franchise tax shall be 1 and $\frac{3}{16}$ of one per cent on the gross transportation receipts (1 and $\frac{1}{8}$ of one per centum, under section 28, tax laws, and $\frac{1}{16}$ of one per centum, act March 23, 1918).

2. Any steam railway company in which nine-tenths of the stock of such company is owned by a city or county of this State and which is operated at a loss, shall pay to the State an annual State franchise tax of only five dollars, under section 28, tax laws.

A water, heat, light or power company is required to pay annually a State franchise tax of $\frac{27}{32}$ of one per cent on gross receipts ($\frac{24}{32}$ of one per centum under section $36\frac{1}{2}$, tax laws, $\frac{1}{32}$ of one per centum, act March 23, 1918, and $\frac{2}{32}$ of one per centum, act March 15, 1924, for each of the years 1924 and 1925).

Also special tax of one-tenth of one per centum of gross receipts of a water, heat, light or power company to defray expenses of valuation of its properties by the State Corporation Commission, imposed by act approved March 20, 1924.

An express company is required to pay annually a license tax of 1 and $\frac{1}{2}$ of one per cent on gross receipts, under section $29\frac{1}{2}$, tax laws, and $\frac{3}{20}$ of one per centum on gross receipts, act March 15, 1924, for each of the years 1924 and 1925.

A steamboat company is required to pay annually a license tax of 1 and $\frac{3}{16}$ of one per cent on gross receipts (1 and $\frac{1}{8}$ of one per centum under section 31, tax laws, and $\frac{1}{16}$ of one per centum, act March 23, 1918).

A telegraph company is required to pay annually a license tax of \$2.25 per mile of line of poles or conduits (\$2.00 under section 36, tax laws, 12 and $\frac{1}{2}$ cents, act March 23, 1918, and 12 and $\frac{1}{2}$ cents, act March 15, 1924, for each of the years 1924 and 1925), also 2 and $\frac{3}{8}$ of one per cent on gross receipts (2 per centum under section 36, tax laws, $\frac{1}{8}$ of one per centum, act March 23, 1918, and $\frac{2}{8}$ of one per centum, act March 15, 1924, for each of the years 1924 and 1925).

Also special tax of one-tenth of one per centum of gross receipts of a telegraph company to defray expenses of valuation of its properties by the State Corporation Commission, imposed by act approved March 20, 1924.

A telephone company whose gross receipts do not exceed \$50,000.00 and whose miles of poles or conduits do not exceed six hundred, and a majority of the stock or other property of such company is not owned or controlled by any other telephone or telegraph company, whose receipts exceed fifty thousand dollars, is required to pay annually a license tax of 1 and $\frac{1}{16}$ of one per cent (1 per centum under section 36, tax laws, and $\frac{1}{16}$ of 1 per centum, act March 23, 1918). A company whose gross receipts exceed \$50,000.00 and whose miles of poles or conduits exceed six

hundred, or when a majority of the stock or other property of such company is owned or controlled by any other telephone or telegraph company whose receipts exceed fifty thousand dollars, is required to pay annually a license tax of \$2.25 per mile of poles or conduits, under section 36, tax laws, and 25 cents, act March 15, 1924, for each of the years 1924 and 1925, also 1 per cent on gross receipts up to \$50,000.00 and 2 per centum on gross receipts in excess of \$50,000.00, under section 36, tax laws, and 1/16 of one per cent on gross receipts, act March 23, 1918, and 4/16 of one per centum on gross receipts, act March 15, 1924, for each of the years 1924 and 1925.

Also special tax of one-tenth of one per centum of gross receipts of a telephone company to defray expenses of valuation of its properties by the State Corporation Commission, imposed by act approved March 20, 1924.

A sleeping, parlor, or dining-car company is required to pay annually a license tax of \$3.15 for each and every mile of track over which it operates its cars in the State (\$3.00, under section 33, tax laws, and 15 cents, act March 23, 1918), but is not required to pay any tax on real estate or personal property.

An individual, a company or a corporation not domiciled within the State, owning any stock, furniture, fruit, refrigerator, meat, oil, tank or other similar car operated on a railroad line or lines in the State is required to pay annually a tax of 1 and $\frac{3}{8}$ of one per cent on the assessed valuation of such cars, act March 17, 1916, but is not liable to a license or franchise tax unless it is a corporation chartered under the laws of this State, in which event it is also required to pay annually a franchise tax based upon the authorized maximum capital stock of the corporation.

Motor Vehicle Carriers—for tax on—see index for reference to law.

Also special tax of one-tenth of one per centum of gross receipts of a motor vehicle carrier to defray expenses of valuation of its properties by the State Corporation Commission, imposed by act approved March 20, 1924.

Motor Fuel Tax—for roads—See index for reference to law.
Virginia Pilots' Association—Annual State tax of one-tenth of one per centum of gross receipts to be used by the State Corporation Commission to defray expenses of valuation of properties of public utility companies, imposed by act approved March 20, 1924.

Note—Acts imposing special taxes follow at end of "Cost of State Licenses."

Those acts are as follows:

AN ACT to raise revenue for the support of the government and to appropriate money for the construction of roads and projects comprised in "The State Highway System," and to provide for an additional fund for the maintenance of public free schools of primary and grammar grades, from the first to the seventh, inclusive, and to provide for the prevention and eradication of tuberculosis among the people of this State, and to extend the work of the State Board of Health. Approved March 15, 1918.

AN ACT to raise revenue for the support of the government and to appropriate money for the construction of roads and projects comprised in the "State Highway System." Approved September 5, 1919.

AN ACT to raise additional revenue for the support of the government. Approved March 23, 1918.

AN ACT to raise revenue for the support of the government imposing additional taxes on recordation of deeds and other writings; on railway and canal corporations; on express companies; on telegraph companies; on telephone companies; on water, heat, light and power companies; and on insurance companies; approved March 15, 1924, which applies to the assessment and collection of taxes for years 1924 and 1925 but not thereafter.

AN ACT imposing a special State tax on water, heat, light or power companies, on telegraph companies, on telephone companies, on electric railway corporations and on motor vehicle carriers, to defray expenses of valuation of their properties by the State Corporation Commission; also to impose an annual State tax on the Virginia Pilots' Association. Approved March 20, 1924.

AN ACT to levy a tax upon motor vehicle fuels; to provide for its collection; to appropriate revenue raised by the same and to prescribe penalties. Approved March 26, 1923.

COST OF STATE LICENSES.

License to Designate Place of Business and Is Not Good Elsewhere.

NOTE.—Every license (unless the business licensed is of such character it cannot be conducted at a definite place) shall designate the place of business, employment or profession, at

a specified house or other definite place within the district of the commissioner granting the license and a license which does not specify such definite place is void.

Engaging in business elsewhere than at the place designated in the license is doing business without license.

No license is good throughout the State except in those cases in which the law expressly so provides. (Code, section 2367.)

Schedule of Licenses.

BUSINESS FOR WHICH LICENSES ARE REQUIRED.

Item No.

1. **Merchant. The tax on the license of a merchant CANNOT BE PRORATED, because the tax is based on the purchases.**

Purchases not exceeding \$1,000.....\$ 10.00

Purchases over \$1,000 and not exceeding \$2,000. 20.00

Purchases over \$2,000 and up to \$100,000, \$20.00 on first \$2,000, and 20 cents on each \$100 in excess of \$2,000 up to \$100,000.

Purchases over \$100,000, \$20.00 on first \$2,000, and 20 cents on each \$100 in excess of \$2,000 up to \$100,000, and 10 cents on each \$100 over \$100,000. (Section 46, Tax Law.)

Every person who is engaged in the business of selling automobiles, locomobiles, motor cycles or accessories, gas, oil, etc., must take out merchant's license for the conduct of such business, based on the purchase price of automobiles, locomobiles, motor cycles, accessories, gasoline, oil, etc.

Railroads and other incorporated companies which sell mineral or forest products or other articles, when taxable, to be taxed as other merchants dealing in like commodities. (Section 47, Tax Law.)

2. **Merchant on railroad train, license tax, at the rate of 20 cents for each and every mile of track upon which the person, firm, company or corporation operates in this State. (Section 46½, Tax Law.) (License good throughout State.)**

Note—Commissioners must require sworn statement of trackage.

- 2½. **Merchant, vendor, auctioneer, itinerant, tax \$200.00 per month or fraction thereof. This license not to be granted for less than a month, nor for more than three**

(3) months. (Act approved March 16, 1918, which follows section 51, Tax Law.)

3. Oyster Barrelers, Shuckers and Packers License. (This license issued by oyster inspector.)
4. Commission Merchant or Broker.—If commissions do not exceed \$1,000, tax is \$50.00; if commissions exceed \$1,000, tax is \$50.00 and \$1.00 for each \$100 of commissions or fractional part thereof, in excess of \$1,000. (Section 49, Tax Law.)

Note—Commissioners must require sworn statement of commissions.

Note—Associations or organizations of farmers, including produce exchanges, organized and maintained by farmers for mutual help in the marketing of their produce and not for profit, not required to take out this license.

5. Peddlers. (CANNOT BE PRORATED. License good for one year from date issued.)

Peddler of goods, wares or merchandise (on foot) in each county, city or town	\$250.00
Peddler of goods, wares or merchandise (otherwise than on foot), in each county, city or town	500.00
Peddler of ice, wood, meat, milk, butter, eggs, poultry, fish, oysters, game, vegetables, fruits, or other family supplies of a perishable nature not grown or produced by him—for each vehicle in each county, city or town	25.00
Peddlers of pianos and organs, in each county, city or town, for each person engaged in selling from peddler's wagon	10.00
Peddler of lightning rods, in each county, city or town	200.00
Peddler of wood and coal from vehicles, in each city of over 40,000 inhabitants, for each vehicle	50.00

(Section 51, Tax Law.)

Peddlers of manufactured implements or machines, other than sewing machines, \$200.00, and an additional sum of \$100.00 in each county or city other than where license is first issued. Peddlers of cooking stoves or ranges, or clocks, \$500.00, and an additional sum of \$300.00, in each county or city other than where license is first issued. (Section 138, Tax Law.)

- A merchant selling and at the same time delivering clocks, stoves and ranges elsewhere than at his place of business must take out this license. (Section 138, Tax Law.)
- Every vehicle used in peddling, as aforesaid, shall have conspicuously displayed thereon the name of peddler using same, together with name of street and number of residence, if he resides in a city or town. (Section 51, Tax Law.)
- No license required of those who sell or offer for sale in person, or by their employees, ice, wood, meats, milk, butter, eggs, poultry, fish, oysters, game, vegetables, fruits or other family supplies of a perishable nature grown or produced by them and not purchased by them for sale. (Section 50, Tax Law.)
- No license required of a dairyman who uses upon the streets of any city one or more wagons to sell and deliver from his wagons milk, butter, cream and eggs. (Section 50, Tax Law.)
- No license required of peddlers of fish and oysters in the country or in incorporated towns. (Section 51, Tax Law.)
- No license required of peddlers of meats in the country. (Section 51, Tax Law.)
- No license required of persons who are engaged in selling melons from a car or cars, in the country or in a town where the car does not remain more than twenty-four hours in any one place. (Section 51, Tax Law.)
- No license required of a person selling or peddling farm products, wood or charcoal grown or produced by him. (Section 51, Tax Law.)
- No peddler's license required of dealers in coal, wood or ice in the country or in a town or city of less than 40,000 inhabitants, who peddle the same from vehicles, provided such dealers have taken out merchants' license under section 46. (Section 46, Tax Law.)
- No license required of a person who may canvass any county or corporation to buy lambs, pigs, calves, fowls, eggs, butter and such like small matters of subsistence designed as food for man, but any person who shall keep a place of business for the purpose of selling such articles must take out a merchant's license required under section 46 (section 46, Tax Law), and if he sells such articles from place to place peddler's license of \$25.00 on each vehicle used in such peddling is required by section 51, Tax Law.

6. **Lightning Rod Merchant—CANNOT BE PRO-RATED**—License, whenever issued, must be issued to expire 30th April following—who sells by sample in person or through agents taking orders and thereafter delivering the lightning rods and all materials necessary to the erection of the same to the person or persons from whom the orders are secured and erecting same as directed \$ 25.00
- For each county, city or town other than that in which he first takes out license. (Section 51a, Tax Law) 10.00
- This license cannot be issued to a peddler of lightning rods; he must have license provided in section 51, Tax Law, cost of which is \$200.00 for each county, city or town. —
7. Patent rights, in each county, city or town.... 25.00
No license required of patentee but under this license there can be no sale of the article or thing patented. (Section 53, Tax Law.)
8. Land Agents.
- In a county or in a town of 2,000 inhabitants or less \$ 10.00
and $\frac{1}{8}$ of 1 per cent. on sales.
- In a town or city of more than 2,000 and not over 3,000 inhabitants 20.00
and $\frac{1}{8}$ of 1 per cent. on sales.
- In a town or city of more than 3,000 and not over 4,000 inhabitants 30.00
and $\frac{1}{8}$ of 1 per cent. on sales.
- In a town or city of more than 4,000 and not over 5,000 inhabitants 40.00
and $\frac{1}{8}$ of 1 per cent. on sales.
- In a town or city of more than 5,000 inhabitants. 50.00
and $\frac{1}{8}$ of 1 per cent. on sales.
- Note—Commissioners must require sworn statement of amount of sales. Land agent may negotiate loans on real estate security without taking out Private Banker's license. (Section 77, Tax Law.)

Where there is a firm of land agents doing business at one locality, the tax shall be on the firm and not on each member thereof. (Section 55, Tax Law.)

This license must be taken out in each county, city or town in which the business is transacted.

Note—Section 54 authorizes a person, firm or corporation licensed as a land agent to sell any land in this Commonwealth entrusted

to him for sale, but as neither section 54 nor section 55 authorizes a land agent to do business elsewhere than at the place designated in his license he is, by the provisions of Code, section 2367, restricted to sell at the place designated in his license, he cannot sell at any place except the place designated in his license, but he can at that place sell any land in this Commonwealth entrusted to him for sale. He can take a customer elsewhere and exhibit the land he has for sale but the sale must be concluded at the place of business designated in the license of the land agent. If he desires to sell elsewhere than at the place designated in his license he must take out land agent's license in each such place.

9. Book agents, each county, city or town. \$ 10.00
(Section 57, Tax Law.)

10. General Auctioneer.

In a county, or in a town or city of 5,000 inhabitants or less \$ 50.00

In a town or city of more than 5,000 inhabitants. 50.00
and \$2.00 for every 1,000 inhabitants above that number.

In no case shall the said sums exceed \$130.00. He shall, in addition to the above sums, pay an additional sum of $\frac{1}{4}$ of 1 per cent on the amount of sales for the year, except sales made by order of court, or for persons acting in a fiduciary capacity where the general auctioneer only cries the sale and grants the certificates thereof. (Section 63, Tax Law.)

Note—Commissioner must require sworn statement of amount of sales. (Section 59, Tax Law.)

11. Real Estate Auctioneer in a county. \$ 50.00

In a city or town of 5,000 inhabitants or under. . . 75.00

In a city of more than 5,000 and not over 20,000 inhabitants 100.00

In a city of more than 20,000 inhabitants. 125.00

To negotiate loans on real estate, he must take out a private banker's license in addition. (Sections 64, 77 and 78, Tax Law.)

Note—For a person, firm or corporation to act as real estate auctioneer he must take out the license provided for in sections 64 and 65, but the provisions of section 64 limit and confine his business as real estate auctioneer to the county, town or city wherein he is licensed, consequently he cannot, under the real estate auctioneer's license, sell real estate by auction in any other county or city than that named in his license, and if he desires to sell real estate by auction in any other county, town or city he must

take out real estate auctioneer's license in every other such county, town or city.

12. Tobacco Auctioneer.

In a county or town\$ 25.00

In a city 50.00

In incorporated towns the auctioneer for any warehouse or warehouses in which were sold during the previous year, ending April 30th, 5,000,000 pounds or more of tobacco shall pay \$50.00; but in any case where such sales amount to less than 1,000,000 pounds, the tax shall be \$10.00. (Section 67, Tax Law.)

12½. Live Stock Auctioneer.

If commissions and profits from sales do not exceed \$1,000.00 tax is \$50.00.

If commissions and profits from sales exceed \$1,000 tax is \$50.00 and \$1.00 for each \$100.00, or fractional part thereof, of commissions and profits from sales, in excess of \$1,000.00. (Licensed Live Stock Auctioneer who buys and sells on his own account shall for the conduct of that business be deemed MERCHANT and shall take out a merchant's license.) (Section 67 (b), Tax Law.)

Note—Commissioner must require sworn statement of commissions or profits or both.

13. Junk dealer, \$50.00 and \$25.00 additional for each additional premises. Canvasser for the purpose of buying junk for a junk dealer, or for sale to a junk dealer, \$30.00 and the cost of tin signs required by law to be furnished. (Section 70, Tax Law.)

Note—This license must be granted by the corporation or hustings court of a city, or by a circuit court of a county. (Section 69, Tax Law.)

14. Retailer of tobacco, snuff, cigars, etc.....\$ 5.00 (Section 68, Tax Law.)

Must also take out merchant's license. (Sections 45 and 46, Tax Law.)

A licensed keeper of an hotel, house of private entertainment, or eating house, who sells tobacco, snuff, or cigars, must take out retail tobacco license but is not required to take out merchant's license if his purchases of tobacco, snuff and cigars are less than

\$500.00 a year, provided he does not conduct a mercantile business in connection with his hotel, private entertainment, or eating house business.

15. Common crier, each county, city or town.....\$ 5.00
(Section 72, Tax Law.)
16. Ship broker, each county, city or town..... 50.00
(Section 74, Tax Law.)
17. Stock Broker.
In a county, or in a town or city of 5,000 inhabitants or less 100.00
In a town or city of over 5,000 and not over 10,000 inhabitants 150.00
In a city of over 10,000 inhabitants for each office or place of business 250.00
(Section 76, Tax Law.)
18. Banker or broker dealing in options or futures, each county, city or town 200.00
(Section 75, Tax Law.)
19. Private Banker.
On capital of \$5,000.00 or under..... 50.00
On capital over \$5,000.00 and not exceeding \$10,000.00 100.00
On capital over \$10,000.00 and not exceeding \$20,000.00 150.00
On capital over \$20,000.00 and not exceeding \$30,000.00 250.00
On capital over \$30,000.00, \$250.00 and the additional sum of \$5.00 on every \$1,000.00 of such capital in excess of \$30,000.00. (Section 78, Tax Law.)
20. Pawnbroker, each county, city or town.....\$250.00
(Section 80, Tax Law.)
- Note—This license must be granted by the corporation or hustings court of a city, or by the circuit court of a county. The person licensed must give bond for \$2,500.00. (Section 79, Tax Law.)
21. Loan Law (Uniform Small). (This license issued by the Chief Examiner, Banking Division of the State Corporation Commission.) (Act March 20, 1922.)

22. Underwriter agency (fire insurance). (This license issued by the Commissioner of Insurance.) (Code, section 4313.)
23. Insurance broker. (This license issued by the Commissioner of Insurance.) (Sections 83 and 84, Tax Law.)
24. Gypsies.—Section 141 of the Tax Laws, which formerly required each company of gypsies or other strolling company of persons pretending to tell fortunes or practice any of their craft to take out license and pay a license tax of \$200.00 in each county, was repealed by act approved March 13, 1918 (which follows section 140, Tax Law), by the provisions of which act such license cannot now be issued, and it is made unlawful for any company of gypsies or any other strolling company of persons to receive compensation or reward for pretending to tell fortunes or to practice any so-called magic art, and each person engaging therein is guilty of a misdemeanor and must be fined not less than \$500.00 or be confined in jail not less than one nor more than six months, or may be subject to both such fine and imprisonment. (Tax Law.)

25. Undertaker.

In the country, or in a town of 1,000 inhabitants or less	\$ 5.00
In a town or city of over 1,000 and not over 3,000 inhabitants	10.00
In a town or city of over 3,000 and not over 5,000 inhabitants	15.00
In a town or city of over 5,000 and not over 10,000 inhabitants	25.00
In a city of over 10,000 and not over 30,000 inhabitants	35.00
In a city of over 30,000 inhabitants.....	50.00

(Section 88, Tax Law.)

An undertaker can, under his license, bury the dead and can sell the coffin, casket, shroud and other funeral supplies required to bury the dead which he buries; but an undertaker cannot, under his undertaker's license, sell coffins, caskets, shrouds and other funeral supplies to be used in burying the dead which he does not bury; for this business he must, in addition to his undertaker's license, take out a merchant's license, based on purchases,

26. **Architect. (License good throughout the State.)**
 When income from business for preceding year
 was less than \$500.00\$ 10.00
 When income from business for preceding year
 was \$500.00 or more 25.00
 (Section 92, Tax Law.)
**Note—Commissioner must require sworn report of income from
 business.**
27. **Civil, Mining, Mechanical or Electrical Engineer.**
(License good throughout the State and license re-
quired of every civil, mining, mechanical and electrical
engineer except such engineer as is an ordinary em-
ployee and not engaged in business of his own.)
 Engineer who has practiced not more than five
 (5) years\$ 5.00
 Engineer who has practiced more than five (5)
 years, and whose income from such business
 for preceding year was less than \$500.00.... 5.00
 if, however, his income for preceding year
 was \$500.00 or more 15.00
 (Section 89, Tax Law.)
**Note—Commissioner must require sworn report of income from
 business.**
28. **Hotel (more than thirty bedrooms).**
 For each bedroom\$ 2.00
 For each bathroom 1.00
 For hotels at summer and health resorts, keeping
 open not more than four months a year—
 For each bedroom 1.00
 For each bathroom50
 (Section 92½, Tax Law.)
29. **Private entertainment (thirty bedrooms or less), tax
 \$5.00 and \$1.00 additional for each bedroom in excess
 of 10. (Section 95, Tax Law.)**
30. **Eating House.**
 Annual rent or rental value \$100.00 or less....\$ 25.00
 Annual rent or rental value more than \$100.00
 and not more than \$1,000.00..... 25.00
 and 5 per cent on annual rent or rental value.
 Annual rent or rental value more than \$1,000.00 25.00
 and 5 per cent on annual rent or rental value

up to \$1,000.00, and 4 per cent on annual rent or rental value in excess of \$1,000.00. (Section 97, Tax Law.)

Note—Commissioner must require statement under oath from owner what is the rental value of the house and furniture, or from the tenant what is the actual rent.

Eating Houses, etc., at religious gatherings.

No license required of persons conducting temporary eating or lodging houses, horse lots and confectioneries at camp meetings, associations, and other religious gatherings, provided they are only carried on for the purpose of entertaining the persons attending such religious gatherings. (Section 97½, Tax Law.)

81. Bowling saloon, first alley\$ 25.00
 each additional alley 10.00
 At watering places for four months or less, first
 alley 12.50
 each additional alley \$5.00. (Section 99, Tax
 Law.)
82. Billiard Saloon or Pool Room.
 In the country, or in a town of less than 1,000
 inhabitants, 1st table\$ 25.00
 and \$12.50 for each additional table.
 At watering places for four months or less, 1st
 table 25.00
 and \$12.50 for each additional table.
 In a town or city of over 1,000 inhabitants, first
 table 50.00
 and \$25.00 for each additional table.
 This license not required for pool or billiard tables in
 private homes or in a room of a social club or other
 organization where such tables are used solely by the
 members without charge. (Section 101, Tax Law.)
83. Bagatelle saloon, first table\$ 10.00
 and \$5.00 for each additional table. (Section
 103, Tax Law.)
84. Theatre, Public Performance, Exhibition.
 In the country, or in a town or city of less than
 15,000 inhabitants\$ 2.00
 a performance, or \$6.00 for each week of con-
 tinuous performance, or \$200.00 per year.
 In a town or city of 15,000 inhabitants and over. 5.00
 a performance, or \$15.00 for each week of con-
 tinuous performance, or \$500.00 per year.

No license tax on games of football, baseball, basketball, or kindred ball games. (Section 106, Tax Law.)

35. Exhibition of Automatic Moving Picture Machine, Phonograph, Graphophone, etc. Where the price for admission does not exceed fifty (50) cents, exclusive of United States admission tax. (Section 106½, Tax Law.)

In a city of 20,000 (or over) inhabitants—

For seating capacity of 350, or less	{per week, or less \$ {per year-----	25.00
and \$2.50 for every 10 seats or fraction thereof in excess of 350 seats.		150.00

In a city or town of 10,000 and less than 20,000 inhabitants—

For seating capacity of 350, or less	{per week, or less \$ {per year-----	15.00
and \$1.25 for every 10 seats or fraction thereof in excess of 350 seats.		100.00

In a city or town of 4,000 and less than 10,000 inhabitants—

For seating capacity of 350, or less	{per week, or less \$ {per year-----	10.00
and \$1.00 for every 10 seats or fraction thereof in excess of 350 seats.		60.00

In a city or town of 1,000 and less than 4,000 inhabitants—

For seating capacity of 350, or less	{per week, or less \$ {per year-----	3.00
and 50 cents for each 10 seats or fraction thereof in excess of 350 seats.		25.00

In the country, or in a town of less than 1,000 inhabitants—

Regardless of seating capacity)-----	{per day----- \$ {for a full continuous week----- {per year-----	1.00
		2.50
		10.00

36. Circus, Carnival, Shows, etc.

On such shows traveling on railroads requiring transportation of—

One and two cars, per day.....	\$ 25.00
Three to five cars, inclusive, per day.....	40.00
Six to ten cars, inclusive, per day.....	75.00
Eleven to twenty cars, inclusive, per day....	100.00
Twenty-one to thirty cars, inclusive, per day..	150.00
Thirty-one to fifty cars, inclusive, per day....	200.00
Over fifty cars, per day	250.00

On such shows traveling overland by automobile or other conveyances the tax for each day's performance or exhibition shall be based upon the automobile or conveyance capacity as follows:

On such shows requiring:

One and two loads, per day.....	\$ 5.00
Three to five loads, inclusive, per day.....	8.00
Six to ten loads, inclusive, per day.....	15.00
Eleven to twenty loads, inclusive, per day....	20.00
Twenty-one to thirty loads, inclusive, per day.	30.00
Thirty-one to fifty loads, inclusive, per day...	40.00
Over fifty loads, per day	50.00

On each side show, curiosity show, or similar show, exhibiting on the same or contiguous lots with a circus and owned by a person, firm or corporation other than the owner or owners of the circus, the tax shall be, per day

15.00

On each game or wheel of chance where the prizes consist of fruit, candy, toys, or other novelties, operated or exhibited on the same or contiguous lots with a carnival or other show taxable hereunder, whether owned or operated by the owner or owners of such carnival or other show or not, the tax shall be \$50.00 per day in addition to the license tax hereinbefore prescribed.

No additional license shall be required for the privilege of selling soft drinks, confections, food, souvenirs and novelties on the grounds on which such shows are exhibited. (Sections 108-109, Tax Law.)

Resident mechanic or artist may exhibit without compensation any production of his own art or invention without license. (Section 107, Tax Law.)

No license required of any agricultural fair or the shows exhibited within the grounds of such fair during the period of such fair. (Section 107, Tax Law.)

No license required of resident persons performing in a show or exhibition for charity or other benevolent purpose. (Section 107, Tax Law.)

37. Circus, show or carnival outside agricultural fair, \$1,000.00 for each performance given during the week previous to, the week of, or the week after, the time of holding the regular annual fair; also the license tax required by section 109, Tax Law. Both licenses are required.

Unlawful to advertise circus, show, or carnival for thirty (30) days prior to holding regular annual fair. Fine, \$2,000.00. (Section 109½, Tax Law.)

38. Hobby-horse, merry-go-round, ocean wave, ferris wheel and other like machines, for each county, city or town in which operated, \$10.00. (Sections 110 and 111, Tax Law.)
39. Permanent Park for Public Amusement.
 To operate for at least four months continuously each day except Sunday \$400.00
 To operate for eight months 600.00
 To operate for one year 800.00
 This license permits the keeping of a bowling alley, trained animal show, hobby-horse or merry-go-round, ferris wheel, penny or nickel machine for exhibiting pictures, moving picture shows, theatrical performance, old mill, or similar entertainments, and at which may be kept and operated any game or wheel where the prize consists of fruit, candy, toys or other novelties; but the operation of a carnival or circus or show of any kind which moves from place to place shall not be allowed under the license provided for in this section. (Section 111½, Tax Law.)
40. Public Room or Skating Rinks.
 Public Room—
 In a town or city of 2,000 inhabitants or over.. \$ 20.00
 In a county, or in a town of less than 2,000 inhabitants, no charge.
 Skating Rink—
 In a city of more than 10,000 inhabitants (per quarter) 10.00
 In a town or city of over 2,000 and not over 10,000 inhabitants (per quarter) 7.50
 In any other place (per quarter) 5.00
 (Sections 112 and 113, Tax Law.)
41. Attorney at Law. (License good throughout State.)
 If under five years at bar.....\$ 15.00
 If five years and over at bar, but receipts less than \$500.00 15.00
 If five years and over at bar and receipts over \$500.00 25.00
 (Section 116, Tax Law.)
- Note—Attorney at law may negotiate loans upon real estate security without private banker's license. (Section 77, Tax Law.)
- Note—Commissioner must require sworn statement of receipts when it is claimed that receipts are less than \$500.00 per annum.

Note—Attorney who, for compensation, rents houses, farms or other real estate requires rental agent's license. (Section 126 and 127, Tax Law.)

42. Dentists. (License good throughout State.)
- | | |
|---|----------|
| In the country, and in a city or town of less than 5,000 inhabitants, under five years' practice.. | \$ 10.00 |
| In the country, and in a city or town of less than 5,000 inhabitants, over five years' practice.. | 15.00 |
| But if over five years' practice and receipts are less than \$500.00 per annum..... | 10.00 |
| In a city or town of 5,000 inhabitants or more (regardless of years in practice)..... | 25.00 |
| In cities and towns of 5,000 inhabitants or more (regardless of years in practice) where receipts are less than \$500.00 per annum..... | 10.00 |
- (Section 118, Tax Law.)

Note—Commissioner must require sworn statement of receipts when it is claimed that receipts are less than \$500.00 per annum.

- 42½. Poropathy and Manipulative Surgery—Practice of. Act March 14, 1918 (which follows section 118, Tax Law).—Commissioner of revenue to issue this license on certificate in writing, sustained by affidavit or affidavits showing that applicant is of good character, versed in the practice of poropathy and manipulative surgery, and has been practicing same for a period of two years. No license tax is to be paid for this license. For issuing this license the commissioner is entitled to fee prescribed for issuing other licenses.
43. Veterinary Surgeon, no license required when practice is confined to castration, spaying or dehorning of live stock, otherwise license required for each county, city or town, \$10.00. (Section 118 (a), Tax Law.)
44. Vendors of medicines, salves, liniments, etc., for sale of medicines, salves, liniments or compounds of like kind, or any spices, extracts, toilet articles or other articles of like kind. For each automobile, wagon, or other conveyance of any description, or for each person traveling on foot or on horseback (which is the only license tax required for such privilege), \$125.00. (Section 120, Tax Law.)
45. Daguerrean and Photograph Artist and Agent.
 In a county, or in a town of 2,000 inhabitants or less\$ 10.00

- In a city or town of more than 2,000 inhabitants and less than 10,000\$ 30.00
 In a city of more than 10,000 inhabitants and less than 20,000 40.00
 In a city of more than 20,000 inhabitants..... 50.00
 An additional sum of \$5.00 for each county or city in which he operates other than that in which he has his regular place of business. (Section 122, Tax Law.)
46. Stallion or Jackass. **(CANNOT BE PRO-RATED.)** (License good throughout State and for one year from date issued).....\$ 10.00
 (Sections 123 and 124, Tax Law.)
47. Bull, each county, city or town.....\$ 2.50
 (Section 125, Tax Law.)
48. Agent for Renting House.
 In a city or town of 5,000 inhabitants or less or in any one county\$ 10.00
 In a city or town of over 5,000 inhabitants.... 30.00
 (Sections 126 and 127, Tax Law.)
- Note—Attorney at law must have this license if, for compensation, he do this business for clients; but this license not required of an administrator, executor, guardian or other fiduciary.**
49. Labor Agent (who cannot transact business of emigrant agent, viz., cannot hire laborers or solicit emigrants in this State to be employed beyond the limits of this State).
 In each county or city.....\$500.00
- Emigrant Agent, a person who hires laborers or solicits emigrants in this State to be employed beyond the limits of this State.
 In each county or city\$5,000.00
- License not to be issued except upon certificate from the corporation court of the city or the circuit court of the county in which labor agent proposes to have his office, to the effect that the applicant for the license is a person of good character and honest demeanor. (Section 129, Tax Law.)
50. Laundries.
 Hand Laundry—
 In country, or in a town of 2,000 inhabitants or less\$ 2.50

In a city or town of over 2,000 inhabitants and not over 5,000	\$ 5.00
In a city or town of over 5,000 inhabitants..	10.00
Laundry (other than hand)—	
In country, or in a town of 2,000 inhabitants or less	5.00
In a city or town of over 2,000 inhabitants and not over 5,000	10.00
In a city or town of over 5,000 inhabitants.	25.00
(Section 130, Tax Law.)	

Note—This license not required of a person who washes bed clothing, wearing apparel, or who does not keep a shop or other regular place of business for laundry purposes.

51. Storage or Impounding.

On every yard, wagon yard or lot wherever located, either in the country, town or city....	\$ 10.00
On every house in the country, or in a town or city of less than 30,000 inhabitants or less...	25.00
On every house in a city of over 30,000 inhabitants	50.00
(Section 132, Tax Law.)	

Note—No charge where the compensation to the owner is less than \$50.00 per annum.

52. Livery stable, in the country, or in a town of less than 2,000 inhabitants	\$ 7.50
and twenty-five cents additional for each stall in excess of twenty-five.	
In a town of 2,000 inhabitants and over.....	12.50
and 25 cents additional for each stall therein. (Stall is such place as may be necessary for a horse to stand and in which a horse may be kept.)	
At watering places and other places of summer resort for six months or less, one-half of these sums.	
Passenger conveyances, running single hack, carriage, cab or other vehicle, animal drawn, for carrying passengers for hire, in the country, or in a town of not more than 1,000 inhabitants	1.25
In a city or town of over 1,000 inhabitants.....	5.00
Transfer conveyances, each conveyance of any kind for transfer of baggage, freight, furniture or articles of merchandise in a city or town of 2,000 inhabitants and over, with one horse...	1.25
With two horses or more	2.50

No tax in the country, or in a city or town of under 2,000 inhabitants, on animal drawn vehicles for transportation of baggage, freight, furniture, or articles of merchandise.

Feed stable, boarding horses in the country, or in a town of less than 2,000 inhabitants. \$ 2.50

In a city or town of 2,000 inhabitants or over. 5.00
See tax on automobiles, item 52½.

No tax in the country or in cities or towns of under 2,000 inhabitants on animal-drawn vehicles for transportation of baggage, freight, furniture, or articles of merchandise. (Section 134, Tax Law.)

Note—If a person licensed to keep a livery stable store for compensation three or more motor vehicles owned by others, or if he keep three or more motor vehicles of his own for hire at his livery stable, he must, in addition to the license to keep the livery stable, take out license to keep a garage (see item 61); and if he place upon the streets or roads for hire a motor vehicle he shall, in addition to the license to keep a livery stable, or garage, or both, take out license to run automobiles for hire (see item 52½).

52½. Automobiles for Hire.

In a city or town of less than 5,000 inhabitants, for each machine operated in the transportation of merchandise or passengers. \$ 5.00

In a city or town of 5,000 inhabitants or more, for each machine operated in the transportation of merchandise or passengers. 10.00
(Code, section 2151.)

Note—An automobile for carrying passengers or for hauling merchandise, freight, etc., for compensation, not operated exclusively in the limits of a city or town, must be licensed by the Motor Vehicle Commissioner upon certificate procured from the State Corporation Commission and is not to be licensed by a commissioner of the revenue; but the license to operate an automobile for transportation of passengers, merchandise, freight, etc., for compensation, exclusively within the limits of a city or town must be issued by the commissioner of the revenue.

53. Sewing Machine Agents. (CANNOT BE PRO-RATED.)

First county or city in which licensed. \$ 20.00

Each additional county or city in which licensed. 10.00

(Except when licensed by the Auditor of Public Accounts.)

(Section 135, third paragraph, Tax Law.)

54. Agent for sale of manufactured Implements or Machines other than Sewing Machines, by Retail.
- | | |
|--|----------|
| First county, city or town in which licensed | \$ 15.00 |
| Each additional county, city or town | 10.00 |
- (Section 137, Tax Law.)
- Note—Cooking stoves, ranges or clocks cannot be peddled under the license authorized by sections 136 and 137, but requires license under section 138.
- | | |
|---|----------|
| For county, city or town, in which first licensed | \$500.00 |
| For each additional county, city or town | 300.00 |
55. Contractor.
- | | |
|--|---------|
| Gross orders or contracts aggregating \$5,000.00 | \$ 5.00 |
|--|---------|
- (No license required if contracts aggregate less than \$5,000.00.)
- | | |
|--|--------|
| Gross orders or contracts aggregating more than \$5,000.00, but not exceeding \$10,000.00 | 10.00 |
| Gross orders or contracts aggregating more than \$10,000.00, but not exceeding \$20,000.00 | 15.00 |
| Gross orders or contracts aggregating more than \$20,000.00, but not exceeding \$50,000.00 | 20.00 |
| Gross orders or contracts aggregating more than \$50,000.00, but not exceeding \$100,000.00 | 50.00 |
| Gross orders or contracts aggregating more than \$100,000.00, but not exceeding \$150,000.00 | 100.00 |
| Gross orders or contracts exceeding \$150,000.00 | 150.00 |
- (Section 91, Tax Law.)
56. Building and Loan Association or Company.
- | | |
|--|----------|
| Specific license tax upon a purely mutual company, lending only to its stockholders, and confining its business solely to the city or county in which organized and the counties and cities immediately contiguous thereto | \$ 50.00 |
| Specific license tax upon paid-up stock, or partially paid-up stock, to value of \$25,000.00 or less | 75.00 |
- And the further sum of \$3.00 upon each additional \$1,000.00 or fractional part thereof, so paid up. (Section 82, Tax Law.)
- Note—Commissioner must require statement under oath of capital paid in.
57. Slot machines (which operate on the penny, nickel or other coin-in-the-slot principle).

On each machine for the sale of chewing gums or other articles of merchandise or which operate musical or other devices.....	\$ 10.00
On each machine for the sale of agricultural products or cigars	3.00
On each machine for sale of shoestrings, and on each weighing machine	2.00
Automatic baggage or parcel checking machines, for each receptacle25
No license upon machines used by a licensed merchant inside his place of business for selling merchandise.	
No license on machines for selling sanitary drinking cups or sanitary drinking cups and natural water for 1 cent.	
No license upon any pay telephone slot machines. (Section 139, Tax Law.)	
Note —Machines in the operation of which the element of chance enters or which dispose of cigarettes or intoxicating liquors cannot be licensed because prohibited by law.	
58. Dealer in pistols, dirks, bowie knives. (CAN-NOT BE PRORATED.) (License good for one year from date issued.).....	\$ 20.00
(Section 140, Tax Law.)	
59. Mercantile Agency. (This license issued by and tax paid to Auditor of Public Accounts.) (Sections 85 and 86, Tax Law.)	
59½. Collecting Agency.—In the country, or in a city or town	\$ 25.00
License not required unless commissions and fees, during the year, amount to \$1,000.00 or more.	
This license not required of a regularly licensed attorney at law. (Section 86½, Tax Law.)	
60. Soft Drinks. (Section 113½, Tax Law.)	
For selling soft drinks in a city or town of over 5,000 inhabitants, from a fountain, for each fountain	\$ 10.00
For selling soft drinks, from a fountain, otherwise located, for each fountain.....	5.00
For manufacturing soft drinks.....	22.50
A manufacturer who manufactures in this State soft drinks must pay the specific license tax of \$22.50 provided for in section 113½ of the tax law; must also be taxed upon the capital employed in the business.	
For bottling soft drinks	22.50

A bottler of soft drinks must pay the specific license tax of \$22.50 provided for in section 113½ of the tax law, and must also be taxed upon the capital employed in the business.

For selling soft drinks by wholesale. \$ 22.50

A wholesale house selling by wholesale, in bulk or in bottles, soft drinks manufactured outside of this State must pay the specific license tax of \$22.50 provided for in section 113½ of the tax laws, and must also pay State merchant's license tax based on purchases, and if his gross sales of such soft drinks exceed \$10,000 per year he must also pay a tax of 10c. on every \$100 of such gross sales of such soft drinks, that is, if such gross sales amount to \$12,000 he pays 10c. on each \$100 of the \$2,000, but if the wholesaler buys from a manufacturer who manufactures in this State, or a bottler who bottles in this State, he is not required to pay the specific license tax of \$22.50, nor the 10c. tax on sales, but he is required to pay the State merchant's license tax on purchases.

60½. Mineral Water.

For selling bottled mineral water when gross sales do not exceed 5,000 gallons annually, in the country, and in each city or town. \$ 5.00

When gross sales exceed 5,000 gallons annually, tax \$5.00 and the sum of 10 cents for each 100 gallons in excess of 5,000 gallons. (Section 51½, Tax Law.)

61. Garage.

Every person who shall keep a garage for the storage or hire of automobiles shall pay—

In the country, or in a town of less than 2,000 inhabitants \$ 15.00

And for the storage capacity in excess of five, an additional sum per car of50

In a town of 2,000 inhabitants and over. 25.00

And for the storage capacity in excess of five, an additional sum per car of50

In a city of the second class, viz., a city of less than 10,000 inhabitants 35.00

And for the storage capacity in excess of five, an additional sum per car of50

In a city of the first class. 100.00

And for the storage capacity in excess of five, an additional sum per car of 1.00

At watering places and other places of summer resort, one-half of the above amounts if operated for six months or less. (Code, section 2149.)

Garage, as defined by law, viz., Code, section 2150, is as follows:

Every place where three or more motor vehicles are stored or housed at any one time for compensation, other than compensation to owner of the building, except only such places in which automobiles or motor vehicles of other kinds are kept by the owners thereof without payment for storage.

Note—If a person licensed to keep a livery stable store for compensation three or more motor vehicles owned by others, or if he keep three or more motor vehicles of his own for hire at his livery stable, he must, in addition to the license to keep the livery stable, take out license to keep a garage (see item 61); and if he place upon the streets or roads for hire a motor vehicle he shall, in addition to the license to keep a livery stable, or garage, or both, take out license to run automobiles for hire (see item 52½).

Every person who is engaged in the business of selling automobiles, locomobiles, motor cycles or accessories, gas, oil, etc., must take out merchant's license for the conduct of such business, based on the purchase price of automobiles, locomobiles, motor cycles, accessories, gasoline, oil, etc.

62. Telegraph and Telephone Companies. (Section 36, Tax Law. See note which follows):

Each telegraph company (not incorporated), association, firm, or person, operating the apparatus necessary to communicate by telegraph shall, for the privilege of doing business between points within this State, pay a license tax as follows, to-wit:

Two dollars per mile of line of poles or conduits owned or operated by the company, firm, or person in this State, and an additional charge of two per centum of the gross receipts of the association, company (not incorporated), firm, or person received (or due, though not received), from business done within this State during the year ending the thirtieth day of June.

The specific license tax to be paid by every company (not incorporated), association, firm or person for the privilege of operating the apparatus necessary to communicate by telephone, shall be, when the gross receipts do not exceed \$50,000.00, and when the number of miles of poles does not exceed 600, and a majority of the stock or other property of such company is not owned or controlled by any other tele-

phone or telegraph company whose receipts exceed \$50,000.00, a sum equal to one per centum of the gross receipts of such company, firm, person, or association from business done within this State during the year ending the thirtieth day of June preceding; when the gross receipts from business done within this State during any such year are in excess of \$50,000.00 or the number of miles of poles exceed 600, or a majority of stock or other property of such company is owned or controlled by any other telephone or telegraph company whose receipts exceed \$50,000.00, the license tax shall be a sum equal to one per centum of such receipts up to \$50,000.00, and an additional sum equal to two per centum of such receipts exceeding \$50,000.00, and, in addition, a sum equal to \$2.00 per mile of line of poles or conduits, owned or operated by such corporation, person, or association in this State; provided, that no license tax shall be charged against any telephone company chartered in this State for the privilege of prosecuting its business when such company is purely a local mutual association, and does not charge others for transmitting messages over its line, or lines, and is not designed to accumulate profits for the benefit of, or to pay dividends to, the stockholders or members thereof.

The license tax to be paid by any firm, person, association or company (not incorporated), transacting a telegraph or telephone business, or owning and operating a telegraph or telephone instrument, line or conduit, shall be assessed by the commissioner of the revenue for the district or city wherein the principal office of such firm or person is located, or in which such firm or person, resides. (Section 36, Tax Law.)

Note—The license tax on incorporated telegraph and telephone companies is assessed by the State Corporation Commission, and not by the commissioner of the revenue, and the taxes are paid by those companies into the treasury of the State through the office of the Auditor of Public Accounts.

SPECIAL TAXES—FOR SCHOOLS, ROADS AND TUBERCULOSIS.

Act March 15, 1918.

Imposing 4 cents tax for public free schools, and 3 cents tax for roads, State highway system, and 1 cent tax for eradicating tuberculosis.

THE ACT.

AN ACT, to raise revenue for the support of the government and to appropriate money for the construction of roads and projects comprised in "The State Highway System," and to provide for an additional fund for the maintenance of public free schools of primary and grammar grades, from the first to the seventh, inclusive, and to provide for the prevention and eradication of tuberculosis among the people of this State, and to extend the work of the State Board of Health. Approved March 15, 1918. Chapter 384, p. 569, Acts 1918.

1. Be it enacted by the General Assembly of Virginia, That the special taxes prescribed by this act be, and they hereby are, imposed and shall be levied upon the property hereinafter specified, and that the funds arising from such levies be applied as follows: three-eighths to the construction or reconstruction of the roads and projects comprised in the State Highway System, four-eighths to the maintenance of the public free schools of the primary and grammar grades from the first to the seventh grades, inclusive, and one-eighth for the prevention and eradication of tuberculosis among the people of this State, such taxes to be levied and collected on the various classes of property in this State as follows:

2. On all of the tracts of land and lots and improvements thereon, not exempt from taxation, including rents and rents charge, and including the real estate of public service corporations, there shall be a tax of eight cents on every hundred dollars of the assessed value thereof.

3. On all tangible personal property, as described in section six, schedule B, of an act entitled an act to raise revenue for the support of the government and public free schools, and to pay the interest on the public debt, and to provide a special tax for pensions as authorized by section one hundred and eighty-nine of the Constitution, approved April sixteenth, nineteen hundred and three, as amended, and upon all other tangible property, including the rolling stock of corporations operating railroads by steam, and all tangible personal property of public service corporations, there shall be a tax of

eight cents on every hundred dollars of the assessed value thereof. .

4. Upon all bonds (except bonds of the United States and of the State of Virginia), notes and other evidences of debt, including bonds of States other than Virginia, bonds of counties, cities and towns located outside of the State of Virginia, bonds of railroad and canal companies and other corporations, bonds of individuals and all demands and claims however evidenced, whether secured by mortgage, deed of trust, judgment or otherwise, or not so secured, there shall be a tax of eight cents on every hundred dollars of the assessed value thereof; and upon the capital of persons, firms and corporations employed in a trade or business not otherwise taxed, upon the value of the principal of personal estate and credits, other than tangible property and money, under the control of a court receiver or commissioner in pursuance of an order, judgment or decree of any court or in the hands or under the control of an executor, administrator, trustee, agent or other fiduciary, and upon the principal of personal estate and credits, other than money, deposited to the credit of any suit and not in the hands of a receiver or other fiduciary, there shall be a tax of eight cents on every hundred dollars of the assessed value thereof, and upon the shares of stock of corporations or joint stock companies except such corporations and joint stock companies, all of whose capital is taxed by this State or which pay a franchise tax in this State, there shall be a tax of eight cents on every hundred dollars of the assessed value thereof.

5. Upon the shares of stock of each bank, banking association, trust or security company there shall be a tax of eight cents upon every hundred dollars of the actual value thereof as determined by the provisions of section seventeen of an act entitled an act to raise revenue for the support of the government and public free schools, and to pay the interest on the public debt, and to provide a special tax for pensions as authorized by section one hundred and eighty-nine of the Constitution, approved April sixteenth, nineteen hundred and three, as amended.

6. The taxes provided for by this act shall be in addition to any other taxes upon the property upon which these taxes are imposed which are now or may hereafter be provided for by any statutes or acts of the General Assembly.

7. The taxes provided for by this act shall be collected in the same manner as other taxes upon the said property for State purposes are collected, and shall be paid into the State treasury. Three-eighths thereof shall compose and constitute a special fund to be known as the State Highway System Construction Fund, and shall be applied to the construction of the

roads and projects comprising the State Highway System, as created and established by an act of the General Assembly of Virginia, approved January thirty-first, nineteen hundred and eighteen, and to no other purpose. Warrants for the expenditure of the State Highway Construction Fund shall be issued by the Auditor of Public Accounts upon certificates of the State Highway Commissioner that the parties in whose favor such warrants are proposed to be drawn are entitled thereto and shall be paid by the State Treasurer out of the moneys constituting the said State Highway System Construction Fund. Four-eighths thereof shall compose and constitute a special fund to be applied to the maintenance of the public free schools of the primary and grammar grades, from the first to the seventh grades, inclusive, to secure longer school terms, and increased compensation for teachers of such schools, for the equal benefit of all the people of the State, to be apportioned on the basis of school population, the number of children between the ages of seven and twenty years in each school district to be the basis of such apportionment; one-eighth thereof shall compose and constitute a special fund, to be known as the tuberculosis fund, which the Auditor of Public Accounts shall segregate each year in each city and county, respectively, and keep the same separate and subject to the orders of the said State Board of Health, which may draw out such funds for the purpose of this act upon such forms as the said board and the said Auditor may prescribe.

8. The said board, so far as available funds will allow, shall make no charge to patients for treatment, accommodation or board, and shall supply suitable clothing to patients who, because of poverty, lack the same.

The funds raised hereunder for tuberculosis from each county or city, as the case may be, shall be primarily charged with the care of the patients from such county or city, respectively, but any excess of funds from any county or city may be used by the board for patients from other counties or cities, preferring first patients from nearby counties or cities.

When and after the said State Board has exhausted the funds available for patients from any county or city, the board of supervisors of such county or the council of such city may supplement the funds available to said State Board of Health for the patients from such county or city.

9. In the event that any county or city may have established and be maintaining its own public sanatorium for the treatment of its tuberculosis citizens and shall desire to have the benefit of the provisions of this act in connection therewith, such county or city may, by proper resolution of its board of supervisors or council, as the case may be, turn over

such sanatorium to the State Board of Health, to be by it conducted and supported as a State sanatorium under the provisions of this act; provided, the said State Board shall deem such sanatorium suitable for such purposes; and provided, further, the said State Board shall approve as reasonable the terms and conditions upon which such sanatorium is offered for its use.

10. The State Board of Health is hereby authorized, empowered and directed, supplemental to the duties and powers now given it by law, and so soon as the funds raised by this act are available, to provide enlarged and additional State sanatoria, to be located in this State, as the said board may determine, for the care, treatment, and instruction of persons, being citizens of this State, having tuberculosis. The board shall provide separate sanatoria for white people and colored people.

11. The board shall prescribe and promulgate reasonable and proper rules and regulations for the reception of patients into such sanatoria under the provisions of this act, but shall prefer indigent patients from the respective counties and cities from which the necessary funds therefor are raised hereunder.

The said State Board of Health may also provide accommodations and treatment, and make reasonable charges therefor at not more than cost, for tuberculosis patients desiring to avail themselves of such facilities.

12. The provisions of this act shall apply to the assessment and collection of the taxes herein provided for for the year nineteen hundred and eighteen and thereafter until otherwise provided.

13. Any surplus to the credit of any fund created by this act which may exist at the end of any fiscal year shall not lapse or revert to the general treasury of the State, but may be used during the next ensuing year for the purpose for which said fund was collected and appropriated, provided, that any such surplus remaining to the credit of the tuberculosis fund may be used by the State Board of Health, in its discretion, either for tuberculosis work or for any other health work that said board may properly do in discharge of the duties imposed upon it by law.

14. The sum of ten thousand dollars from the tuberculosis fund shall be set aside for the use of the State Board of Health in extending general work and educational propaganda, including the employment of additional doctors and nurses, and field maintenance and other necessary activities in promoting this feature of tuberculosis prevention and control.

SPECIAL TAXES—FOR ROADS.

Act September 5, 1919.

Imposing 7 cents tax for roads—State Highway System.

THE ACT.

AN ACT to raise revenue for the support of the government and to appropriate money for the construction of roads and projects comprised in the "State Highway System." Approved September 5, 1919. Chapter 25, p. 38, Acts 1919.

1. Be it enacted by the General Assembly of Virginia, That the special taxes prescribed by this act be, and they are hereby, imposed and shall be levied upon the property hereinafter specified, and that the funds arising from such levies be applied to the construction or reconstruction of the roads and projects comprised in the State Highway System, as established by an act approved January thirty-first, nineteen hundred and eighteen, entitled an act to establish the State Highway System.

2. On all of the tracts of lands and lots and improvements thereon, not exempt from taxation, including rents and rents charge, and including the real estate of public service corporations, there shall be a tax of seven cents on every hundred dollars of the assessed value thereof.

3. On all tangible personal property, as described in section six, schedule B, of an act entitled an act to raise revenue for the support of the government and public free schools, and to pay the interest on the public debt, and to provide a special tax for pensions as authorized by section one hundred and eighty-nine of the Constitution, approved April sixteenth, nineteen hundred and three, as amended, and upon all other tangible property, including the rolling stock of corporations operating railroads by steam, and all tangible personal property of public service corporations, there shall be a tax of seven cents on every hundred dollars of the assessed value thereof.

4. Upon all bonds (except bonds of the United States and of the State of Virginia), notes and other evidences of debt, including bonds of States other than Virginia, bonds of counties, cities and towns located outside of the State of Virginia, bonds of railroads and canal companies and other corporations, bonds of individuals and all demands and claims however evidenced, whether secured by mortgage, deed of

trust, judgment or otherwise, or not so secured, there shall be a tax of seven cents on every hundred dollars of the assessed value thereof; and upon the capital of persons, firms and corporations employed in a trade or business not otherwise taxed, upon the value of the principal of personal estate and credits, other than tangible property and money, under the control of a court receiver or commissioner in pursuance of an order, judgment or decree of any court or in the hands or under the control of the executor, administrator, trustee, agent or other fiduciary, and upon the principal or personal estate and credits, other than money deposited to the credit of any suit or not in the hands of a receiver or other fiduciary, there shall be a tax of seven cents on every hundred dollars of the assessed value thereof, and upon the shares of stock of corporations or joint stock companies, except such corporations and joint stock companies all of whose capital is taxed by this State or which pay a franchise tax in this State, there shall be a tax of seven cents on every hundred dollars of the assessed value thereof.

5. Upon the shares of stock of each bank, banking association, trust or security company there shall be a tax of seven cents upon every hundred dollars of the actual value thereof as determined by the provisions of section seventeen of an act entitled an act to raise revenue for the support of the government and public free schools, and to pay the interest on the public debt, and to provide a special tax for pensions, as authorized by section one hundred and eighty-nine of the Constitution, approved April sixteenth, nineteen hundred and three, as amended.

6. The taxes provided for by this act shall be in addition to any other taxes upon the property upon which these taxes are imposed which are now or may hereafter be provided for by any statutes or acts of the General Assembly.

7. The taxes provided for by this act shall be collected in the same manner as other taxes upon the said property for State purposes are collected, and shall be paid into the State treasury. They shall compose and constitute a special fund to be known as the State Highway System Construction Fund, and shall be applied to the construction of the roads and projects comprising the State Highway System, as created and established by an act of the General Assembly of Virginia, approved January thirty-first, nineteen hundred and eighteen, and to no other purpose. Warrants for the expenditure of the State Highway Construction Fund shall be issued by the Auditor of Public Accounts upon certificates of the State Highway Commissioner that the parties in whose favor such warrants are proposed to be drawn are entitled thereto and shall

be paid by the State Treasurer out of the moneys constituting the said State Highway System Construction Fund.

8. The provisions of this act shall apply to the assessment and collection of the taxes herein provided for the year nineteen hundred and nineteen and thereafter until otherwise provided.

9. Any surplus to the credit of the fund created by this act which may exist at the end of any fiscal year shall not lapse or revert to the general treasury of the State, but may be used during any subsequent year for the purpose for which said fund was collected and appropriated.

10. An emergency existing by reason of the necessity of meeting Virginia's quota of Federal aid road money now available this act shall be in force from its passage.

SPECIAL TAXES—FOR SUPPORT OF THE GOVERNMENT.

Act March 23, 1918.

THE ACT.

AN ACT to raise additional revenue for the support of the government.
Approved March 23, 1918. Chapter 409, p. 683, Acts 1918.

Be it enacted by the General Assembly of Virginia, That the special taxes prescribed by this act be, and they are hereby, imposed and shall be levied upon the subjects of taxation hereinafter specified.

The taxes provided for by this act shall be in addition to any other taxes upon the subjects of taxation upon which these taxes are imposed which are now or may hereafter be provided for by any statutes or acts of the General Assembly, any statutory provisions or rule of construction to the contrary notwithstanding.

Upon the gross transportation receipts of every railway and canal corporation in this State, not exempt from taxation by virtue of its charter, and of every railway and canal corporation incorporated under the laws of any other State and doing business in this State, the additional tax shall be as follows:

(a) When the road or canal of the corporation lies wholly within this State the additional tax shall be equal to one-sixteenth of one per centum of the entire gross transportation receipts of such corporation; and,

(b) When the road or canal of the corporation lies partly within and partly without this State, or is operated as a part of a line or system extending beyond this State, the additional tax shall be equal to one-sixteenth of one per centum of the gross transportation receipts earned within this State, to be determined in the manner provided for by chapter four hundred and eighty-five of the Acts of the General Assembly of Virginia for the year nineteen hundred and sixteen.

For the privilege of doing business in this State every company doing express business on any railroad, steamboat or vessel in this State, and all refrigerator, oil, stock, fruit and other car loaning and other car companies, operating upon the railroads of this State, except sleeping car companies, dining car, drawing-room car and palace car companies, there shall be an additional tax of one-fourth of one per centum upon the gross receipts from the operation of such company within this State, to be determined as provided for by the provisions of chapter one hundred and forty-one of the Acts of Assembly of Virginia for the year nineteen hundred and fifteen, relating to the taxation of express companies, refrigerator, oil, stock, fruit and other car loaning and other car companies, operating upon the railroads in this State.

Upon every corporation which operates steamships, steamboats or other floating property for the transportation of passengers or freight, there shall be an additional annual license tax equal to one-sixteenth of one per centum upon the gross receipts from the operation of such companies, and each of them, within this State; to be determined in the manner provided for by chapter one hundred and forty-one of the Acts of Assembly for the year nineteen hundred and fifteen, relating to the taxation of corporations operating steamboats, steamships, or other floating property for the transportation of passengers or freight.

Upon every sleeping car, parlor car and dining car company doing business in this State there shall be an additional license tax of fifteen cents for each and every mile of track over which it operates its cars in this State.

Upon each incorporated telegraph company doing business in this State and owning and operating a telegraph line in this State there shall be an additional license tax of twelve and one-half cents per mile of line of poles or conduits owned or operated by the company in this State, and an additional charge of one-eighth of one per centum of the gross receipts of such company from business done within this State during the year ending the thirtieth day of June.

Each incorporated telephone company doing business in this State and owning and operating a telephone line in this State shall pay an additional license tax equal to one-six-

teenth of one per centum of the gross receipts of such corporation from business done within this State during the year ending the thirtieth day of June preceding, these taxes to be determined as provided for by chapter one hundred and fifty of the Acts of the General Assembly of Virginia, for the year nineteen hundred and ten, relating to the taxation of telegraph and telephone companies.

Each corporation doing in Virginia the business of furnishing water, heat, light or power, whether by means of electricity or gas, shall pay to the State an additional annual State franchise tax equal to one thirty-second of one per centum of its gross receipts, to be determined in the manner provided for by chapter four hundred and seventy-two of the Acts of Assembly for the year nineteen hundred and sixteen, relating to water, heat, light and power companies.

The taxes provided for by this act shall be assessed, determined and collected as other State taxes on the same subjects of taxation are assessed, determined and collected, and shall be paid into the treasury of the State as are other taxes of the same kinds.

The provisions of this act shall apply to the assessment and collection of the taxes herein provided for for the year nineteen hundred and eighteen and thereafter until otherwise provided.

SPECIAL TAXES—FOR SUPPORT OF THE GOVERNMENT.

Act March 15, 1924.

Act imposing additional taxes on recordation of deeds and other writings; on railway and canal corporations; on express companies; on telegraph companies; on telephone companies; on water, heat, light and power companies; and on insurance companies; approved March 15, 1924, which applies to the assessment and collection of taxes for years 1924 and 1925 but not thereafter.

THE ACT.

AN ACT to raise revenue for the support of the government. Approved March 15, 1924. Chapter 279, p. 410, Acts 1924.

1. Be it enacted by the General Assembly of Virginia, That the special taxes prescribed by this act be, and they are hereby, imposed and shall be levied upon the property and

subjects of taxation hereinafter specified for the years nineteen hundred and twenty-four and nineteen hundred and twenty-five; upon every deed, deed of trust, mortgage, lease, contract or agreement, upon which a State tax is now imposed by section thirteen of the act approved April sixteenth, nineteen hundred and three, entitled an act to raise revenue for the support of the government and public free schools and to pay the interest on the public debt, and to provide a special tax for pensions, as authorized by section one hundred and eighty-nine of the Constitution, as heretofore amended, an additional tax of two cents upon each one hundred dollars of consideration to be levied and collected as set forth in said section and subject to such exceptions as are therein provided.

Upon the gross transportation receipts of every railway and canal corporation in this State, not exempt from taxation by virtue of its charter, and of every railway and canal corporation incorporated under the laws of any other State and doing business in this State, the additional tax shall be as follows:

(a) When the road or canal of the corporation lies wholly within this State the additional tax shall be equal to one-sixteenth of one per centum of the entire gross transportation receipts of such corporation; and,

(b) When the road or canal of the corporation lies partly within and partly without this State, or is operated as a part of a line or system extending beyond this State, the additional tax shall be equal to one-sixteenth of one per centum of the gross transportation receipts earned within this State, to be determined in the manner provided for by chapter four hundred and eighty-five of the Acts of the General Assembly of Virginia for the year nineteen hundred and sixteen.

For the privilege of doing business in this State every company doing express business on any railroad, steamboat or vessel in this State, and all refrigerator, oil, stock, fruit and other car loaning and other car companies, operating upon the railroads of this State, except sleeping car companies, dining car, drawing room car and palace car companies, there shall be an additional tax of three-twentieths of one per centum upon the gross receipts from the operations of such companies within this State, to be determined as provided for by the provisions of chapter one hundred and forty-one of the Acts of Assembly of Virginia for the year nineteen hundred and fifteen, relating to the taxation of express companies, refrigerator, oil, stock, fruit and other car loaning and other car companies, operating upon the railroads in this State.

Upon each incorporated telegraph company doing busi-

ness in this State and owning and operating a telegraph line in this State there shall be an additional license tax of twelve and one-half cents per mile of line of poles or conduits owned or operated by the company in this State, and an additional charge of one-fourth of one per centum of the gross receipts of such company in excess of fifty thousand dollars from business done within this State during the year ending the thirtieth day of June.

Each incorporated telephone company doing business in this State and owning and operating a telephone line in this State shall pay an additional license tax equal to one-fourth of one per centum of the gross receipts of such corporation in excess of fifty thousand dollars from business done within this State during the year ending the thirtieth day of June preceding, and a sum equal to twenty-five cents per mile of line of poles or conduits owned or operated by such corporation in this State. Provided, however, that this tax shall not apply to any telephone company chartered in this State when such company is purely a local mutual association, and does not charge others for transmitting messages over its line or lines, and is not designed to accumulate profits for the benefit of, or to pay dividends to the stockholders or members thereof. In computing the taxes imposed by this section on telegraph and telephone companies, the provisions of chapter one hundred and fifty of the Acts of Assembly of Virginia, for the year nineteen hundred and ten, shall be applied.

Each corporation doing in Virginia the business of furnishing water, heat, light or power, whether by means of electricity or gas, shall pay to this State an additional annual State franchise tax equal to one-sixteenth of one per centum of its gross receipts, to be determined in the manner provided for by chapter four hundred and seventy-two of the Acts of Assembly of Virginia for the year nineteen hundred and sixteen.

Every person, partnership, company or corporation, which contracts on his, their or its accounts to issue policies, contracts or agreements for life, fire, marine, surety, guaranty, fidelity, employer's liability, liability, credit, health, accident, live stock, plate glass, tornado, automatic sprinkler, burglary, steam boiler, and all like insurance, shall pay an additional tax of one-eighth of one per centum upon the gross amount of all premiums, assessments, dues and fees collected, received or derived, or obligations taken therefor, from business in this State during each year. The provisions of chapter seventy-seven of the Acts of the General Assembly of Virginia of nineteen hundred and fifteen shall be applied in computing and collecting this tax, provided that nothing herein shall be construed to apply to fraternal beneficiary associations, as de-

fined in chapter one hundred and seventy-one of the Code of Virginia, nineteen hundred and nineteen, defining and regulating fraternal beneficiary associations, orders or societies.

The taxes provided for by this act shall be assessed, determined and collected as other State taxes on the same property and subjects of taxation are assessed, determined and collected, and shall be paid into the treasury of the State as are other taxes of the same kinds and applied to the general expenses of government.

The taxes provided for by this act shall be in addition to any other taxes upon the property and subjects of taxation upon which these taxes are imposed which are now or may hereafter be provided for by any statute or act of the General Assembly, any statutory provision or rule of construction to the contrary notwithstanding.

The provisions of this act shall apply to the assessment and collection of the taxes herein provided for for the years nineteen hundred and twenty-four and nineteen hundred and twenty-five but not thereafter.

SPECIAL STATE TAX—On water, heat, light or power companies, on telegraph companies, on telephone companies, on electric railway corporations and on motor vehicle carriers, to defray expenses of valuation of their properties by the State Corporation Commission.

Also to impose an annual State tax on the Virginia Pilots' Association.

Act March 20, 1924.

THE ACT.

AN ACT to raise revenue to provide increased facilities for the valuation of the properties of certain classes of public service companies for rate making purposes, and for the performance of other functions of the State Corporation Commission, and to appropriate the revenue provided by this act for carrying out the purposes of the same. Approved March 20, 1924. Chapter 374, p. 536, Acts 1924.

Whereas, by the Constitution and by the laws of Virginia the authority to prescribe rates and charges for water, heat, light and power companies, telephone and telegraph companies, electric railways and motor vehicle carriers is vested in the State Corporation Commission of Virginia; and,

Whereas, in the discharge of the duties laid upon it, it is necessary for the said Commission to make valuations for rate making purposes based upon detailed appraisals of the properties of such public service companies, the proper making of which appraisals can only be done at great expense, and the said Commission lacks the means necessary to make such appraisals and finds it desirable to make its own appraisals in many cases, particularly those in which the only appraisals presented as evidence are made by agents employed by parties contestant; either separately or by one party alone, if presented at all; and,

Whereas, the public interest demands that such appraisals be made by agents employed by the said Commission; now, therefore,

1. Be it enacted by the General Assembly of Virginia, That the special taxes prescribed by this act be, and they are hereby imposed and shall be levied annually upon the subjects of taxation hereinafter specified. The taxes provided for by this act shall be in addition to any other taxes upon the subjects of taxation upon which these taxes are imposed which are now or may hereafter be provided for by any statutes or acts of the General Assembly, any statutory provisions or rule of construction to the contrary notwithstanding.

That corporations doing in Virginia the business of furnishing water, heat, light or power either by means of electricity or gas shall pay to the State an additional annual State tax equal to one-tenth of one per centum of its gross receipts from business done within the State to be determined in the manner provided for by chapter four hundred and seventy-two of the Acts of Assembly for the year nineteen hundred and sixteen, relating to water, heat, light and power companies.

Each incorporated telegraph company doing business in this State and owning and operating a telegraph line in this State shall pay to the State an additional annual State tax equal to one-tenth of one per centum of the gross receipts of such companies from business done within this State during the year ending the thirtieth day of June.

Each incorporated telephone company doing business in this State and owning and operating a telephone line in this State, whose annual gross receipts from business done within this State are in excess of fifty thousand dollars, or the number of miles of poles exceed four hundred or a majority of the stock or other property of such company is owned or controlled by any other telephone company whose annual receipts exceed fifty thousand dollars, shall pay to the State an annual State tax equal to one-tenth of one per centum of the gross

receipts of such companies from business done within the State during the year ending the thirtieth of June.

These taxes to be determined as provided for by chapter one hundred and fifty of the Acts of Assembly of Virginia for the year nineteen hundred and ten, relating to the taxation of telegraph and telephone companies.

Each electric railway corporation doing business in this State shall pay to the State an additional annual State tax equal to one-tenth of one per centum of its gross receipts from business done within the State to be determined in the manner provided for by chapter four hundred and eighty-five of the Acts of Assembly of Virginia for the year nineteen hundred and sixteen.

Each motor vehicle carrier doing a business in this State shall pay to the State an additional annual State tax equal to one-tenth of one per centum of its gross receipts from business done within the State to be determined in the same manner provided for in the case of electric railways by chapter four hundred and eighty-five of the Acts of Assembly of Virginia for the year nineteen hundred and sixteen.

The Virginia Pilots' Association shall pay to the State an annual State tax equal to one-tenth of one per centum of the gross receipts of such association from the business in which such association is engaged, such tax to be assessed and determined by the State Corporation Commission, and collected as State taxes on public utility companies are collected and shall be paid into the treasury of the State as are other taxes provided for by this act.

The taxes provided for by this act shall be assessed, determined and collected as other State taxes on the same subjects of taxation are assessed, determined and collected and shall be paid into the treasury of the State as are other taxes of the same kinds; provided, however, the said taxes paid into the treasury under this act shall be set aside as a special fund to be used by the State Corporation Commission for the purpose of making appraisals and valuations of the properties of such public service companies whenever the same shall be deemed necessary by the Commission and for the performance of other functions of the State Corporation Commission.

All of the taxes collected under this act are hereby appropriated for the purposes of carrying out the provisions hereof. All payments from the fund herein provided shall be upon the order of the State Corporation Commission, attested by its clerk.

MOTOR VEHICLE FUELS—TAX ON.
(Gasoline Tax.)

THE ACT.

AN ACT to levy a tax upon motor vehicle fuels; to provide for its collection; to appropriate revenue raised by the same and to prescribe penalties. Approved March 26, 1923. Chapter 107, p. 125, Acts extra session 1923.

1. Be it enacted by the General Assembly of Virginia, as follows:

The following words, terms, and phrases used in this act are for the purposes hereof defined, as follows:

(A) "Motor vehicles" are hereby defined as all automotive or self-propelled vehicles, engines or machines, which are operated or propelled by internal combustion of gasoline, distillate, or other volatile or inflammable liquid fuels.

(B) "Motor vehicle fuels" are such fuels known as gasoline, benzine, naphtha, liberty fuel, and such other volatile or inflammable liquids, not including kerosene oil, as may be used for the purpose of operating or propelling motor vehicles.

(C) The term "dealer" is hereby defined as any person, association of persons, firm, or corporation, who imports or causes to be imported into the State of Virginia motor vehicle fuels as herein defined for use, distribution, or sale and delivery in and after the same reaches the State of Virginia; and also any person, association of persons, firms or corporations who produces, refines, manufactures or compounds such fuels in the State of Virginia, for use, distribution, or sale and delivery in this State.

2. In addition to the taxes now provided by existing law, every dealer, as herein defined, who is now engaged or who may hereafter engage in his own name, or in the name of others, or in the name of his representatives or agents in this State, in the sale and distribution of motor vehicle fuels, as herein defined, shall, not later than the twentieth of each calendar month, render to the Secretary of the Commonwealth a statement on forms prepared and furnished by the said secretary, which shall be sworn to by one of the principal officers, in case of domestic corporations, or by the resident general agent or attorney in fact, or by a chief accountant or officer, in case of a foreign corporation, by the managing agent or owner in case of a firm or association of persons, or by the dealer in all other cases, which statement shall show the quantities of motor vehicle fuels sold and delivered within the State of Virginia during the preceding calendar month, and

such dealer shall at the same time pay the tax or taxes herein-after levied on all motor vehicle fuels sold and delivered, as shown by such statement. Bills shall be rendered to all purchasers of motor vehicle fuels by such dealers except in cases of retail sales where exemption is not claimed by the purchaser under the terms of this act. The said bills shall contain a statement printed thereon in a conspicuous place that the liability to the State for the tax or taxes herein imposed has been assumed, and that the dealer will pay the tax or taxes thereon on or before the twentieth day of the following month. Provided, however, that the tax or taxes herein levied on motor vehicle fuels, shall upon all such motor vehicle fuels as shall, at the time this law becomes effective, be in the hands of a retail distributor (to-wit: any person, association of persons, firm or corporation who sells to the consumer) be paid by such retail distributor, who as to the motor vehicle fuels in his hands on the day this law becomes effective shall make all such reports, do all such things, and pay all such sums, in such manner, and at such times as in other cases is required of the dealer, as herein defined.

3. There is hereby levied a tax of two cents per gallon on all motor vehicle fuels, as herein defined, which is sold and delivered in this State, and is not under the protection of the interstate commerce clause of the Constitution of the United States; and on and after July first, nineteen hundred and twenty-three, there is hereby levied on all motor vehicle fuels, as herein defined, which is sold and delivered in this State, and is not under the protection of the interstate commerce clause of the Constitution of the United States, an additional tax of one cent per gallon.

4. (As amended by chapter 466, p. 706, Acts 1924.) The said tax or taxes shall be paid on or before the twentieth day of each month, as herein provided, to the Secretary of the Commonwealth, who shall receipt to the dealer, therefor, and less any refunds made under this act, and the necessary expenses incurred in the administration thereof, promptly pay the same into the State treasury. The revenue from the two cent per gallon tax levied, as aforesaid, is hereby appropriated for the construction of the roads and projects comprising the State highway system, and shall be applied to no other purpose. The revenue from said additional one cent tax per gallon, levied as aforesaid, is, on and after July first, nineteen hundred and twenty-three, appropriated for the construction, or maintenance, or both construction and maintenance, of the roads and bridges now embraced in or which may be hereafter added to the several county highway systems of this State, in accordance with chapter four hundred and twenty-six of the Acts of Assembly of nineteen hundred and

eighteen and acts amendatory thereof, in the same proportion as State aid money is now distributed to said counties, unless otherwise provided by law, but the counties shall not be required to match said sums or any part thereof, nor shall the State Highway Commission be entitled to retain or receive any part thereof. The boards of supervisors and local road and bridge commissions, where legally constituted of the several counties, shall have exclusive authority to expend the said sums for the construction, reconstruction, repair and maintenance of the roads and bridges embraced in said county road systems in their respective counties in such manner as they may deem most expedient. But if the board of supervisors of any county shall request the State Highway Commission to do as to any specific project or projects of road construction or reconstruction to be financed in whole or in part from said sums, then the State Highway Commission shall assist in and supervise the construction or reconstruction of such road project or projects in all respects, as is provided for in the case of State aid roads by chapter four hundred and twenty-six of the Acts of Assembly of nineteen hundred and eighteen, and acts amendatory thereof, the whole cost, however, to be paid by the county out of said sums or other county funds, and upon and after such application shall have the same authority and control over such road construction or reconstruction project or projects as it now has over State aid road construction projects.

5. Every dealer in motor vehicle fuels shall keep a record of all purchases, receipts, sales, and deliveries of such fuels, which shall include the number of gallons sold and delivered and the date of sale, which records shall be preserved for a period of two years and shall at all times during the business hours of the day be subject to inspection by the Secretary of the Commonwealth or his deputies, or such other officers as may be duly authorized by said secretary.

6. The said tax or taxes shall not be imposed on motor fuels when exported or sold for exportation and exported from the State of Virginia to any other State or nation.

7. Any person, association of persons, firm or corporation, who shall buy, in quantities of five gallons or more at any one time, any motor vehicle fuels as defined in this act for the purpose of, and the same is actually used for, operating or propelling boats, ships, aeroplanes or aircraft, stationary gas engines, tractors used for agricultural purposes and motor equipment belonging to cities and towns used exclusively in municipal activities, or who shall purchase and use any of such fuels for spraying purposes or for cleaning, dyeing or other commercial use, except in motor vehicles operated, or intended to be operated in, whole or in part upon any of the public high-

ways, streets or alleys of this State, on which motor fuels the tax or taxes imposed by this act shall have been paid, shall be reimbursed and repaid the amount of such tax or taxes paid by him, upon presenting to the Secretary of the Commonwealth an affidavit accompanied by a ticket, invoice or other document from the dealer or retail distributor, showing such purchase, which affidavit shall set forth the total amount of such fuel so purchased and used by such consumer, other than in motor vehicles operated or intended to be operated upon any of the public highways, streets or alleys of this State, and how used; and the Secretary of the Commonwealth, upon the presentation of such affidavit and such ticket, invoice or other document, shall repay to such consumer from the taxes collected on motor vehicle fuels the said taxes paid on fuels sold and delivered and used other than for motor vehicles as aforesaid; provided that application for refunds as provided herein must be filed with the said secretary within sixty days from the date of sale or invoice, on forms prepared and furnished by said secretary.

8. Any dealer, as herein defined, violating any of the provisions of this act, or any person, association of persons, firm or corporation making any false statement in connection with an application for the refund of any money or tax as provided in this act, or collecting or causing to be repaid to him or to any person, any tax without being entitled to same under the provisions of this act, shall be deemed guilty of a misdemeanor. But no retail distributor, as herein defined, shall be prosecuted hereunder for failure to pay the tax or taxes on not exceeding two hundred and fifty (250) gallons of motor vehicle fuel on hand the day this act becomes effective, but the tax or taxes on such motor vehicle fuel may be recovered as herein provided for.

9. (As amended by chapter 365, p. 522, Acts 1924.) If any dealer, as herein defined, shall fail to pay the tax or taxes on motor vehicle fuels due by such dealer under the provisions of this act, on or before the twentieth day of the month in which said payment is due, there shall be automatically added thereto a penalty equal to twenty-five per centum of the said tax, to be paid or collected when the said tax is paid or collected. If any such dealer shall fail to pay such tax and penalty, within thirty days after the said tax shall be due, the Attorney General shall bring appropriate action for the recovery of such tax and penalty, and judgment shall be rendered for the amount so found to be due, together with costs, and the amount collected shall be paid into the State treasury as hereinabove provided; provided, however, that if it shall be found as a fact that such failure to pay was wilful on the part of such dealer, judgment shall be

rendered for double the amount of the tax found to be due, with costs. All remedies now, or which may hereafter be, given by the laws of this State for the collection or enforcement of taxes are hereby expressly given for the collection and enforcement of judgments recovered under this section.

10. If any part or parts of this act shall be declared unconstitutional for any reason the remainder of the act shall not be affected thereby.

Note—All the powers conferred and all the duties imposed upon the Secretary of the Commonwealth by this act shall hereafter be exercised and performed by the Motor Vehicle Commissioner provided for by act approved March 4, 1924, and wherever the words "Secretary of the Commonwealth," or words denoting that officer, appear in this act they shall be construed to mean the "Motor Vehicle Commissioner."

1924

VIRGINIA TAX LAWS

AN ACT to raise revenue for the support of the government and public free schools, and to pay the interest on the public debt, and to provide a special tax for pensions as authorized by section 189 of the Constitution. Approved April 16, 1903. (This act and all acts amendatory thereof continued in force by Code section 2398, as amended by act approved March 20, 1924. Chapter 292, p. 453, Acts 1924.)

1. Be it enacted by the General Assembly of Virginia, That the taxes on persons, property, and incomes for the year commencing the first day of February, nineteen hundred and three, and each year thereafter, and on licenses to transact business shall be as follows:

Code Sec. 2205.—Taxes on lands and lots, ground rents, and rent charge.—On tracts of lands and lots, and the improvement thereon, not exempt from taxation, ground rents and rent charge, there shall be a tax of ten cents on every hundred dollars of the assessed value thereof, which shall be applied to the support of the public free schools of the State. (See act of March 15, 1918, imposing special tax of 8 cents, p. 36, and act of September 5, 1919, imposing special tax of 7 cents, p. 40.)

Code Sec. 2245. Taxation of ground rents.—All ground rents and rent charges shall be listed and assessed for the purpose of taxation in like manner as lands and lots.

The value of such ground rent or other like charge shall be estimated and charged at a sum equal to a principal sum, the interest of which, at the legal rate of interest (six per centum), will produce a sum equal to such annual rent or charge, and if payable in any other thing except money, the value of the rent or charge to be ascertained by the assessor, and if the name of the person entitled to receive such rent or charge cannot be ascertained by the assessor, it shall be assessed against the tenant in possession of the real estate upon which it is charged.

Special Tax of Eight Cents on the One Hundred Dollars Valuation. Act March 15, 1918.

(See copy of act, p. 36.)

This act imposes and directs to be assessed for the year 1918 and thereafter, until otherwise provided, a special tax of eight cents; four-eighths for the maintenance of the public

free schools of the primary and grammar grades from the first to the seventh grades, inclusive; three-eighths for the construction or reconstruction of the roads and projects comprised in the State Highway System of public roads; one-eighth for the prevention and eradication of tuberculosis among the people of this State.

On all of the tracts of land and lots and improvements thereon, not exempt from taxation, including rents and rents charge, there shall be a tax of eight cents on every one hundred dollars of the assessed value thereof.

Special Tax of Seven Cents on the One Hundred Dollars Valuation. Act September 5, 1919.

(See copy of act, p. 40.)

This act imposes and directs to be assessed and collected for the year 1919 and thereafter, until otherwise provided, a special tax of seven cents for the construction or reconstruction of the roads and projects comprised in the State Highway System, as established by act approved January 31, 1918, entitled "an act to establish the State Highway System":

On all the tracts of lands and lots and improvements thereon, not exempt from taxation, including rents and rents charge, there shall be a tax of seven cents on every one hundred dollars of the assessed value thereof.

Classification of Persons and Personal Property.

Sec. 3. The taxable subjects shall be classified by schedules as follows—to-wit:

SCHEDULE A.

Sec. 4. The classification under schedule A shall be as follows—to-wit:

First: The number of white male inhabitants who have attained the age of twenty-one years, except those pensioned by this State for military services.

Second: The number of colored male inhabitants who have attained the age of twenty-one years, except those pensioned by this State for military services.

Taxes on Persons.

Sec. 5. Upon every male person, classified in schedule A, there shall be a tax of one dollar and fifty cents, of which one dollar shall be for aid of the public free schools and fifty cents shall be returned and paid into the treasury of the county or city in which it shall have been collected.

Note—The act of March 20, 1920, which follows, imposes an annual State capitation tax of one dollar and fifty cents on every female person, white and colored, of the age of twenty-one years or over and this tax is assessable whether the female qualifies or desires to qualify to vote.

How and When Women Assessable With State Capitation Tax.

AN ACT extending the right of suffrage to women; assessing a State capitation tax on certain women residents of Virginia; and prescribing the qualifications of women entitled to vote for members of the General Assembly and all officers elective by the people, and the manner in which women may register and vote; also providing when this act shall take effect. Approved March 20, 1920. (Chapter 400, p. 588, Acts 1920.)

Sec. 1. (As amended by chapter 269, p. 462, Act§ 1922.) In addition to the male persons who are or may be qualified under the Constitution and laws of the Commonwealth of Virginia to vote for members of the General Assembly and all officers elective by the people, every female citizen of the United State, twenty-one years of age, who has been a resident of the State two years, of the county, city or town one year, and of the precinct in which she offers to vote thirty days next preceding the election in which she offers to vote, has been registered, and has paid her State poll taxes as hereinafter required, shall be entitled to vote for members of the General Assembly and all officers elective by the people; but removal from one precinct to another in the same county, city or town shall not deprive any woman of her right to vote in the precinct from which she has moved, until the expiration of thirty days after such removal. For the purpose of registering and voting, the residence of a married woman shall not be controlled by the residence or domicile of her husband.

Sec. 2. After this act shall become effective, every female citizen of the United States, having the qualification of age and residence required by the preceding section of this act, shall be entitled to register, provided:

First: If she offers to register in the year in which this act becomes effective, has personally paid to the proper officer one dollar and fifty cents in satisfaction of the poll tax assessed or assessable against her for the next succeeding year; or if she offers to register in the year succeeding the year in which this act becomes effective, has personally paid the State poll tax assessed or assessable against her for that year; or if she offers to register in the second year succeeding the year in which this act becomes effective, has personally paid all State poll taxes assessed or assessable against her for the preceding year; or if she offers to register in the third year succeeding the year in which this act becomes effective, has per-

sonally paid the State poll taxes assessed or assessable against her for the two years next preceding the year in which she offers to register; or if she offers to register in the fourth year succeeding the year in which this act becomes effective, or thereafter, has personally paid all State poll taxes assessed or assessable against her under this act for the three years next preceding that in which she offers to register; or if she come of age at such time that no poll tax shall have been assessable against her for the year preceding the year in which she offers to register, has personally paid one dollar and fifty cents in satisfaction of the first year's poll tax assessable against her; and,

Second: That, unless physically unable, she make application to register in her own handwriting, without aid, suggestion, or memorandum, in the presence of the registration officers, stating therein her name, age, date and place of birth, residence and occupation at the time and for two years next preceding, and whether she has previously voted, and, if so, the State, county, and precinct in which she voted last; and,

Third: That she answer on oath any and all questions affecting her qualifications as an elector, submitted to her by the officers of registration, which questions, and her answers thereto, shall be reduced to writing, certified by the said officers, and preserved as a part of their official records.

Sec. 3. Any person registered under the foregoing provisions of this act shall have the right to vote for members of the General Assembly and all officers elective by the people, subject to the following conditions:

That she shall, as a prerequisite to the right to vote after this act becomes effective, personally pay at least six months prior to the election, all State poll taxes assessed or assessable against her under this act during the three years next preceding that in which she offers to vote, provided, that she shall, unless physically unable, prepare and deposit her ballot without aid, on such printed form as the law may prescribe; and, provided, further, that the requirement that poll taxes shall have been personally paid at least six months prior to the election shall not apply to any election which may be held in the year in which this act becomes effective, for which year no poll tax is levied, but the payment of the poll tax for the year next succeeding the year in which this act becomes effective at any time before thirty days next preceding such election held in the year in which this act becomes effective shall entitle her to vote in such election, if otherwise qualified.

Sec. 4. There is hereby levied, for the year succeeding the year in which this act becomes effective, and for every year thereafter, a State capitation tax of one dollar and fifty cents on every female resident of the State not less than twenty-one

years of age, one dollar of which shall be applied exclusively in aid of the public free schools, in proportion to the school population, and the residue shall be returned and paid by the State into the treasury of the county or city in which it was collected, to be appropriated by the proper county or city authorities to such county or city purposes as they shall respectively determine; but said State capitation tax shall not be a lien upon, nor collected by legal process from, the personal property, which may be exempt from levy or distress under the poor debtor's law. But no woman shall be required to pay more than one State poll tax for any one year, and any statutory provision in force on the day this act takes effect requiring the payment of a State poll tax by women is hereby repealed.

Sec. 5. Each registrar shall register every female citizen of the United States of his election district, who shall apply to be registered under the provisions of this act, and who is entitled to be registered under the said provisions, but no woman belonging to any of the classes mentioned in section twenty-three of the Constitution of Virginia shall be permitted to register or vote, and section ninety-three of the Code of Virginia, so far as applicable, shall be complied with. Furthermore, before a registrar shall register the name of any woman as a voter under this act, he shall be satisfied of her qualifications as hereinbefore prescribed, and every woman applying for registration shall, before she is registered, take and subscribe to the following oath: "I,, do solemnly swear (or affirm) that I am entitled to register under the act of Assembly of Virginia extending the right of suffrage to women, and that I am not disqualified from exercising the right of suffrage by the said act," which oath, so subscribed, shall be filed with the registrar and preserved with the books of registration.

Sec. 6. All the provisions of law in any way concerning elections, in so far as the same are not in conflict with this act, shall be applicable to the registration and voting of women in like manner and to the same extent as they are now applicable to the registration and voting of men.

Sec. 7. All acts or parts of acts in conflict with this act are to that extent hereby repealed.

Sec. 8. This act shall not become effective until a proposed amendment to the Constitution of the United States extending the right of suffrage to women shall become a part of the Constitution of the United States in the manner prescribed by law, if such proposed amendment shall not become a part of the said Constitution until after the expiration of ninety days from the adjournment of this session of this General Assembly; but if such proposed amendment shall become

a part of the said Constitution before the expiration of said ninety days, this act shall take effect ninety days after the adjournment of this session of the General Assembly.

SCHEDULE B.

Sec. 6. (As amended by act approved March 15, 1924.)
The classification under schedule B shall be as follows:

Tangible Personal Property.

- (1) The aggregate number of horses, mules, asses and jennets, and the value thereof.
- (2) The number of cattle, and the value thereof.
- (3) The number of sheep and goats, and the value thereof.
- (4) The number of hogs, and the value thereof.
- (5) The aggregate number and value of all automobiles, motor trucks, motor cycles, and all other motor vehicles
- (6) The aggregate value of all animal drawn vehicles and bicycles.
- (7) The aggregate value of all farming implements and tools of mechanics.
- (8) The aggregate value of all felled timber, ties, poles, cord wood, bark, and other timber products, and all agricultural products, in the hands or possession, legal or constructive, of a purchaser, provided that grain, tobacco and other agricultural products in the hands of a producer of the same are hereby declared exempt from taxation as property under this schedule.
- (9) The aggregate value of all household and kitchen furniture, including gold and silver plates, plated ware, watches and clocks, sewing machines, refrigerators, automatic refrigerating machinery, vacuum cleaners, and all other household machinery, books, firearms and weapons of all kinds.
- (10) The aggregate value of all pianos, organs, victrolas, phonographs, and records to be used therewith, and all other musical instruments of whatever kind, radio instruments and equipment.
- (11) The aggregate value of all oil paintings, pictures, statuary, curios, articles of virtu and works of art.
- (12) The aggregate value of all diamonds, cameos, or other precious stones, and all precious metals used as ornaments or jewelry.
- (13) The aggregate value of all boats or water craft under five tons burthen used for business or pleasure.
- (14) The aggregate value of all ships, tug boats, barges, boats, or other craft of five tons burthen or over and all other

floating property not required to be assessed by the State Corporation Commission, used for business or pleasure, together with their tackle, rigging, furniture, and all else that pertains to them, or of any share or interest therein, though the said boats or other water craft or any one of them may not be at the time of the assessment in the waters of the State of Virginia.

(15) The aggregate value of all other tangible personal property not herein specifically enumerated, including the value of all seines, pound nets, fykes, weirs and other devices for catching fish, and the aggregate value of all toll bridges, turnpikes and ferries, except steam ferries owned and operated by a chartered company, and the value of all poles, wires, switchboards, et cetera, telephone or telegraph instruments, apparatus, et cetera, owned by any person, firm, association or company not incorporated.

Note—Section 6, as printed herein, is in force on January 1, 1925, until which date the definition of tangible personal property as printed in tax laws 1922 is in force.

Taxes on Tangible Personal Property.

Code Sec. 2205. On all personal property mentioned in this schedule there shall be a tax of ten cents on every hundred dollars of the assessed value thereof, which shall be applied to the support of the public free schools of this State.

Special Tax of Eight Cents on the One Hundred Dollars Valuation. Act March 15, 1918.

(See copy of act, p. 36.)

This act imposes and directs to be assessed for the year 1918 and thereafter, until otherwise provided, a special tax of eight cents; four-eighths for the maintenance of the public free schools of the primary and grammar grades from the first to the seventh grades, inclusive; three-eighths for the construction or reconstruction of the roads and projects comprised in the State Highway System of public roads; one-eighth for the prevention and eradication of tuberculosis among the people of this State:

On all tangible personal property, as described in section six, schedule B, of an act entitled an act to raise revenue for the support of the government and public free schools, and to pay the interest on the public debt, and to provide a special tax for pensions, as authorized by section one hundred and eighty-nine of the Constitution, approved April sixteenth, nineteen hundred and three, as amended, there shall be a tax of eight cents on every one hundred dollars of the assessed value thereof.

Special Tax of Seven Cents on the One Hundred Dollars Valuation. Act September 5, 1919.

(See copy of act, p. 40.)

This act imposes and directs to be assessed and collected for the year 1919 and thereafter, until otherwise provided, a special tax of seven cents for the construction or reconstruction of the roads and projects comprised in the State Highway System, as established by act approved January 31, 1918, entitled "an act to establish the State Highway System:"

On all tangible personal property, as described in section six, schedule B, of an act entitled an act to raise revenue for the support of the government and public free schools, and to pay the interest on the public debt, and to provide a special tax for pensions, as authorized by section one hundred and eighty-nine of the Constitution, approved April sixteenth, nineteen hundred and three, as amended, there shall be a tax of seven cents on every one hundred dollars of the assessed value thereof.

Intangible Personal Property. (Personal Property in Choses in Action, Etc.)

Section 8. (As amended by chapter 332, p. 552, Acts 1922.) The classification under schedule "C" shall be as follows:

Subsection (1). (As amended by act approved March 20, 1924.) First: Bonds (except bonds of the United States), notes and other evidences of debt, including bonds of other States than Virginia, bonds of counties, cities and towns located outside of the State of Virginia, bonds of railroad and canal companies and other corporations, bonds of individuals and all demands and claims, however, evidenced, whether secured by mortgage, deed of trust, judgment or otherwise, or not so secured.

The commissioner shall require each person, natural or artificial, taxable hereunder, residing in his district or town, to make out and deliver to said commissioner a list in detail of the date, amount for which originally given, but not the name of the debtor, the dates and amounts of the credits thereon, the balance due, and the time of payment of all bonds, notes and other evidences of debt, owing to such person in excess of one hundred dollars, and a statement of the aggregate amount of all bonds, notes and other evidences of debt under one hundred dollars each. The Auditor of Public Accounts shall furnish the necessary blanks for such lists and statements to the commissioner of the revenue.

The list and statement shall be signed and sworn to by the taxpayer before the commissioner of revenue or some notary public, or some person authorized to administer oaths, who shall certify that said list was signed and sworn to before him. The commissioner shall sign the list and determine the value of the bonds, notes and other evidences of debt enumerated, subject to an appeal from his valuation to the circuit court or corporation court. The said list and statement shall include bonds of railroad and canal companies, bonds of counties, cities, towns, located outside of the State of Virginia, and bonds of other States and corporations, bonds of individuals, and all demands and claims, however, evidenced, whether due or not, from debtors, residing out of or within the State, city or county, whether secured by a deed of trust or by judgments or not. There shall be no deductions from the amount thereof on account of any bonds, demands or claims owing to others as principal debtor, or otherwise. No bond, demand or claim constituting a part of the capital, as defined in this act, of the business done out of this State, or any capital used by any merchant or manufacturer, and taxed under this act, shall be included in this subdivision of this section.

The list and statement herein provided, for shall be delivered by said commissioner to the clerk of the circuit or corporation court of his county or city, who shall file the same in his office, properly labeled, keeping the list for each year separate.

If any person, firm or corporation shall have hitherto or shall hereafter, with a view of evading the payment of proper taxes, fail or refuse to make out and deliver such list of his intangible property, or with like intent list the same less than its true value, then such property, when discovered, shall be listed and taxed for the proper amount for each and every year, when it was not so taxed, with an additional penalty of one hundred per centum of such unpaid taxes, and the failure to make out such list and statement to the commissioner, or the listing of such intangible personal property with the commissioner at fifty per centum or less of its actual value, shall be taken as prima facie evidence of the intention to so evade the payment of taxes.

When in any action at law or suit in equity it is ascertained that there are unpaid taxes and penalties on the evidence of debt sought to be enforced, and the suitor makes it appear to the court that he has not paid or is unable to pay these taxes and penalty, but is willing for the same to be paid out of the first recovery on the evidence of debt, the court shall have authority to enter as a part of any judgment or decretal order in said proceedings that the amount of taxes

and penalty due and owing shall be paid to the proper officer out of the first collection on said judgment or decree.

In every action at law or suit in equity in a court of record for the collection of any such bonds, notes or other evidences of debt, the plaintiff shall be required to allege in his pleadings or to prove at any time before final judgment is entered, (1) that such bonds, notes or other evidences of debt have been reported for taxation and assessed for each and every year on the first day of February of which he was the owner of same, not exceeding three years prior to that in which the suit or action is brought; or (2) that such bonds, notes or other evidences of debt constituted a part of the capital employed in the business of such taxpayer and were taxed as such; or (3) that the suitor has not paid, is unable to pay the taxes and penalties but is willing for the same to be paid out of the first recovery on the evidence of debt; or, (4) that the bond, note or other evidence of debt sued upon is not taxable hereunder in the hands of plaintiff; and no judgment or decree of a court of record shall be valid unless the allegation herein required was made or unless proof was adduced of the same before final judgment was entered.

Provided, however, that the title to real estate heretofore or hereafter sold under a deed of trust shall not be drawn in question upon the ground that the holder of the notes secured by such deed of trust did not list the same for taxation; and all judgments upon bonds, notes and other evidences of debt entered before this act shall take effect are hereby validated, legalized and confirmed, and are declared to have the same force and effect as if they contained the allegation herein required.

Second: All capital of persons, firms and corporations employed in a trade or business not otherwise taxed; and in case of a corporation when all of such capital is taxed by this State, the shares of its stock in the hands of individual shareholders shall not be further taxed for State purposes. But real estate belonging to such persons, firms and corporations shall not be held to be capital, but shall be listed and taxed as real estate.

Capital as used in the tax laws shall be defined as follows:

(1) The inventory of stock on hand, which shall include all raw materials for use of the business, whether at the place of business, in storage or elsewhere in the State.

(2) The excess of bills and accounts receivable over bills and accounts payable.

(3) All machinery and tools not taxed as real estate.

(4) Money on hand and on deposit.

(5) All other property of any kind whatsoever, including all choses in action, equities, demands and claims.

Capital used or employed in business as above defined shall, wherever the laws of this State require a tax on capital, be taxed at the rate prescribed by law.

Every person, firm or corporation engaged in a business whose capital is subject by the laws of this State to taxation, is hereby required to keep accounts showing the above items, which shall at all times be open to the inspection of the commissioners of the revenue, the examiners of records, local boards of review, and the State Tax Board; and every such person, firm or corporation shall be required to make a return under oath to the commissioner of revenue, on forms prescribed by the Auditor of Public Accounts, showing the items of capital as above defined, and also the bills and accounts payable which were used as deductions in order to ascertain the amount under section two in the above definition of capital and the names and addresses of the parties to whom said bills and accounts are due, and the various amounts constituting said indebtedness, shall further certify that such indebtedness was made in the usual course of business of said company, firm or corporation.

Nothing herein shall prevent cities and towns of this Commonwealth from imposing a license tax on merchants, mercantile firms or corporations, based on their purchases, in pursuance of their respective charters, or of the general laws of the State for the government of cities and towns.

Where any person, firm or corporation domiciled and doing business in this State maintains a branch of such business outside of this State, no part of the capital of such person, firm or corporation permanently invested in any such branch of its business, nor any intangible assets, arising from business originating at any such branch and transacted outside of this State, shall be considered as situated in this State for the purpose of taxation or be assessed with taxes in this State—any statutory provisions or rule of construction to the contrary, notwithstanding—it being the intent and purpose of this provision to exact of citizens of this State no higher or greater tax than that exacted of nonresidents doing business in this State.

The situs for the taxation of stock on hand, raw materials for use in business, whether at the place of business, in storage or elsewhere, and machinery and tools not taxed as real estate, as provided in this schedule, shall be the county or incorporated community in which they are physically located. Which items of capital shall be taxed by such localities as other capital is taxed by localities, at the rate prescribed by law, and not as tangible personal property, and it shall be the duty of

the said person, firm or corporation to make returns of such capital, stating the county or city where located, to the commissioner of revenue at the point in the State wherein the person resides, or wherein the principal office of the partnership or corporation is located in this State; and if any of the said items contained in classes, one, three and four in the above definition of capital be located in any county or city, other than in that in which the said return is required to be made, then the commissioner of the revenue to whom such return is made shall make two copies thereof and shall forward one copy to the commissioners of the revenue at the points where said property is located, and one copy to the Auditor of Public Accounts, and the commissioners of the revenue receiving same shall enter upon their books such of said property as may be located in their county or city for taxation, as other capital is listed, and shall assess the same as required by section twenty-three hundred and seven of chapter ninety-six of the Code of Virginia, as amended.

Provided, however, that whenever any of the items in said clauses one, three and four shall be located at a point or points other than that in which the return is made, and whenever any deduction of bills and accounts payable shall be allowed any taxpayer, the entire amount of such bills and accounts payable shall not be deducted from the amount of capital assessed where such return is made, but the same shall be distributed in such ratable proportion as the value of the capital located in such other point or points shall bear to the entire amount of capital assessed against the taxpayer. The commissioner of revenue to whom the return is made shall certify the proper ratable amount of such deduction to the commissioner of the revenue at such other point or points, who shall accordingly deduct said amount from the value of the property assessed in his jurisdiction.

In making return of capital in business according to the method defined above return shall be made as of February the first, provided the taxpayer, at his option, may make return as shown by average of February the first of the current year and August first, preceding.

Third: The value of the principal of personal estate and credits other than tangible personal property, money, and the property embraced in class one of this schedule under the control of a court receiver or commissioner, in pursuance of an order, judgment or decree of any court, or in the hands, or under the control of an executor, administrator, guardian, trustee, agent or other fiduciary; and the principal estate and credits other than tangible personal property, money and property embraced in class one of this schedule deposited to the credit of any suit and not in the hands of a receiver or other fiduciary.

Fourth: All money other than money used or employed in any trade or business not otherwise taxed on deposit with any bank or other corporation or firm or person doing a banking business, or in the possession or under control of the owner, whether such money be actually in or out of this State and belonging to a citizen of this State, which shall include certificates of deposit of any bank, banking association, trust or security company bearing a total interest rate paid or to be paid not exceeding five per centum per annum; provided, that money as herein defined shall not be liable to taxation by any of the counties, cities, towns, school districts or other local subdivisions of this State. All moneys under the control of a court receiver or commissioner in pursuance of an order, judgment or decree of any court or in the hands or under the control of an executor, administrator, guardian, trustee, agent, or other fiduciary; and all moneys deposited to the credit of any suit, not in the hands of a receiver or other fiduciary.

Note—The provisions of this section require the assessment of money owned by a taxpayer of this State even though it is out of this State on deposit or in the custody of a person, firm, bank or other corporation outside of this State. If the money is a loan evidenced by a bond, note, due bill or other evidence of debt, then such bond, note, bill or other evidence of debt, if owned by a taxpayer of this State, must not be assessed as money, but must be assessed as bonds, notes, etc.

Commissioners of the revenue not authorized to assess as money the following:

Money of a person, firm or corporation actively used and employed in business as a merchant, because the money so employed is a part of the merchants' capital and the State instead of taxing a merchant on capital requires the payment of a license tax based on purchases.

Money of a person, firm or corporation engaged in the business of manufacturing, because the money so employed is a part of the capital of the manufacturer and is required by law to be assessed as capital.

Money belonging to any railroad, canal, telephone, telegraph, water, heat, light, power, express or steamboat corporation, because money belonging to such corporation is assessable by the State Corporation Commission.

Money deposited in any national or State bank, security or trust company which is the property of another national bank, State bank, trust or security company, because such money is a part of the capital of the bank, trust or security company making the deposit, and their capital is not taxable, because in lieu of taxing the capital the State imposes a tax on the shares of stock owned by their stockholders.

Money belonging to the United States government, State of Virginia, any county, magisterial district, city or town in this State, because all such money is exempt from taxation.

Fifth. All shares of stock of corporations or joint stock companies, except such corporations and joint stock companies, all of whose capital is taxed by this State, or which

pay a franchise tax in this State, and banks, banking associations, trust and security companies, and insurance companies, which are otherwise taxed in this State.

Sixth: All bonds of counties, cities and towns, or other political subdivisions of this State.

Intangible Personal Property. (Taxes on Personal Property in Choses in Action, Etc.)

Sec. 9. (As amended by chapter 332, p. 556, Acts 1922, and applicable for year 1922 and thereafter.) The taxes on intangible personal property shall be as follows:

On all property embraced in class one of this schedule there shall be a tax of twenty cents on every hundred dollars of the assessed value thereof, which shall be paid into the State treasury and applied to the payment of the expenses of the government. And any city in this State may levy a tax on such property assessed to residents therein at a rate not to exceed twenty cents on the one hundred dollars of assessed valuation thereof; and the board of supervisors of any county may levy a district road tax on such property assessed to residents in any magisterial district proposed to be taxed for district purposes to be used exclusively for the construction and repair of public roads and bridges located within the magisterial district in which said levy is laid at a rate not to exceed twenty cents on the hundred dollars of assessed valuation thereof, but this clause shall not be considered to authorize the board of supervisors of any county to levy such tax against the residents of any incorporated town within such magisterial district which maintains its own roads; and any incorporated town in this State which is exempt by statute or by the express provisions of its charter from the payment of district road taxes, or which maintains its own roads, free of expense to the magisterial district, may levy a tax on such property assessed to residents therein at a rate not to exceed twenty cents on the one hundred dollars of assessed valuation thereof.

On all property embraced in classes three and five of this schedule, there shall be a tax of sixty-five cents on every hundred dollars of the assessed value thereof, and on all property embraced in class two of this schedule, there shall be a tax of seventy cents on every hundred dollars of the assessed value thereof, which shall be paid into the State treasury and applied to the payment of the expenses of the government. And any city in this State may levy a tax on such property assessed to residents therein at a rate not to exceed thirty cents on the one hundred dollars of assessed valuation thereof; and the board of supervisors of any county may levy a district road

tax on such property assessed to residents in any magisterial district proposed to be taxed for district purposes to be used exclusively for the construction and repair of public roads and bridges located within the magisterial district in which said levy is laid at a rate not to exceed thirty cents on the hundred dollars of assessed valuation thereof, but this clause shall not be considered to authorize the board of supervisors of any county to levy such tax against the residents of any incorporated town within such magisterial district which maintains its own roads; and any incorporated town in this State which is exempt by statute or by the express provisions of its charter from the payment of district road taxes, or which maintains its own roads, free of expense to the magisterial district, may levy a tax on such property assessed to residents therein at a rate not to exceed thirty cents on the one hundred dollars of assessed valuation thereof.

On all property embraced in class four of this schedule there shall be a tax of twenty cents on every one hundred dollars of the assessed valuation thereof, which shall be paid into the State treasury and applied to the expenses of the government. On all property embraced in class six in this schedule there shall be a tax of thirty-five cents on every one hundred dollars of the assessed value thereof, which shall be paid into the treasury of the State. Provided, however, that from and out of the tax on all such property paid to and retained by the State for the expenses of the State government there shall be set aside ten cents on every hundred dollars of the assessed value thereof, which shall be applied to the support of the public free schools of this State. Provided, further, however, that in the event any taxpayer shall fail, without just cause shown, to return for taxation any intangible personal property under the provisions of this schedule within the time prescribed by law, and it is ascertained thereafter that any such property has not been returned for taxation, it shall be assessed when discovered, and taxed at the full rate of taxation provided for real estate in this State, which shall include the State rate and the local rates and levies of the county, district, town or city wherein the owner or taxpayer has his legal residence.

Any person, firm or corporation, who shall, for the purpose of evading taxation under the laws of this Commonwealth, within thirty (30) days prior to the first day of February of any year, either directly or indirectly, convert any intangible personal property or money taxable under the laws of this State, into a form of property which is nontaxable by this State, or, with like intent shall, either directly or indirectly, convert such intangible personal property or money into a form of property which is taxable by this State at a lower rate than the intangible personal property or money so converted, shall

be taxable on such intangible personal property or money as if such conversion had not taken place; and the fact that such person, firm or corporation within thirty days after the first day of February, either directly or indirectly, convert such property nontaxable by this State or taxable at the lower rate by this State into intangible personal property or money taxable at the higher rate shall be prima facie evidence of intent to evade taxation by this State, and the burden of proof shall be upon such person, firm or corporation to show that the first conversion was for the bona fide purpose of investment, and not for the purpose of evading taxation by this State.

The provisions of section eight and of this section of this schedule shall apply with equal force to any person or corporation representing in this State business interests that may claim a domicile elsewhere, the intent and purpose being that no nonresident person or corporation either personally or through any agent, shall transact business here without paying to the State a corresponding tax with that exacted of its own citizens, and all bills receivable, obligations or credits and other intangible assets arising from the business done in this State are hereby declared assessable within this State and at the business domicile of said nonresident person or corporation, his or its agents or representative.

No property which is embraced in class one of this schedule which is voluntarily reported for taxation to the commissioner of the revenue or the examiner of records, and the tax thereon paid on or before December first, nineteen hundred and twenty-two, shall be assessed with omitted taxes for any year prior to the year nineteen hundred and twenty-two.

The provisions of this amendatory act shall apply to the assessment and collection of State taxes and local levies in the year nineteen hundred and twenty-two, and thereafter until otherwise provided by law; provided that nothing contained in this act shall affect any special taxes heretofore or hereafter imposed upon the property mentioned herein.

The reduction in the rate of taxation prescribed by this act shall not apply to the shares of stock of any bank, banking association, trust or security company.

Special Tax of Eight Cents on the One Hundred Dollars Valuation. Act March 15, 1918.

(See copy of act, p. 36.)

This act imposes and directs to be assessed for the year 1918 and thereafter, until otherwise provided, a special tax of eight cents; four-eighths for the maintenance of the public free schools of the primary and grammar grades from the first to the seventh grades, inclusive; three-eighths for the construc-

tion or reconstruction of the roads and projects comprised in the State Highway System of public roads; one-eighth for the prevention and eradication of tuberculosis among the people of this State:

On every one hundred dollars of the assessed value of all property embraced in:

Class 1. Upon all bonds (except bonds of the United States and of the State of Virginia), notes and other evidences of debt, including bonds of States other than Virginia, bonds of counties, cities and towns located outside of the State of Virginia, bonds of railroad and canal companies and other corporations, bonds of individuals and all demands and claims, however evidenced, whether secured by mortgage, deed of trust, judgment or otherwise, or not so secured;

Class 2. Upon the capital of persons, firms and corporations employed in a trade or business not otherwise taxed;

Class 3. Upon the value of the principal of personal estate and credits, other than tangible property and money, under the control of a court receiver or commissioner, in pursuance of an order, judgment or decree of any court or in the hands or under the control of an executor, administrator, guardian, trustee, agent or other fiduciary, and upon the principal of personal estate and credits, other than money, deposited to the credit of any suit and not in the hands of a receiver or other fiduciary;

Class 5. Upon the shares of stock of corporations or joint stock companies, except such corporations and joint stock companies all of whose capital is taxed by this State or which pay a franchise tax in this State.

Note—This special tax of eight cents is not to be assessed upon Class 4, money; nor upon Class 6, bonds of counties, cities and towns, or other political subdivisions of this State.

Sec. 2302. (As amended by chapter 44, acts extra session 1923.) Taxation of bonds of counties, cities, towns, and other political subdivisions of Virginia—Bonds of the several counties, cities, towns and other political subdivisions of this Commonwealth, whether heretofore or hereafter issued, are hereby segregated and made subject to State taxation only, and shall not be subject to taxation by any of the counties, cities, towns, school districts or other political subdivisions of this Commonwealth.

Note—These bonds are taxable for State purposes only, and are not subject to taxation by any county, city, town, school district, or other political subdivision of this Commonwealth.

**Special Tax of Seven Cents on the One Hundred Dollars
Valuation. Act September 5, 1919.**

(See copy of act, p. 40.)

This act imposes and directs to be assessed and collected for the year 1919 and thereafter, until otherwise provided, a special tax of seven cents for the construction or reconstruction of the roads and projects comprised in the State Highway System, as established by act approved January 31, 1918, entitled "an act to establish the State Highway System":

On every one hundred dollars of the assessed value of all property embraced in:

Class 1. Upon all bonds (except bonds of the United States and of the State of Virginia), notes and other evidences of debt, including bonds of States other than Virginia, bonds of counties, cities and towns located outside of the State of Virginia, bonds of railroad and canal companies and other corporations, bonds of individuals and all demands and claims, however evidenced, whether secured by mortgage, deed of trust, judgment or otherwise, or not so secured;

Class 2. Upon the capital of persons, firms and corporations employed in a trade or business not otherwise taxed;

Class 3. Upon the value of the principal of personal estate and credits, other than tangible property and money, under the control of a court receiver or commissioner, in pursuance of an order, judgment or decree of any court or in the hands or under the control of an executor, administrator, guardian, trustee, agent or other fiduciary, and upon the principal of personal estate and credits, other than money, deposited to the credit of any suit and not in the hands of a receiver or other fiduciary.

Class 5. Upon the shares of stock of corporations or joint stock companies, except such corporations and joint stock companies all of whose capital is taxed by this State or which pay a franchise tax in this State.

Note—This special tax of 7 cents is not to be assessed upon Class 4, money; nor upon Class 6, bonds of counties, cities and towns, or other political subdivisions of this State.

**Virginia Corporations Doing No Business in Virginia—
Intangible Property and Income—Not Taxable.**

AN ACT to amend and re-enact an act entitled an act relating to the situs for taxation of intangible property owned by corporations which do no business in this State, approved March 22, 1916. Approved March 14, 1918. (Chap. 209, p. 356, Acts 1918.)

Whereas, certain corporations have been organized under the laws of Virginia, and it is anticipated that certain others

will be organized thereunder, which do no business within this State; and,

Whereas, by an act entitled an act relating to the situs for taxation of intangible property owned by corporations which do no business in this State, approved March 22, 1916, it was intended to relieve from both income and ad valorem taxes the intangible property of corporations organized under the laws of this State for any tax year during which such corporations do, or have done prior to the passage of said act no part of their business, within this State; therefore, in order to declare the purpose and intent of said act and to make the same effective in furtherance of the objects of its adoption.

Be it enacted by the General Assembly of Virginia, That no income tax nor ad valorem taxes, State or local, shall be imposed upon the stocks, bonds, investments, capital or other intangible property heretofore or hereafter owned by corporations organized under the laws of this State for any tax year during which such corporations do, or have done prior to the passage of this act, no part of their business within this State; and the mere holding of stockholders' meetings, annual or special, in this State, or the doing of any act or acts in this State now or hereafter required by the laws thereof to be done in this State, shall not be construed as doing any business in this State within the meaning of this act; provided, however, that nothing herein contained is intended to authorize, or shall be construed to authorize any such corporation which has heretofore paid any such income or ad valorem tax upon its intangible property as aforesaid, to recover from the State or any municipal subdivision thereof, the amount of such taxes so paid, and provided, further, that if while any such intangible property is subject to any taxation under the laws of this State, it be assigned or transferred to any such corporation, such property shall continue during the current tax year to be subject to all taxes now or hereafter imposed by law upon such property, just as if such assignment or transfer had not been made. All liens, now or hereafter provided for by law, on property, so assigned or transferred, for taxes during such current tax year, are hereby preserved, and such taxes may be assessed either against the assignor or the assignee, and however assessed may be collected of either by any of the methods now or hereafter provided for by law.

SCHEDULE D.**Tax on Income.**

Sec. 10. (As amended by chapter 463, Acts 1922, and applicable to the assessment and collection of income taxes for the year nineteen hundred and twenty-two upon income received or due but not received during the year nineteen hundred and twenty-one, and to the assessment and collection of income taxes for subsequent years.) The classification under schedule D providing for the taxation of income shall be as follows, to-wit:

Subsec. 1. The aggregate amount of income of each person and corporation residing or doing business in this State, whether received or due but not received within the year next preceding the first of January in each year, subject to the deductions and exemptions hereinafter recited.

The terms "person" and "corporation," as used in this act, are hereby defined as follows:

(a) The term "person" shall mean and include any individual, firm or co-partnership.

(b) The term "corporation" shall mean and include every incorporated company, every joint stock company, and every association having capital stock represented by shares or certificates of stock, organized for profit.

Subsec. 2. The term "income," as used in this act, shall include:

(a) All rents, including ground rents and rents charge, salaries, wages, fees or compensation of whatever kind from professions, vocations or other services.

(b) All interest upon notes, bonds or other evidences of debt of every description, including those of other States or other countries (except bonds of this State and bonds of the United States), of any corporation, company, partnership, firm or individual, all dividends derived from stock or other evidences of ownership or interest in property, but not including dividends paid in stock; all royalties derived from mines, patents, copyrights, or the possession or use of franchise or legalized privileges of any kind; and all annuities from invested funds or trusts; provided, that the proceeds of life insurance policies paid upon the death of the person insured or payments made by or credited to the insured on life insurance, endowment or annuity contracts, upon the return thereof to the insured at the maturity of the term mentioned in the contract, or upon surrender of contracts, shall not be included as income.

(c) All profits derived from the transaction of business or from the sale of real or personal estate. No matter whether the property sold was acquired during the taxable year or any year prior thereto; provided, however, that if the property sold was acquired prior to March first, nineteen hundred and thirteen, the profit realized shall be computed by subtracting its fair market value on March first, nineteen hundred and thirteen, from the amount realized from the sale. In any event the taxes and insurance paid together with six per centum per annum on the cost price of the property from the date of purchase until sold and the amount actually expended in repairs and permanent improvements upon the property sold, less any income from said property shall be deducted in computing the profit derived from the sale thereof.

(d) The amount realized from all farming, stock raising and agricultural operations.

(e) All other gains and profits derived from any source whatever.

Subsec. 3. There shall be exempt from taxation under this schedule income as follows:

(a) To an individual income up to and including the sum of one thousand dollars.

(b) To husband and wife living together income up to and including the sum of two thousand dollars.

(c) For each additional person who is actually supported by and entirely dependent upon the taxpayer for support, the sum of four hundred dollars.

(d) In computing said exemptions and the amounts of taxes payable by persons residing together as members of a family, the income of the wife and the income of each child under twenty-one years of age shall be added to that of the husband or father, or if he be not living, to that of the head of the family, and assessed to him. The taxes levied thereon shall be payable by such husband or head of the family, but if not paid by him may be enforced against any person whose income is included in the assessment.

(e) Salaries, wages and other compensation received from the United States by officials or employees thereof.

(f) Pensions received from the United States or from the State of Virginia.

(g) Income received by the United States, the State of Virginia or any political subdivision thereof.

(h) The value of property acquired by gift within the year not exceeding the sum of one thousand dollars.

(i) All inheritances, devises and bequests received during the year which are subject to the inheritance tax laws of this State and have actually been assessed under such laws,

but income received from such inheritances, devises and bequests shall be assessed under the provisions of this schedule.

(j) Any amounts received through accident or health insurance or under workmen's compensation acts as compensation for personal injuries or sickness, and the amount of any damages received whether by suit or agreement on account of such injuries or sickness.

Subsec. 4. Persons and corporations in reporting income for purposes of taxation shall be allowed the following deductions:

(a) Payments made within the year for salaries of officers, wages of employees and a reasonable allowance for services of copartners or members of a firm actually rendered in producing such income, but no deduction shall be made for any amount paid for personal services unless there be reported the name and address and amount paid each such officer, employee or copartner residing within the State to whom the sum of one thousand dollars or more shall have been paid during the assessment year.

(b) The necessary expenses actually paid within the year in carrying on the profession, occupation or business from which the income is derived, not including personal or family expenses.

(c) A reasonable annual allowance for depreciation by use, wear, tear and obsolescence of the property from which the income is derived, on the basis of its cost in cash or the equivalent of cash; but no deduction shall be made for any amount of expenses of restoring property or making good the exhaustion thereof for which an allowance is or has been made; and no deductions shall be allowed for any amount paid for books, tools, instruments, machinery, appliances, furniture or fixtures, buildings, permanent improvements or betterments, or other taxable property purchased, whether used in connection with the business or not.

(d) Losses sustained during the income year and not compensated for by insurance or otherwise if incurred in trade or business, or if incurred in any transaction entered into for profit though not connected with the trade or business; and also losses sustained during the income year of property not connected with the trade or business, if arising from fire, storm, shipwreck, or other casualty, or from theft, and not compensated for by insurance or otherwise.

(e) Debts due taxpayer actually ascertained to be worthless and actually charged off within the income year, if the amount has previously been reported for taxation as gross income, provided said debts are listed showing amounts, when due, and names of debtors.

(f) Sums paid by the taxpayer within the year for all

taxes imposed by this State or any subdivision thereof; but not including assessments for local improvements or income or inheritance taxes.

(g) Dividends or profits received from stock or an interest in any corporation or copartnership the income of which shall have been assessed under the provisions of this act, provided that when only part of the income of any corporation or copartnership shall have been assessed under this act only a corresponding part of the dividends or profits received therefrom shall be deducted.

(h) All interest paid within the year on existing indebtedness, except on indebtedness incurred or continued to purchase or carry obligations or securities the interest from which is exempt from taxation under this act.

(i) The actual amount paid during the year for repairs to and maintenance of buildings the rent of which is reported as income, and all fire, tornado and casualty insurance premiums on property in this State due and paid during the year, provided that no deductions shall be made for expenses chargeable to residence property occupied by its owner, nor for the depreciation thereof, and the annual value of estimated rental thereof shall not be included in the income subject to taxation.

Subsec. 5. Persons and corporations doing a part of their business within the State and a part without the State, and having offices or other regular places of business both within and without the State, shall be taxed only upon such income as is derived from business transacted and property located within the State, which may be determined by an allocation and separate accounting for such income when the books of such person or corporation show income realized from such transactions and property located within the State; otherwise such income shall be apportioned and determined as follows: The gross business in dollars, of the person or corporation in the State, including the business of production measured by cost of production and the business of distribution or sales measured by the value of gross sales less the cost of production for the year ending December thirty-first, shall be added to the book value of the gross assets on the first day of January of the year for which return is being made, employed in the business within this State (with no deduction on account of any encumbrance thereon). The sum so obtained shall be the numerator of a fraction of which the denominator shall consist of the total gross business, as above defined, of the person or corporation both within and without the State, added to the total book value of the gross assets on the day last aforesaid, wherever employed in business (with no deduction on account of any encumbrance thereon).

The proportion of the entire net income of such person or corporation which is represented by the fraction so obtained shall be the net income of such person or corporation returnable for taxation in this State.

Subsec. 6. Corporations which are affiliated within the meaning of this paragraph, may, under regulations to be prescribed by the Auditor of Public Accounts, make a consolidated return of income for the purpose of this section, and the taxes thereunder shall be computed and determined upon the basis of such return. In any case in which a tax is assessed upon the basis of a consolidated return, the total tax shall be computed in the first instance as a unit and shall then be assessed upon the respective affiliated corporations in such proportions as may be agreed upon among them, or, in the absence of any such agreement, then on the basis of the income properly assignable to each. For the purpose of this section two or more corporations shall be deemed to be affiliated if one corporation owns directly or controls through closely affiliated interests, or by nominee or nominees, substantially all the stock of the other or others, or if substantially all of the stock of two or more corporations is owned or controlled by the same interests.

Subsec. 7. Guardians, trustees, executors, administrators, committees, agents, receivers, curators, conservators, and all persons or corporations acting in any fiduciary capacity, hereinafter called fiduciaries, shall make and render a verified list or return of the amount of income of every person for whom they act; subject to this tax, coming into their custody or control and management, and be subject to all the provisions of this section which apply to individuals; provided that no deduction or exemption shall be allowed which has been otherwise claimed by or for any person for whom they act. When the return of income has been made by a fiduciary according to the provisions of this section and the tax on same has been paid or withheld, such income shall not be again taxed under this schedule when it is distributed or paid to the beneficiaries.

Subsec. 8. The Auditor of Public Accounts shall prepare and furnish to the commissioner of the revenue necessary forms of interrogatories for the assessment of the income tax, separate and distinct from other forms of interrogatories. And the commissioner of the revenue shall require the taxpayer to answer such questions and to furnish such information touching his income as is required in the said interrogatories.

Subsec. 9. In entering the income tax returns for each year, the commissioner of the revenue shall not use for such entry the property book, or any other public record book, but

shall use a special book, which shall be furnished by the Auditor of Public Accounts, and such book and the return blanks containing the statements of incomes shall be kept safely by the commissioner under lock and key except when in their personal possession, and shall not be inspected by any person not officially entitled to inspect them, and the commissioner shall not give to any person, except some other officer authorized by law, or by special order of a court of competent jurisdiction to receive the same, any information regarding such returns.

Subsec. 10. The treasurers of the several counties and cities of the State, and the Auditor of Public Accounts shall keep under lock and key all lists of individuals paying tax upon incomes and shall not permit the same to be inspected, except by tax officers of this State; provided, that in the event the United States government, or any other State, allows this State's officials to examine its income tax returns, then this State shall allow an inspection of its income tax returns by proper officials of the United States government, or such other State, whose official duties require them to make such inspection; nor shall they give any information to any person other than those hereinbefore enumerated except in obedience to a decree or order of a court of competent jurisdiction.

Subsec. 11. The provisions of this act shall apply to the assessment and collection of income taxes for the year nineteen hundred and twenty-two upon income received or due but not received during the year nineteen hundred and twenty-one, and to the assessment and collection of income taxes for subsequent years.

Sec. 11. (As amended by act approved March 15, 1924.) Tax on income.—On income, as defined in this schedule, the tax shall be one per centum on the amount of taxable income up to three thousand dollars, and two per centum on the amount of taxable income in excess of three thousand dollars, and no city, town or county shall levy or assess any tax on income for municipal or county purposes, and any provision of any city or town charter in conflict with this act is hereby repealed; provided, nothing herein contained shall be construed as imposing an income tax on any part of the receipts of any public service corporations which are now subject to a State franchise tax upon such receipts, or on any insurance companies which may pay a State license tax on gross premiums, or on State and national banks, banking associations, trust and security companies, or on the dividends from the shares of stock of State and national banks, banking associations, trust and security companies, or on religious, educational, benevolent and other corporations or associations of individuals not organized or conducted for pecuniary profit.

Deduction from Income for Legally Adopted Child.

Code Sec. 2303. Deductions on income same for adopted children as for natural children.—Where deductions are allowed by law in the assessment of income or other taxes on account of an unmarried child or children of the person assessed, the same allowances shall be made in the case of a child or children legally adopted as for natural children.

Returns and Assessments of Income Not To Be Made Public; Be Kept Under Lock and Key.

Code Sec. 2343. Publicity of income tax returns forbidden.—In entering the income taxes the commissioners of the revenue shall not use for such entry the property book, or any other public record book, but shall use a special book, which shall be furnished by the Auditor of Public Accounts, and such book and the return blanks containing statements of incomes shall be safely kept by the commissioners under lock and key except when in their personal possession, and shall not be inspected by any person not officially entitled to inspect them, and the commissioner shall not give to any person, except some other officer authorized by law, or by special order of a court of competent jurisdiction to receive the same, any information regarding such returns.

Code Sec. 2344. When State or United States officers permitted to inspect income tax returns.—The treasurers of the several counties and cities of the State, and the Auditor of Public Accounts shall keep under lock and key all lists of individuals paying the tax upon incomes and shall not permit the same to be inspected, except by officers of the State or of the United States; provided, that in the event the United States government allows this State's officials to examine its income tax returns, then this State shall allow an inspection of its income tax returns by proper officials of the United States government, whose official duties require them to make such inspection; nor shall they give any information to any other persons than those hereinbefore enumerated except in obedience to a court of competent jurisdiction.

ON BUSINESS AND OTHER SUBJECTS.

Tax on Wills and Administrations.

Sec. 12. (As amended by chapter 461, Acts 1922.)
Tax on wills and administration. On the probate of every

will or grant of administration not exempt by law, there shall be a tax of one dollar, where the estate, real, personal, or mixed, passing by such will or by intestacy of the decedent, shall not exceed one thousand dollars in value at the time of the death of the decedent, and for every additional one hundred dollars of value, or fraction of one hundred dollars, an additional tax of ten cents; and no one shall be permitted to qualify and act as executor or administrator until said tax shall have been paid; and the value of all real estate shall be included in determining the tax imposed by this section, although the administrator does not administer upon the real estate and whether or not the personal representative under the will is charged with any duty with respect to the real estate; provided, however, that if the estate of any decedent, whose will is admitted to probate or on whose estate qualification is had in this State, consists partly of real estate situated outside this State, then the value of such real estate situated outside this State shall not be considered in computing the taxes herein imposed.

Should it thereafter appear that on the probate of said will or grant of administration the estate has been undervalued, the commissioner of accounts before whom the appraisal is directed to be filed, shall report such fact to the court, whereupon the said tax shall forthwith be paid to the clerk of the court in which said will was admitted to probate or letters of administration granted, and said estate shall not be distributed until such inventory has been filed and the tax paid.

When an estate is committed to a sheriff or sergeant on the motion of a creditor or other person, the State tax due for such administration shall be paid by the party upon whose motion the estate was committed, and the same shall be repaid to him by the sheriff or sergeant out of the first funds received by him from such estate; and if an estate is committed to a sheriff or sergeant without motion the sheriff or sergeant shall be required to pay said taxes as soon as sufficient assets of said estate shall have come into his hands.

The value of the real estate for the purpose of taxation under this section shall be the assessed value of the year preceding the qualification of the personal representative.

Pension Law.

5. Provided, that when a qualification of a personal representative of a Confederate pensioner is had for the sole purpose of obtaining from the State treasury the sum allowed to defray the funeral expenses of such deceased Confederate pensioner, then, and in that event, such grant of administra-

tion shall be exempt from the tax imposed thereon by section twelve of the tax law. (Act March 14, 1924, pension law.)

18. That no fees or other compensation shall be charged or received by any clerk, attorney, officer, or other person for any service rendered to any applicant under the provisions of act March 14, 1924, pension law.

(Read act which follows) :

When Court May, In Its Discretion, Allow Personal Representative and Guardian to Qualify Without Tax or Court Costs Upon Qualification.

AN ACT to allow personal representatives and guardians of estates of \$100.00 or less, in the discretion of the court, to qualify by giving bond without surety, and to provide that upon the qualification of a personal representative of an estate of a decedent, of \$100.00 or less in value, no tax or court cost shall be charged upon such qualification. Approved March 16, 1918. Chap. 293, p. 469, Acts 1918.

Be it enacted by the General Assembly of Virginia, that the several courts in this State, having jurisdiction to appoint personal representatives and guardians may, in their discretion, where the amount coming into the hands or possession of the personal representative or guardian does not exceed one hundred dollars, allow such personal representatives and guardians to qualify by giving bond without surety, and on estates of decedents, of one hundred dollars or less in value, there shall be no tax or court cost upon such qualification.

Tax on Recordation of Deeds, Etc.

Sec. 13. (As amended by chapter 302, p. 511, Acts 1922.) On every deed, except a deed exempt from taxation by law, which is admitted to record, the tax shall be ten cents on every hundred dollars or fraction thereof of such consideration of actual value; on deeds of trust or mortgages the tax shall be upon the amount of bonds or other obligations secured thereby. On deeds of trust or mortgage upon the works and property of a railroad or other internal improvement company, lying partly in this State and partly in another State, the tax shall be upon such proportion of the amount of bonds or other obligations secured thereby as the number of miles of the line of such company in this State bears to the whole number of miles of the line of such company conveyed by such deed; the tax on a deed of release shall be fifty cents; the tax on any deed of partition among joint tenants, tenants in common or copartners, shall be fifty cents. The tax on every deed, contract or agreement shall be determined and be collected by the clerk in whose office it is first offered for recordation and may thereafter be recorded in the office of any other clerk without the payment of any tax.

On every contract relating to real or personal property, except as hereinafter provided, which is admitted to record, the tax shall be fifty cents where the consideration or value contracted for is three hundred dollars or less; where the consideration or value contracted for is over three hundred dollars, and does not exceed one thousand dollars the tax shall be one dollar; where the consideration or value contracted for exceeds one thousand dollars there shall be paid ten cents additional on every hundred dollars or fraction thereof of such consideration or value contracted for, provided, however, that the tax for recording a deed of lease for a term of years shall be taxed according to the provisions of this section, except where the annual rental, multiplied by the term for which the lease runs, equals or exceeds the actual value of the property leased, then the tax for recording the deed of lease shall be based upon the actual value of the property at the date of lease.

On every contract or agreement relating to the sale of rolling stock or equipment (whether the title is reserved in the vendor or not), with a railroad corporation, or other corporation or with a person, firm, or company, admitted to record, the tax shall be ten cents on every hundred dollars or fraction thereof, of the amount contracted for in such contract or agreement, except in the case of a railroad corporation lying partly in this State and partly in another State, in which case the tax shall be upon such proportion of the amount contracted for as the number of miles of the line of such railroad corporation in this State bears to the whole number of miles of line of such railroad corporation.

This act is not to be construed as requiring the payment of any tax for the admitting to record of any deed of trust, mortgage, contract, agreement, or other writing supplemental to any deed of trust, mortgage, contract, agreement, or other writing theretofore admitted to record, and, upon which the tax herein imposed has been paid, hereinafter called the original instrument, where the sole purpose and effect of the said supplemental deed of trust, mortgage, contract, agreement, or other writing is to convey, set over, or pledge property, real or personal, in addition to the property conveyed, set over, or pledged in the original instrument, to secure or to better secure the payment of the amount contracted for in the original instrument; but in such case there shall be no tax for the admitting to record of said supplemental deed of trust, mortgage, contract, agreement, or other writing.

Any deed, contract, or will may be recorded in the same clerk's office when the record containing such deed, contract or will, has been destroyed by fire or otherwise, free of tax.

**Additional Tax of Two Cents (2c) for Recording Deeds, Etc.,
Imposed By Act Approved March 15, 1924.**

(See copy of act, p. 44.)

The General Assembly by act approved March 15, 1924, entitled "An act to raise revenue for the support of the government," imposed a tax of two (2) cents on every one hundred dollars of consideration in addition to the tax of ten (10) cents on every one hundred dollars of consideration provided for in section 13 of the tax laws to be levied and collected on deeds, deeds of trust, mortgages, contracts relating to real and personal property and other writings admitted to record. This act did not contain the emergency clause and its provisions are not in force until on and after June 16, 1924. It will be the duty of the clerk to charge and collect the tax imposed by section 13 of the tax laws, also this additional tax of two (2) cents on and after June 16, 1924. That part of the act of March 15, 1924, which imposes this additional tax of two (2) cents is as follows:

" * * * upon every deed, deed of trust, mortgage, lease, contract or agreement, upon which a State tax is now imposed by section thirteen of the act approved April sixteenth, nineteen hundred and three, entitled an act to raise revenue for the support of the government and public free schools and to pay the interest on the public debt, and to provide a special tax for pensions, as authorized by section one hundred and eighty-nine of the Constitution, as heretofore amended, an additional tax of two cents upon each one hundred dollars of consideration to be levied and collected as set forth in said section and subject to such exceptions as are therein provided."

Note—This law not in force after December 31, 1925, after which date the additional tax of two (2) cents not to be charged and collected.

**Deeds, Wills, Etc., Not to be Admitted to Record Until
Tax Is Paid.**

Sec. 2403. (As amended by chapter 57, Acts 1924.)
Deeds, wills, etc., not to be admitted to record until tax is paid; exceptions.—No deed or contract shall be admitted to record without the payment of the tax imposed thereon by law except a deed conveying land as a site for a schoolhouse or church, and except a deed conveying property to the State or to any county, city, town, district or other political subdivision of this State; no will shall be admitted to probate; and there shall be no grant of administration on the estate of any decedent, until the tax on such deed or contract, will, or grant is paid to the clerk.

Code Sec. 19. Deeds Conveying Lands to the United States Not Taxable.—Land acquired by the United States exempt from taxation. The tracts, pieces or parcels of land acquired by the United States under the provisions of this chapter, or otherwise acquired for the purposes of the United States government, shall be exempt from all State, county and municipal taxation, so long as the United States shall be and remain the owners thereof, and the United States shall be exempt from any and all tax on deeds by which they acquire lands for public purposes.

Federal Tax Liens—Filing and Recording—No Tax or Fee Chargeable.

AN ACT to authorize the filing of notices of Federal tax liens with clerks of State courts, and to provide for the recordation and indexing thereof. Approved March 20, 1922. Chapter 303, p. 512, Acts 1922.

1. Be it enacted by the General Assembly of Virginia, That notices of Federal tax liens on real estate under the provisions of section three thousand, one hundred and eighty-six of the revised statutes of the United States, as amended by an act approved on the fourth day of March, nineteen hundred and thirteen, may be filed with the clerk of the court authorized to record deeds for the county or city wherein the land subject to such lien is situated. Such notices shall be recorded in the deed books and properly indexed. No fees shall be collected by the clerks of the courts for filing and recording such notices.

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

Tax on Suits.

Sec. 14. When any original suit, whether commenced by writ or notice, ejection or attachment, other than a summons to answer a suggestion, or other action, except a suit in chancery, is commenced in a county, circuit or corporation court, and in every case of removal or appeal of a cause from a justice's court to the county, circuit or corporation court, or upon any appeal from the decision of the board of supervisors of a county, or of an attachment issued by a justice and returnable to the county or circuit court, there shall be a tax thereon, if the amount of the debt or demand for damages shall not exceed five hundred dollars, of one dollar; and when the debt or demand for damages exceeds five hundred dollars, there shall be an additional tax of ten cents for every hundred dollars, or fraction of one hundred dollars, of such debt or demand in excess of five hundred dollars; provided that in all suits the plaintiff or his attorney may endorse upon

his writ or notice the real amount claimed in his action, and the tax upon the said suit shall be fixed with reference to the amount so claimed.

Second. Upon every appeal, writ of error, or supersedeas in a circuit court, except as otherwise provided, there shall be a tax of three dollars; and on every appeal, writ of error, or supersedeas in the Supreme Court of Appeals, there shall be a tax of six dollars; which, if not paid within thirty days from the granting of such appeal, the said appeal shall be dismissed.

Third. Upon every chancery suit, originating either in a corporation or circuit court, there shall be a tax of one dollar and fifty cents.

Fourth. Upon every writ of mandamus sued out of any court there shall be a tax of three dollars.

Sec. 15. No clerk shall issue any writ, or docket any removed or appealed warrant, or any notice mentioned in the fourteenth section, or record any deed or will or grant any letter or certificate of administration, until the tax thereon shall be paid.

Tax on Suits and Seals; to Whom Paid.

Code Sec. 2401. The taxes on suits or other judicial proceedings shall be paid to the clerks of the courts, respectively, in which such suits are brought or proceedings had. The tax on the seal of the State shall be paid to the Secretary of the Commonwealth.

Record and Report of Taxes and Public Moneys Collected By Clerks of Courts.

AN ACT to amend and re-enact an act approved March 3, 1898, entitled an act to prescribe the mode in which clerks of courts shall keep a record of all taxes and other public moneys collected by them, and to require them to pay the same into the treasury, as amended by an act approved March 27, 1914; and to require the clerk in connection therewith, to keep a record of fees received. Approved March 27, 1918. Chapter 424, p. 773, Acts 1918.

1. Be it enacted by the General Assembly of Virginia, That an act approved March third, eighteen hundred and ninety-eight, entitled an act to prescribe the mode in which clerks of courts shall keep a record of all taxes and other public moneys collected by them, and to require them to pay the same into the treasury, as amended by an act approved March twenty-seventh, nineteen hundred and fourteen, be amended and re-enacted so as to read as follows:

Section 1. The Auditor of Public Accounts be, and he hereby is, directed to adopt, and to furnish to the clerk of each court of record in the Commonwealth at cost to the

State, the books, sheets and forms comprising the system of accounting known as the Waring System, in which shall be entered all taxes and other money belonging to the Commonwealth, together with all fees collected, or which should be collected by said clerk, which books and sheets shall be a permanent record of the court of which he is clerk. There shall be shown on and in appropriate sheets and columns the taxes received by the clerk upon subjects which he is authorized and directed by law to collect the tax, and in separate columns the fees received by him upon such subjects, together with all other fees, commissions, salaries and allowances received, or which should have been received by him, and the proper summaries, expenses and other items in connection therewith.

The system so provided, shall embrace and include, and be in lieu of the book required by section two, of chapter three hundred and fifty-two of the Acts of the General Assembly of Virginia, session of nineteen hundred and fourteen, approved March twenty-seventh, nineteen hundred and fourteen, in so far as the same applies to clerks of courts, and the Auditor of Public Accounts shall prescribe the method of making the entries and keeping the record herein provided for.

Section 2. It shall be the duty of the clerk at the time he collects or is required by statute to collect any public money to enter the same upon said record, together with the fees received in connection therewith and to also enter therein all other fees, commissions, salaries and allowances received, or which should have been received by him.

Section 3. It shall be the duty of the court to designate one of the commissioners of the court, whose duty it shall be, on the first day of each month to examine said record of taxes received, or which should have been received, and compare the entries therein made during the preceding month with the other records of the court and clerk's office, and having found the same correct, to certify that fact in the proper place upon the tabulated sheet prepared for the purpose, stating in the certificate the aggregate amount of money due by the clerk for taxes collected, or which should have been collected by him; and the court shall allow the commissioner designated, compensation at the rate of two dollars and fifty cents per day, payable out of the State treasury, upon a sworn statement approved and allowed by the court and certified to the Auditor of Public Accounts, for the services required of him by this act.

Section 4. It shall be the duty of each clerk, on the twenty-eighth day of February, and the thirty-first day of August, to make out a statement, upon forms prepared by the Auditor of Public Accounts, of all taxes and other money belonging to the Commonwealth, collected, or which should

have been collected, by him during the preceding six months, which statement having been, by the commissioner designated in the manner provided for in section three of this act, compared with the said record shall be signed by said commissioner and said clerk, and be sent by said clerk to the Auditor of Public Accounts, and the clerk shall, on or before the fifteenth day of March, and on or before the fifteenth day of September, pay into the treasury the amount of taxes collected by him, or which should have been collected by him, after deducting a commission of five per centum thereon; provided, the aggregate amount collected, or which should have been collected, does not exceed for the six months collections reported the sum of twenty-five thousand dollars, but should the amount exceed twenty-five thousand dollars, then the clerk shall deduct on the amount in excess of twenty-five thousand dollars, three per centum commission.

Section 5. The provisions of this act shall not be construed to set aside the law requiring the clerk of any court, when he has five hundred dollars in his hands belonging to the State, to remit the same to the Auditor of Public Accounts for payment into the State treasury.

2. The Auditor of Public Accounts shall cover into the State treasury all moneys received by him for furnishing said books and sheets to the respective clerks of the courts of the Commonwealth, and the Public Printer is directed to let, by competitive bidding, the contract for furnishing the stationery, binders, ruling and printing, necessary to carry out the purposes of this act, which contract shall be separate from, and independent of, all contracts for general printing made by him.

3. The system of accounting in effect at the time of the passage of this act shall continue in force until the thirty-first day of December, nineteen hundred and eighteen, but in all other respects this act shall be in full force and effect from and after ninety days from its passage.

4. Any act or any part of any act in conflict with this act is hereby repealed.

Every Clerk of Court to Remit Monthly to Auditor of Public Accounts When He Has \$500.00 or More Belonging to the Commonwealth.

Sec. 2406. (As amended by chapter 456, Acts 1922.) The clerk of every court of record to remit to the Auditor of Public Accounts monthly when the amount of funds in his hands due the State amount to five hundred dollars or more, or whenever the amount due the State in his hands shall amount to five hundred dollars.—The clerk of every court of record shall, whenever the amount of funds in his hands due

the State amount to as much as \$500.00 monthly between the first and fifteenth day of each month, remit to the Auditor of Public Accounts the amount of funds in his hands due the Commonwealth, collected prior to the first of said month, by certified check made payable to the order of the State Treasurer or as otherwise provided by law, such payment to be credited to him and allowed him in the settlements he is required by law to make with the said Auditor. Any clerk failing to comply with the provisions of this section shall be liable to a fine of fifty dollars for each offense to be recovered by a motion in the circuit court of the city of Richmond, made by the Attorney General of the State, at the request of the Auditor of Public Accounts.

When Clerk to be Suspended by Court or by Judge in Vacation.

Code Sec. 2201, paragraph 4. If it appear that any clerk or other officer of any court of any county or city, charged with the collection of public moneys, has failed for thirty days to report and pay over, as required by law, to the Auditor or any proper person authorized by law to receive the same, any funds collected by such clerk or other officer, then said court shall in like manner and after service of rule, as prescribed by paragraph three of this section, suspend said clerk or other officer until such settlement and payment have been made by such clerk or other officer; and if said court, or the judge thereof in vacation, deem it necessary, it shall appoint some competent person in like manner to discharge the duties of such clerk or other officer until settlement and payment as aforesaid.

Tax on Seals.

Sec. 16. When the seal of the State, of a court, or notary public is affixed to any paper, except in the cases exempted by law, the tax shall be as follows: For the seal of the State, two dollars, and for the seal of a court or notary, one dollar, and herein shall be included a tax on a scroll or any impression on paper in the place of a seal, or having the force and effect of a seal, and the said tax, except in the case of the seal of the State, shall be collected and paid in the following manner:

All seals taxable under this act, except the seal of the State, are hereby declared illegal and of no effect, and shall not be received or accepted as a legal notarial or court seal in any court of the State, unless the same shall be superimposed upon an adhesive stamp in such manner as to cancel said

stamp, which adhesive stamp shall be supplied in the manner and form hereinafter provided for.

It shall be the duty of the Auditor of Public Accounts, by and with the advice of the Attorney General and the Treasurer of the State to cause to be prepared suitable adhesive stamps, of such size and design as may be best adapted to the purpose, and to furnish the same to the treasurer and county clerk of each county and the treasurer of each city in the State in such quantities as may be necessary, charging the said treasurers and clerks on the books of his office with said stamps at the rate of one dollar each.

The several county and city treasurers and county clerks shall be held accountable under their official bonds for all such stamps so furnished them in the same manner as they are now held accountable for State moneys or other property coming into their hands.

It shall be the duty of the said county and city treasurers and county clerks at all times to keep on hand a supply of said stamps and to sell the same to any person wishing to purchase them, charging therefor the sum of one dollar each, and for such service the several county and city treasurers and county clerks shall receive a commission of five per centum on all stamps sold.

The treasurer of each county and city and county clerks shall report annually, on the first day of July, to the Auditor of Public Accounts, the number of adhesive stamps sold by him during the preceding twelve months, and shall at once pay into the treasury the money received for the same, less his commission.

All mutilated or unused stamps may be returned to the Auditor of Public Accounts under such regulations as he may provide, and when so returned, proper credit shall be given on the books of his office.

In all cases, in which no tax is required by law, the officer affixing the seal shall certify that it is a case in which, by the laws of Virginia, no tax is required upon the seal so affixed by him.

In any case in which a tax is required upon a seal, and the officer affixing the same shall fail to use the adhesive stamp herein provided for, or shall make a false certificate that no tax is required, he shall be guilty of a misdemeanor, and shall be punished by a fine of twenty dollars for each offense, which shall be recovered and paid as are other fines due the Commonwealth; and any person who makes, or knowing the same to be false or counterfeit, sells, uses, or has in his possession any false or counterfeit stamps or die for printing or making the same, which is in imitation of or purports to be a lawful stamp or die, or who knowingly procures the

same to be done, shall for each offense be deemed guilty of a felony, and shall be imprisoned in the State penitentiary for a period of not less than one, nor more than five years.

When No Tax on Seals to be Charged.

Sec. 2402. (As amended by chapter 145, Acts 1924.)
When no tax on seal to be charged.—No tax shall be charged when a seal is annexed to any paper or document to be used in obtaining the benefit of a pension, revolutionary claim, money due on account of military services or land bounty, under any act of Congress, or under a law of this or any other State, or when a seal is annexed by a notary or clerk of court to an affidavit or deposition.

MARRIAGE LICENSE—STATE TAX, \$2.00.

Seal of Court Required, Superimposed on Wafer, State Tax on Wafer, \$2.00, Provided for by Amendment to Section 5072, Code of Virginia, Which Section As Amended, is as Follows:

Sec. 5072. (As amended by chapter 268, Acts 1924.)
By whom license to be issued.—Every license for a marriage shall be issued by the clerk of the circuit court of the county, or of the corporation court of the city in which the female to be married usually resides, or his deputy; and in case she is not a resident of the State, then by the clerk of the circuit court of the county or of the corporation court of the city in which the marriage is to be solemnized, or his deputy; or, if the office of the clerk be vacant, or if from any cause neither the clerk nor his deputy is able to issue the license, it may be issued by the judge of the circuit court of such county, or of the corporation court of such city, who shall make return thereof to the clerk as soon as there may be one. Every license for a marriage shall have affixed thereto the seal of the court superimposed upon a wafer, the design of which shall be determined by the Auditor of Public Accounts with the advice and assistance of the Superintendent of Public Printing, which wafer shall be of such size and design as may be best adapted to the purpose and shall be furnished by the Auditor of Public Accounts to the clerks of courts authorized to issue marriage licenses, and the clerk of the court shall charge and collect for each wafer used two dollars, which tax shall be by him accounted for and paid into the State treasury, without any commission, at such time or times as

the Auditor of Public Accounts shall require, and the proceeds realized from the sale of these wafers shall be applied to the expenses of the government. Each such clerk shall at all times keep on hand a supply of said wafers. All such wafers which become mutilated while in the possession of the clerk may be returned to the Auditor of Public Accounts under such regulations as he may prescribe, and when so returned proper credit shall be given on the books of his office. The Auditor of Public Accounts shall issue these wafers to the clerks and charge them for the same at the rate of two dollars for each such wafer. The tax of one dollar for use of the seal of the court provided by law shall not be charged and collected by the clerk on the seal of the court required by this section to be affixed to a marriage license. Provided, however, that the failure of the clerk to affix the stamp herein provided for to any marriage license shall in no way invalidate such license or any marriage thereunder.

Tax on Banks, Banking Associations, Trust and Security Companies.

Sec. 17. (As amended by chapter 142, p. 209, acts extra session, 1915.) No tax shall be assessed upon the capital of any bank or banking association organized under the authority of this State or the United States, nor upon capital of any trust or security company chartered by this State, but the stockholders in such banks, banking associations, trust and security companies shall be assessed and taxed on their shares of stock therein. Each bank, banking association, trust and security company aforesaid, on the first day of February in each year, shall make up and return to the commissioner of the revenue of the county, city or town, or district in which said bank, banking association, trust or security company is located, a report in which shall be given the names and residences of all its stockholders, the number and actual value of the shares of stock held by each stockholder. From the total value of the shares of stock of any such bank, banking association, trust or security company, which shall be ascertained by adding together its capital, surplus and undivided profits, there shall be deducted the assessed value of its real estate otherwise taxed in this State, or if the title to the building in which any such bank, banking association, trust or security company does its business, and the land on which it stands, is held in the name of a separate corporation, in which such bank, banking association, trust or security company owns all or a majority of the stock, and such real estate be otherwise taxed in this State, then there shall be deducted from the value of the shares of stock of such bank such proportion of the assessed value of said real estate as the stock it owns

in such holding corporation bears to the whole issue of stock in such corporation; and the actual value of each share of stock shall be its proportion of the remainder. The owners of the shares of stock of such bank, banking associations, trust or security companies, shall be entitled to no deduction from the taxable value of their shares because of the personal indebtedness of such owners, or for any other reason whatsoever; provided, that it is declared to be the purpose and intent of this section that when the affairs of any such bank or banking association, or trust or security company are being wound up under the provision of an act approved March fifteenth, nineteen hundred and twelve, being chapter three hundred and forty-four of the Acts of Assembly of nineteen hundred and twelve, entitled an act to amend and re-enact section one thousand one hundred and sixty-nine of the Code of Virginia, as heretofore amended, the assets of such bank or banking association or trust or security company so being wound up shall continue to be and constitute the capital of such bank or banking association or trust or security company and that no tax shall be assessed thereon as such capital.

Returns of such assets as of February first of each year shall be made up by those having actual custody or control thereof as the same is held and the commissioner of the revenue shall assess the tax thereon against those holding said funds at the rate provided for the taxation of money, and said assessment shall as to such funds be in lieu of all taxes against those beneficially interested therein, but if any surplus shall remain after payment of depositors and creditors in full, such surplus, together with the names and residences of the stockholders and the number of shares owned by them, respectively, shall then be reported by the liquidating officer to the commissioner of the revenue who shall ascertain the fair market value of such surplus assets and assess against each stockholder in such bank or banking association, or trust or security company, for each year for which no tax on stock has been paid, a proportionate tax on said surplus at the rate and for the purposes prescribed in section eighteen of this act; and such tax shall be paid by the liquidating officer into the treasury before any distribution of such surplus to stockholders.

Sec. 18. (As amended by chapter 476, p. 813, Acts 1922.) It shall be the duty of the commissioner of the revenue as soon as he receives such report to assess upon each stockholder upon the actual value of the shares of stock owned by him a tax at the rate of ten cents on each one hundred dollars of the actual value of such stock which shall be applied to the public free schools of the State, and to be apportioned on a basis of school population

and to assess upon each stockholder upon the actual value of the shares of stock owned by him, any special State taxes heretofore or hereafter imposed upon such shares of stock along with other property. It shall be the duty of the commissioner of the revenue of each city of the State, as soon as he receives such report, to assess upon each stockholder upon such actual value of the shares of stock owned by him a tax levied by the city council or other governing bodies thereof of not exceeding eighty-five cents on every one hundred dollars of actual value thereof; provided, that such city council or other governing body may, in its discretion, direct said commissioner of the revenue to deduct from the value of such shares of stock of such bank, for the purposes of local taxation only, the value of any municipal bonds of that particular municipality held by such bank. The word "bank" for the purposes of this act shall be so construed as to include banks, banking associations, trust and security companies. It shall likewise be the duty of the commissioners of the revenue in the several counties of the State to assess upon each stockholder a tax to be levied by the board of supervisors or other governing body of not exceeding eighty-five cents on every one hundred dollars of actual value thereof, for county and district and district school purposes, except upon the stock of banks located in incorporated towns, in which case the rate shall not exceed twenty cents for such purposes, provided, the sum to be derived from any such district levy shall be expended by said board only in those districts wherein such bank or banks are located. And it shall be the duty of the commissioners of the revenue or other assessing officers of the several incorporated towns in which such bank or banks are located to assess upon stockholders, a tax to be levied by the council or other governing body thereof, of not exceeding sixty-five cents on every one hundred dollars of actual value thereof for town purposes. Provided, that such board of supervisors and council of towns or other governing bodies may, in their discretion, direct such commissioners of the revenue to deduct from the value of such shares of stock of such bank for purposes of local taxation only, the value of any county or town bonds of said county or town, held by such banks; provided, that any incorporated town which does not constitute a separate school district shall appropriate not less than fifty per centum of the fund derived from said taxes, and may appropriate the whole thereof to be used for school purposes in the school district in which said town is located. The said tax shall be in lieu of all other taxes whatsoever for State, county or local purposes upon the said shares of stock. The commissioners of the revenue shall make out three assessment lists, give ope to the bank, banking association, trust or

security company, send one to the Auditor of Public Accounts, and retain one. The assessment list so delivered to said bank, banking association, trust or security company, shall be notice to the bank, banking association, trust or security company of the tax assessed against its stockholders and each of them, and shall have the legal effect and force of a summons upon suggestion formally issued and regularly served. The tax assessed upon each stockholder in said bank, banking association, trust or security company shall be the first lien upon the stock standing in his name and upon dividends thereof due and to become due, no matter in whose possession found, and shall have priority over any and all liens by deeds of trust, mortgages, bills of sale, or other assignments made by the owner or holder, and take priority over all liens by execution, garnishment or attachment process sued out by creditors of the stockholders. The bank, banking association, trust or security company shall hold the dividend or other fund belonging to the stockholder and in its custody, at the time the assessment list is received or that thereafter shall come under its control, and apply the same to the payment of the tax assessed, and when thus applied shall be acquitted and discharged from all liability to the stockholder for the money so disbursed.

This act shall apply to the assessment and collection of taxes and levies on shares of bank stock for the year nineteen hundred and twenty-two and until otherwise provided by law.

Sec. 19. (As amended by chapter 319, p. 487, Acts 1920.) Each bank, banking association, trust and security company on or before the first day of June in each year, shall pay into the State treasury the State taxes assessed against its stockholders; and shall pay to the treasurer of the several counties, cities and towns, respectively, the local taxes assessed against its stockholders.

Sec. 20. (As amended by chapter 391, p. 626, Acts 1918.) Should any bank, banking association, trust or security company fail to pay the tax assessed against its stockholders, as provided by this act, on or before the first day of June in each year, then, as soon thereafter as practicable the Auditor of Public Accounts shall transmit to the treasurer of the county or city in which said bank, banking association, trust or security company is located, the copy of the assessment list furnished him by the commissioner of the revenue, and it shall be said treasurer's duty to collect the taxes therein assessed, and to this end to levy upon the stock of the taxpayer or so much thereof as is necessary to pay said tax, and sell the same at public auction for cash as chattels and other personal property are sold under execution. He shall give to the purchaser a bill of sale made under his hand and seal.

Sec. 21. (As amended by chapter 142, p. 212, Acts extra session, 1915.) The bank, banking association, trust or security company, on presentation by a purchaser of his bill of sale, shall cause the stock herein described to be transferred to said purchaser, and he shall take a clear and unencumbered title to the stock purchased. Should the taxes assessed against said stockholders be not paid or collected as hereinbefore provided, the lists aforesaid shall stand and be treated and have the legal effect of tax tickets regularly made out against each of said stockholders named in said list as to which tax the right of levy and distress has accrued to the Commonwealth, and the treasurer shall proceed to collect the same by levy or distress, and possess, all and singular, the authority and power conferred upon him by law to collect other State taxes, and be governed by sections six hundred and twenty-two and six hundred and twenty-three of the Code of Virginia.

Sec. 22. (As amended by chapter 142, p. 212, Acts extra session, 1915.) The bank, banking association, trust or security company, which shall fail or neglect to comply with each and every provision of this act, for each separate offense, shall be fined not less than one hundred, nor more than five hundred dollars, which fine shall be recovered upon motion, after five days' notice in the circuit, corporation or hustings court of the county or city in which the said bank, banking association, trust or security company is located. Said motion shall be in the name of the Commonwealth and presented by the attorney for the Commonwealth, of the court in which the motion is brought or made. The real estate of all banks banking associations, trust and security companies shall be assessed on the land books of the commissioners of the revenue, with the same taxes with which other real estate is assessed.

Special Tax of Eight Cents on the One Hundred Dollars Valuation. Act March 15, 1918.

(See copy of act printed on page 36.)

This act imposes and directs to be assessed for the year 1918 and thereafter, until otherwise provided, a special tax of eight cents; four-eighths for the maintenance of the public free schools of the primary and grammar grades from the first to the seventh grades, inclusive; three-eighths for the construction or reconstruction of the roads and projects comprised in the State Highway System of public roads; one-eighth for the prevention and eradication of tuberculosis among the people, of this State: •

Upon the shares of stock of each bank, banking association, trust or security company there shall be a tax of eight cents upon every hundred dollars of the actual value thereof, as determined by the provisions of section seventeen of an act entitled an act to raise revenue for the support of the government and public free schools, and to pay the interest on the public debt, and to provide a special tax for pensions as authorized by section one hundred and eighty-nine of the Constitution, approved April sixteenth, nineteen hundred and three, as amended.

Special Tax of Seven Cents on the One Hundred Dollars Valuation. Act September 5, 1919.

(See copy of act printed on page 40.)

This act imposes and directs to be assessed and collected for the year 1919 and thereafter, until otherwise provided, a special tax of seven cents for the construction or reconstruction of the roads and projects comprised in the State Highway System, as established by act approved January 31, 1918, entitled "an act to establish The State Highway System":

Upon the shares of stock of each bank, banking association, trust or security company there shall be a tax of seven cents upon every hundred dollars of the actual value thereof, as determined by the provisions of section seventeen of an act entitled an act to raise revenue for the support of the government and public free schools, and to pay the interest on the public debt, and to provide a special tax for pensions as authorized by section one hundred and eighty-nine of the Constitution, approved April sixteenth, nineteen hundred and three, as amended.

Shares of Bank Stock, Situs for Local Taxation But Not State Taxation.

AN ACT to regulate the situs of taxation of bank stock. Approved March 16, 1918. Chapter 356, p. 535, Acts 1918.

Be it enacted by the General Assembly of Virginia, That whenever any commissioner of the revenue, before closing his assessment rolls or tax lists, shall receive from the cashier of a bank furnishing a list of the holders of bank stock, as required by law for the purposes of State taxation, or from the owner of any stock mentioned therein a certificate of the commissioner of the revenue of the county or city of the State in which the owner of such stock lives, stating that certain shares of stock mentioned in said list are owned by a resident of that county or city, and that the same have been returned for taxation for that year in such county or city, then the said com-

missioner of the revenue, to whom the said list of the holders of such bank stock has been furnished, shall deduct from the aggregate value of the shares set forth in said list the aggregate value of the shares mentioned in said certificate. The shares owned by nonresidents of this State shall be taxed only at the place where the bank issuing the shares is located. (See also Code section 4102.)

Tax on Insurance Companies.

Sec. 23. (As amended by chapter 77, p. 106, Acts extra session, 1915.) Every person, partnership, company or corporation, which contracts on his, their or its account to issue policies or contracts for or agreements for life, fire, marine, surety, guaranty, fidelity, employer's liability, liability, credit, health, accident, live stock, plate glass, tornado, automatic sprinkler, burglary, steam boiler, and all like insurance, shall pay an annual license tax based on the gross premium income derived from business in this State during each year ending the thirty-first day of December prior to the year for which such license tax is to be paid for the privilege of doing business in this State.

The license year shall expire on the thirtieth day of April of each year. No license shall be issued for less than a year, except to a person, partnership, company or corporation, when he, they, or it first commenced business in this State, in which case the license shall be issued for that part of the year from the date of the issuance of the license to the thirtieth of April following, and the tax thereon shall be two hundred dollars if the said license period be one year, otherwise the first year's license tax shall be such proportion of the two hundred dollars license tax as the space of time between the issuance of the license and the thirtieth of April following bears to the whole year. The license tax herein provided shall be paid in the State treasury on or before the first day of April of each year, but the Auditor of Public Accounts shall not receive the same until the Commissioner of Insurance has notified him in writing, showing the amount due, which information the Commissioner of Insurance shall furnish to the Auditor of Public Accounts on or before the fifteenth day of March of each year, but said commissioner shall, for the purposes of the immediate collection of the license tax for the current year, furnish the information herein required to the Auditor of Public Accounts within five days after the passage of this act.

Every such person, partnership, company or corporation which contracts on his, their, or its account to issue policies or contracts for or agreements for fire, marine, surety, guaranty, fidelity, employer's liability, liability, credit, health, acci-

dent, live stock, plate glass, tornado, automatic sprinkler, burglary and steam boiler, and all like insurance shall pay into the State treasury, as hereinabove provided, license tax of two and three-fourths per centum upon the gross amount of all premiums, assessments, dues and fees collected, received or derived, or obligations taken therefor, from business in this State during each year ending the thirty-first day of December, without any deduction for dividends paid, or deduction on any other account, except for premiums returned upon cancelled policies, and premiums paid for reinsurance upon business in this State in companies duly authorized to do business in this State, and every such person, partnership, company or corporation which contracts on his, their, or its account to issue policies or contracts for or agreements for life insurance, and all like insurance, shall pay into the State treasury, as hereinabove provided, a license tax of two and one-fourth per centum upon the gross amount of all premiums, assessments, dues and fees collected, received or derived, or obligations taken therefor, from business in this State during each year ending the thirty-first day of December, without any deduction for dividends paid or deduction on any other account except for premiums returned upon cancelled policies, and premiums paid for reinsurance upon business in this State in companies duly authorized to do business in this State. Provided, that any such insurance companies chartered by and doing business solely in this State which are purely mutual and have no capital stock, and are not designed to accumulate profits for the benefit of, or pay dividends to the members thereof, or any insurance company chartered by and doing business solely in this State, with a capital stock not exceeding twenty-five thousand dollars and which pays losses from assessments against its policyholders or members, shall pay a license tax of one per centum upon the gross amount of all premiums, assessments, dues and fees collected, received or derived, or obligations taken therefor, from business in this State during the year ending the thirty-first day of December, without any deduction for dividends paid, or deduction on any other account except for premiums returned upon cancelled policies, and premiums paid for reinsurance upon business in this State in companies duly authorized to do business in this State. Provided, further, that nothing herein shall be construed to apply to mutual fire insurance companies chartered in this State and doing a local business in this State, as defined by act approved March seventh, nineteen hundred and four, nor to industrial sick benefit companies, as defined by an act approved March sixteenth, nineteen hundred and ten, nor to fraternal beneficiary associations, as defined by chapter five of the act concerning the Bureau of Insurance, approved

March ninth, nineteen hundred and six, as amended by an act approved March twenty-fourth, nineteen hundred and fourteen. And provided, further, that nothing herein shall be construed to apply to section twenty-eight of chapter one, and section fourteen of chapter two, of an act concerning the Bureau of Insurance, approved March ninth, nineteen hundred and six, providing that the expenses of maintaining the Bureau of Insurance shall be paid by the insurance companies doing business in this State, and providing that the expenses of keeping the bonds deposited with the Treasurer of the State, shall be paid by the insurance company depositing same; provided, however, that the license tax to be paid by each of the above described persons, partnerships, companies or corporations, for the license year commencing May first, nineteen hundred and fifteen, and ending April thirtieth, nineteen hundred and sixteen, shall be based upon the gross amount of all premiums, assessments, dues and fees collected, received or derived, or obligations taken therefor, from business in this State during the year beginning January first, nineteen hundred and fourteen, and ending December thirty-first, nineteen hundred and fourteen, both dates inclusive, without any deduction for dividends paid, or deduction on any other account, except for premiums returned upon cancelled policies, and premiums paid for reinsurance upon business in this State in companies duly authorized to do business in this State, which State license tax shall be paid into the State treasury on or before the first day of April, nineteen hundred and fifteen.

The proceeds of the said license tax to be paid into the State treasury by every person, partnership, company or corporation doing an insurance business in this State, as herein provided, shall be retained for the expenses of the State government.

Sec. 24. (As amended by chapter 77, p. 108, Acts extra session, 1915.) Every such person, partnership, company or corporation shall, on or before the first of March of each year, report, under oath, to the Commissioner of Insurance, upon forms to be furnished by him, the gross amount of all premiums, assessments, dues, and fees collected, received or derived, or obligations taken therefor, from business in this State during the preceding year ending the thirty-first day of December, without any deduction for dividends paid, or deductions on any other account, except for premiums returned upon cancelled policies, and premiums paid for reinsurance upon business in this State in companies duly authorized to do business in this State. The said annual report shall be examined into by the Commissioner of Insurance in order to ascertain as to its correctness, and it shall be his duty to file

said report, or a copy thereof, when approved by him, with the Auditor of Public Accounts.

Every such person, partnership, company or corporation which shall fail to make the report of premiums, assessments, dues and fees, as herein required, shall be fined fifty dollars, for each day's failure to make such report, said fine to be imposed in the discretion of the circuit court of the city of Richmond, upon the motion of the Attorney General, after ten days' notice, made at the suggestion of the Commissioner of Insurance.

The Commissioner of Insurance shall, upon notification from the Auditor of Public Accounts, that the license tax on premiums, assessments, dues and fees, has not been paid, revoke the license issued the person, partnership, company or corporation.

The Auditor of Public Accounts shall, upon the failure of any such person, partnership, company or corporation to make the payment of the license tax on premiums, assessments, dues and fees, within the time required by law, add a penalty of ten per centum of the amount of said license tax to the same, and proceed to recover the penalty and the license tax by suit in the circuit court of the city of Richmond on the bond given by any such person, partnership, company or corporation to secure the payment of said tax.

Sec. 25. (As amended by chapter 61, p. 108, Acts 1904.) No charge shall be made against any fire insurance company chartered in this State for the privilege of transacting its business when such company is purely a local mutual association, doing business in not more than four contiguous counties in this State, or in more than four contiguous counties, provided, the territory embraced in the counties in which business is done has not a population exceeding one hundred thousand, and is not designed to accumulate profits for the benefit of, or pay dividends to, the stockholders or members thereof; and, provided, further, that nothing in this act shall be construed to require any tax, other than the tax imposed upon property and the fees imposed by the general laws, defining and regulating fraternal beneficial associations, orders or societies, upon secret or fraternal orders where the benefit or relief is payable by the grand or supreme body of the same, and is derived from assessment upon lodges, councils or other bodies.

Sec. 26. (As amended by chapter 77, p. 109, Acts extra session 1915.) The real estate and tangible personal property situated or located in this State, of every person, partnership, company or corporation, whether organized by the laws of another State or country, or organized under the laws of this State, and doing an insurance business in this State, shall be listed and assessed on the land and property books of the

commissioners of the revenue in the same manner as other real estate and tangible personal property is assessed, and shall be taxed at the same rate as other like property is taxed in this State.

The license tax on gross premiums as provided in section twenty-three and the tax on real estate and tangible personal property herein provided to be paid by every person, partnership, company or corporation doing such an insurance business in this State, shall be in lieu of all other license fees, taxes or levies whatsoever for State, county, municipal or local purposes, which shall be construed to include their agents except that the certificate fee of one dollar required to be paid by all such agents to the Bureau of Insurance shall be paid by them as heretofore.

Additional Tax on Insurance Companies of One-Eighth ($\frac{1}{8}$) of One (1) Per Centum Upon the Gross Amount of All Premiums, Assessments, Dues and Fees Collected, Received or Derived, or Obligations Taken Therefor, from Business in This State During Each Year Imposed by Act Approved March 15, 1924.

(See copy of act printed on page 44.)

Every person, partnership, company or corporation, which contracts on his, their or its account to issue policies, contracts or agreements for life, fire, marine, surety, guaranty, fidelity, employer's liability, liability, credit, health, accident, live stock, plate glass, tornado, automatic sprinkler, burglary, steam boiler, and all like insurance, shall pay an additional tax of one-eighth of one per centum upon the gross amount of all premiums, assessments, dues and fees collected, received or derived, or obligations taken therefor, from business in this State during each year. The provisions of chapter seventy-seven of the Acts of the General Assembly of Virginia of nineteen hundred and fifteen, shall be applied in computing and collecting this tax, provided that nothing herein shall be construed to apply to fraternal beneficiary associations, as defined in chapter one hundred and seventy-one of the Code of Virginia, nineteen hundred and nineteen, defining and regulating fraternal beneficiary associations, orders or societies.

Note—This law not in force after December 31, 1925, after which date additional tax of one-eighth ($\frac{1}{8}$) of one (1) per centum not to be charged and collected.

Industrial Sick Benefit Companies.

(See act approved March 15, 1920, also, acts approved March 20, 1922, which follow Code Sec. 4359.)

Code Sec. 4351. Definition.—Any corporation, joint stock company or association, except fraternal beneficiary

associations, organized under the laws of this or any other State, district, territory or foreign country, that collects premiums, dues or assessments weekly from its members or policyholders, and that issues policies of insurance that provide for the payment of weekly indemnity on account of sickness or accident in addition to a benefit in case of death, and that is not required by its charter, by-laws, or by statute to maintain the legal reserve for said death benefits, shall be held to be an industrial sick benefit company.

Code Sec. 4352. Restrictions as to class of policy that may be issued; beneficiaries.—No such company shall issue any contract of insurance that does not provide for a weekly indemnity in case of sickness or accident, nor shall any such company issue any contract of straight life, limited payment life or endowment insurance, nor shall any such company issue any contract that provides a surrender value in case of lapse, nor any contract of insurance that provides a greater death benefit than two hundred and fifty dollars, nor a greater weekly indemnity than ten dollars.

The payment of death benefits shall be confined to the wife, husband, family or blood relatives of the insured or relatives by marriage or adoption, affianced husband or affianced wife, or to a person or persons dependent on the insured, subject to the limitation and control of the company as to the designation of beneficiaries within said classes, and such beneficiaries cannot be changed, either by assignment or will, without the consent of the company, to persons outside of the above classes.

Code Sec. 4353. Sick benefit companies to deposit securities with Treasurer.—Before any company or association embraced in this chapter shall be licensed to transact business in this State it shall first comply with the provisions of section forty-two hundred and eleven, relating to the deposit of securities with the Treasurer of the Commonwealth.

Code Sec. 4354. (As amended by chapter 21, p. 23, Acts 1920.) Taxes; agents.—Every association or joint stock company embraced in section forty-three hundred and fifty-one shall pay for the privilege of carrying on its business in this State, a license tax of one per centum upon the gross amount of all premiums, assessments, dues and fees collected, or obligations taken therefor, derived from its business in this State during each year ending the thirty-first day of December, which license tax shall be paid in the same manner and at the same time as is required by law of the regular life insurance companies; but, if such license tax on gross premiums shall not amount in the aggregate to as much as two hundred dollars in any one year, then such association or joint stock company shall pay a specific license tax of two hundred dol-

lars. The tax herein provided to be paid by the companies or associations embraced in said section shall be in lieu of all other taxes, license fees or levies whatsoever for State, county, municipal or local purposes for the privileges of doing business in this State; but nothing in this section shall be construed to relieve any such company or association from taxation on its real estate, or tangible personal property, as required by law to be paid by the regular life insurance companies doing business in this State, nor to relieve such companies or associations from the tax for the maintenance of the Bureau of Insurance, as required by section forty-one hundred and ninety-four, nor to relieve such companies or associations from the tax required to be paid to the Treasurer of Virginia for keeping the bonds deposited by any such companies or associations. No industrial insurance company, however, doing business on the legal reserve plan, shall be required to pay any licenses, fees or other taxes in excess of those required by this section on such part of its business as may be sick benefit insurance, as defined in section forty-three hundred and fifty-one, but all such sick benefit insurance shall be subject to the restrictions of this chapter as far as applicable; but such last mentioned companies doing business on the legal reserve plan shall pay on all sick benefit policies or contracts that provide a greater death benefit than two hundred and fifty dollars, or a greater weekly indemnity than ten dollars, and on all other life, limited payment and endowment insurance, the same license or other tax as are required of all other legal reserve companies.

Every agent, canvasser or solicitor representing any company qualified to transact business under this chapter shall be subject to the laws governing agents of insurance companies.

Code Sec. 4355. Licenses to do business.—All such companies or associations shall secure annually a license from the Commissioner of Insurance, who shall, before issuing said license be satisfied that the company or association applying for same has complied with all the laws relating to companies or associations embraced in this chapter, and is solvent; and for this purpose the Commissioner of Insurance shall have authority, at any time, to examine any company or association mentioned in this chapter, and shall possess the same powers that are conferred upon him for examination of other insurance companies. Such license shall expire on the thirtieth day of April following its date, and all renewals thereof shall be obtainable in the same manner.

Code Sec. 4356. Supervision.—Any company, association of joint stock company embraced in this chapter doing business in this State, shall be under the supervision of the Bureau of Insurance, and shall make annual reports and pay

the percentage tax named in this chapter in the same manner and at the same time as is required by the law of other insurance companies, and shall be subject to like penalties in case of failure.

Code Sec. 4357. All companies hereafter organized for purpose of sick benefit insurance must state purpose in charter.—All companies, associations or joint stock companies hereafter organized under the laws of this State for the purpose of transacting a sick benefit business as defined in this chapter, shall have its purposes plainly stated in its charter or articles of incorporation, and shall be subject to the general laws governing corporations of this character.

Code. Sec. 4358. Foreign corporations may qualify.—Any corporation chartered under the laws of any other State, district or territory of the United States, or any foreign country, may qualify to do business in this State under the provisions of this chapter upon conforming to the laws of this State in regard to the admission of foreign companies, when the Commissioner of Insurance is satisfied that the company is solvent and is in all respects qualified to transact business in this State.

Code Sec. 4359. Excessive insurance; remedy.—If any policyholders in any company operating under this chapter shall, by insuring in several companies, societies or associations, obtain policies or certificates of membership in the aggregate calling for sick benefits in excess of one hundred and fifty per cent of his or her weekly salary, wage or earnings, he shall not be permitted to recover such excess, nor shall the company be compelled to pay the same, unless the existence of all previous policies was admitted by the assured in all applications for insurance in excess of said sum. If the assured has, by misstatements, or by the failure to admit the existence of previous policies, succeeded in obtaining such excess additional policies, and has received benefits thereunder in excess of the amount above specified, such excess, so paid, may be deducted from the death benefit provided for in such policies. This section, however, shall not apply to any case where the application for the policy did not contain any question in regard to the amount of insurance carried by the applicant, nor where the application blank was printed in less than ten point or long primer type.

Industrial Sick Benefit Companies—Act 1920.

AN ACT to prescribe the conditions under which industrial insurance companies may be organized or licensed to do business in the State of Virginia. Approved March 15, 1920. Chapter 181, Acts 1920:

1. Be it enacted by the General Assembly of Virginia, That no insurance company hereafter incorporated under the

laws of this State, on the stock plan, and for the purpose of transacting the business of either industrial sick benefit insurance, as defined in section forty-three hundred and fifty-one, or industrial life insurance on the weekly or monthly payment plan, or both, shall be allowed to transact such business in the State of Virginia, unless such company shall be possessed of a cash capital of at least one hundred thousand dollars, fully paid in, and a cash surplus of at least fifty thousand dollars; and no insurance company, on the stock plan, incorporated under the laws of a State, territory, or district of the United States other than the State of Virginia, which is not now transacting business in this State and which shall hereafter apply for a license to transact the business of either industrial sick benefit insurance, as defined in section forty-three hundred and fifty-one, or industrial life insurance on the weekly or monthly payment plan, or both, shall be allowed to begin to transact, such business in this State, unless and until such company shall be possessed of a cash capital of at least one hundred thousand dollars fully paid in, and, in addition, shall have deposited with the Treasurer of the Commonwealth, or with the proper officer of the State of its incorporation, for the general protection of its policyholders, the sum of one hundred thousand dollars in the interest paying bonds or stocks of the United States, or of this State, or of any municipality or county thereof, or in the interest paying State bonds or stocks of some other State of the United States, of the market value of one hundred thousand dollars in the city of New York, or in bonds and mortgages on unincumbered real estate in this State, or in the State under the laws of which it was organized of at least double the value of the amount loaned thereon, or such securities, stocks, bonds or mortgages as may be accepted by the proper officer of the State of its incorporation as of the value of one hundred thousand dollars.

2. Insurance companies, on the stock plan, incorporated under the laws of a State, territory or district of the United States, other than the State of Virginia, at present transacting in this State the business of either industrial sick benefit insurance, as defined in section forty-three hundred and fifty-one, or industrial life insurance on the weekly or monthly payment plan, or both, shall, after April thirtieth, nineteen hundred and twenty-one, have the same amount of paid-up capital stock and make and maintain such deposit as may be required, by the then existing laws of the respective States of their incorporation, of companies of the State of Virginia doing a similar business in such States, or as would be required of companies of the State of Virginia if such companies were to ap-

ply for a license to do a similar business in such States, whether such license be applied for or not.

Industrial Sick Benefit Companies—Acts 1922.

AN ACT to make it unlawful for any person to knowingly or wilfully make any false or fraudulent statement or representation of any material fact in or with reference to any application for insurance or as to the death or disability of a policy or certificate holder in, or for the purpose of procuring or attempting to procure the payment of any false or fraudulent claim against, or for the purpose of obtaining or attempting to obtain any money from or benefit in any industrial sick benefit company licensed, or which may be licensed to do business in this State, and to provide penalties for its violation. Approved March 20, 1922. Chapter 319, p. 542, Acts 1922.

1. Be it enacted by the General Assembly of Virginia, That any agent, physician or other person who shall knowingly or wilfully make any false or fraudulent statement or representation of any material fact in or with reference to any application for insurance or as to the death or disability of a policy or certificate holder in, or for the purpose of procuring or attempting to procure the payment of any false or fraudulent claim against, or for the purpose of obtaining or attempting to obtain any money from or benefit in any industrial sick benefit company licensed, or which may be licensed to do business in this State, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or imprisonment in the county jail for not less than thirty days nor more than one year, or both, in the discretion of the court; and any such person who shall wilfully make a false statement of any material fact or thing in a sworn statement as to the death or disability of a policy or certificate holder in any such company for the purpose of procuring payment of a benefit named in the policy or certificate of such holder, shall be guilty of perjury, and shall be proceeded against and punished as provided by the statutes of this State in relation to the crime of perjury.

AN ACT to require industrial sick benefit companies to insert in policies of industrial sick benefit insurance hereafter issued by them a provision permitting the cancellation of the sick benefit portion of the policy under certain conditions. Approved March 20, 1922. Chapter 318, p. 542, Acts 1922.

1. Be it enacted by the General Assembly of Virginia, That industrial sick benefit companies authorized to transact business in this State shall be required to insert in policies of industrial sick benefit insurance hereafter issued by them in this State, without affecting the character of such policies as poli-

cies of industrial sick benefit insurance, a provision that the sick benefit portion of the policy may be cancelled by either the company or the insured and the life portion continued by a payment of twenty per cent of the original premium; and that, if the cancellation be by the company, it shall be without prejudice to any claim arising on account of disability commencing prior to the date on which the cancellation takes effect, and written notice of the cancellation shall be delivered to the insured or mailed to him at his last address as shown by the records of the company accompanied by a tender of the company's check for the unearned portion of the premium.

Railway and Canal Corporations.

Sec. 27. (As amended by chapter 141, p. 197, Acts extra session, 1915.) Every railway and canal corporation of this State not exempt from taxation by virtue of its charter, and every railway and canal corporation incorporated under the laws of any other State doing business in this State, shall report annually on or before the fifteenth day of August, to the State Corporation Commission all of its real and personal property of every description, as of the thirtieth day of June preceding, showing particularly in what county or corporation the principal office or agency of such corporation is located in this State, and in what county or corporation the principal office or agency of such corporation is located, and also showing what parts of such property is located in each school district of such county, and classifying the same under the following heads:

First. Roadway and track or canal bed.

Second. Depots, depot grounds and lots, station buildings and fixtures and machine shops.

Third. Real estate not included in other classes.

Fourth. Rolling stock, including passenger, freight, cattle or stock, baggage, mail, express, sleeping, palace, and all other cars owned by or belonging to the corporation, boats, machinery, depot and office furniture and equipment, houses and appurtenances occupied by lock-gate keepers and other employees; provided, that foreign railway and canal corporations doing business in this State shall report and be assessed on the average amount of rolling stock habitually used by them in this State.

Fifth. Stores.

Sixth. Telegraph lines.

Seventh. Stocks, bonds and other evidences of debt of other corporations and individuals and firms held by such company.

Eighth. Stocks, bonds and other evidences of debt of any person or corporation belonging to any such company chartered in this State, in excess of its indebtedness, whether the same be held in trust or otherwise by some other person, firm or corporation, within or without this State, which, for the purpose of this act, shall be considered to be located at the principal office of such company in this State.

Ninth. All other personal property of such company not enumerated in either of the foregoing heads, which would be taxable under this act if the same belonged to an individual, including money of the corporation, derived from actual transportation operations, on deposit with any bank or other corporation or firm or person, or in the possession or under the control of the corporation, whether such money be actually in or out of this State, and if such railway or canal is only in part within this Commonwealth, the money to be reported shall be such proportion of the total money on deposit, derived as aforesaid, as the gross earnings in Virginia bear to the gross earnings of the system.

Every such corporation shall also report on or before the fifteenth day of August of each year, the gross transportation receipts of the railway or canal for the twelve months preceding the thirtieth day of June of each year, and in all cases the report shall be so made as to give the data on which the same is made. If such railway or canal is only in part within the Commonwealth, the report shall show what part is within the Commonwealth, and what proportion the same bears to the entire length of the road or canal, and shall apportion the said receipts accordingly. The report herein required shall be verified by the oath of the president or other proper officer. The State Corporation Commission shall, after thirty days' notice previously given by it to the president, treasurer, or other proper officer of such corporation, proceed to ascertain the value of property and the gross transportation receipts so reported, upon the best and most reliable information that can be procured, and to this end shall be authorized and empowered to send for persons and papers. The State Corporation Commission shall assess upon said property and gross transportation receipts the taxes imposed thereon by law.

A certified copy of this assessment, when made, shall be immediately forwarded by the clerk of the State Corporation Commission, not later than the fifteenth day of October, to the Auditor of Public Accounts and to the president or other proper officer of each railway and canal corporation so assessed, whose duty it shall be to pay into the treasury of the State, on or before the first day of November following the taxes upon its property and the franchise tax upon the gross

transportation receipts as shown by said copy of the assessments.

The State Corporation Commission shall, at such time as it may elect, on or before the fifteenth day of October of each year, proceed to ascertain and assess the gross transportation receipts of any railway or canal corporation which has failed to make the report herein required, and shall also assess the value of the property of any such corporation, except its franchise and nontaxable shares of stock issued by other corporations and owned by it, at a fair cash valuation, upon the best and most reliable information that can be procured, and to this end shall be authorized and empowered to send for persons and papers, and said commission shall assess upon such gross transportation receipts and property the taxes imposed thereon by law. A certified copy of the assessment when made shall be immediately forwarded by the clerk of the State Corporation Commission to the Auditor of Public Accounts and to the president or other proper officer of such railway or canal corporation so assessed, whose duty it shall be to pay into the treasury of the State within thirty days after receiving said certified copy of the assessment, the taxes upon its property, and the franchise tax upon its gross transportation receipts as shown by said copy of the assessment.

Such taxes so assessed, and a penalty in addition thereto of five per centum thereon, if the said taxes be not paid at the time provided herein, shall be collected by the treasurer of any county or city in which such corporation owns property, to whom the Auditor may deliver a copy of the assessment. The treasurer may distrain and sell any personal property of such corporation, and shall pay the amount of said tax and penalty into the treasury within one month from the time of delivery to him of the copy as aforesaid. The roadbed, depot grounds, rolling stock, tools, oil, and other articles used in operating railroads, owned by mining, lumber and like companies which transport passengers or freight for other than such owners, shall be assessed by the State Corporation Commission in the mode prescribed by this act. All other property of such mining, lumber and like companies shall be assessed by the commissioner of the revenue upon the land and personal property books of the counties and cities where located. Mining, lumber and like companies operating railroads to transport passengers or freight for others shall be construed as in the provision of this section as to all of their property, except their real estate, not used as a part of their roadbed or for depot purposes, which shall be assessed by the commissioner of the revenue in the district or city wherein situated.

It shall be the duty of the State Corporation Commission to prepare and furnish to the several corporations required to

make reports under this section forms for such reports, which said corporations shall use in making the reports required of them, and any such corporation which shall fail to make the report hereinbefore required, within the time herein prescribed, shall be liable to a fine of not less than one hundred dollars nor more than two hundred and fifty dollars for each day such corporation may be in default in making such report. The said fine to be imposed and judgment entered therefor by the State Corporation Commission after thirty days' notice to any such defaulting corporation to appear before the said commission and show cause, if any, against the imposition of such fine, subject to appeal to the Supreme Court of Appeals. It shall be the duty of the clerk of the State Corporation Commission to furnish to the council of every city and town and to the board of supervisors of every county, and to the treasurer of every county and city, wherein any property belonging to such corporation is situated, a certified copy of the assessment made by the State Corporation Commission of such corporation's property, which shall definitely show the character of the property, its value and location for purposes of taxation in each county, city, town and school district, so that county, city, town and school district levies may be laid upon the same; provided, however, that it shall be the duty of the division superintendent of schools in each county in which a railway or canal is located and operated to furnish, on or before the first of July in each year, to such railway or canal corporation or corporations, the boundaries of each school district of said county in which any part of such railway or canal and its property is situated, and a copy of such boundaries to the clerk of the State Corporation Commission. Wherever any division superintendent of schools shall fail to furnish to such railway or canal corporation or corporations and the clerk of the State Corporation Commission, the boundaries of each school district of said county in which any part of such railway or canal and its property is situated, it shall be the duty of the clerk of the State Corporation Commission to notify the judge of the circuit court of the county wherein such superintendent of schools resides, who shall instruct the grand jury at the next term of the circuit court to ascertain whether such boundaries have been furnished as required in this act, and should said grand jury ascertain that such boundaries have not been furnished, they shall find an indictment against each such division superintendent of schools, who shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five dollars, nor more than one hundred dollars for each school district so omitted.

Tax on Railway and Canal Corporations.

(See act imposing special tax of eight cents, printed on page 36, and act imposing special tax of seven cents, printed on page 40, also see acts imposing additional franchise tax, printed on pages 42 and 44.)

Sec. 28. (As amended by chapter 485, p. 814, Acts 1916.) The State tax on the rolling stock of all corporations operating railroads by steam doing business in this State, so far as the same is taxable in this State, shall be at the rate of one and three-fifths per cent of the assessed value thereof, to be applied to the support of the government of this State, and there shall be no local levies assessed on such rolling stock.

The State tax on the intangible personal property as assessed in the section next preceding (other than bonds issued by counties, cities and towns or other political subdivisions of this State) owned by every railway and canal corporation, shall be at the rate of sixty-five cents on every hundred dollars of the assessed value thereof, the proceeds of which shall be applied to the payment of expenses of the government, and upon all such intangible personal property there may be local levies at the rate authorized by law, however, such rate not to exceed thirty cents on every one hundred dollars of the assessed value thereof, the proceeds of said local levies to be applied as is provided by law.

The State tax on the money of every railway and canal corporation shall be twenty cents on every one hundred dollars assessed value thereof, one-half of which shall be applied to the support of the government and one-half of which shall be applied to the support of the public free schools of this State, and there shall be no local levies assessed on such money.

The State tax on bonds issued by counties, cities and towns or other political subdivisions of this State, owned by every railway and canal corporation, shall be at the rate of thirty-five cents on every one hundred dollars assessed value thereof, the proceeds of which tax shall be applied to the payment of the expenses of the government.

The State tax on the real estate, rolling stock (other than the rolling stock of corporations operating railroads by steam) and tangible personal property of every railway and canal corporation, shall be at the rate of ten cents on every one hundred dollars assessed value thereof, the proceeds of which shall be applied to the support of the public free schools of this State, and on such real estate, rolling stock (other than the rolling stock of corporations operating railroads by steam) and tangible personal property there shall be local levies at the same rate or rates as are assessed upon other real estate

and tangible personal property, located in such localities, the proceeds of which local levies shall be applied as is provided by law.

Every such railway or canal corporation shall pay to the State an annual State franchise tax equal to one and one-fourth per centum upon the gross transportation receipts, hereinafter specified, for the privilege of exercising its franchise in this State, which, with the taxes hereinbefore provided for, shall be in lieu of all taxes or license charges whatsoever, upon the franchises of such corporation and the shares of stock issued by it, and upon all its property, as hereinbefore provided; provided, that nothing herein contained shall exempt such corporation from the annual fee required by section one hundred and fifty-seven of the Constitution or from assessment for street and other local improvements, which shall be authorized by law, or from the county, city, town, district, or road levies hereinafter provided for other than a franchise tax; and, provided, further, that nothing herein contained shall annul or interfere with, or prevent, any contract or agreement by ordinance between street railway corporations and municipalities as to compensation for the use of the streets or alleys of such municipalities by such railway corporation; and, provided, further, that the case of any railway or canal corporation operated wholly within this State whose actual operating expenses exceed its gross transportation receipts, the annual State franchise tax shall be equal to one and one-eighth per centum upon the gross transportation receipts.

The amount of such franchise tax shall be equal to one and one-fourth per centum of the gross transportation receipts of such corporation for the year ending June thirtieth of each year, to be ascertained by the State Corporation Commission in the following manner:

(a) When the road or canal of the corporation lies wholly within this State, the tax shall be equal to one and one-fourth per centum of the entire gross transportation receipts of such corporation.

(b) When the road or canal of the corporation lies partly within and partly without this State, or is operated as a part of a line or system extending beyond this State, the tax shall be equal to one and one-fourth per centum of the gross transportation receipts earned within this State, to be determined as follows:

By ascertaining the average gross transportation receipts per mile over its whole extent within and without this State, and multiplying the result by the number of miles operated within this State; provided, that from the sum so ascertained there may be deducted a reasonable sum because of any ex-

cess of value of the terminal facilities or other similar advantages situated in other States over similar facilities or advantages situated in this State.

The real and personal property (other than the rolling stock of corporations operating railroads by steam) of such corporation, and other than its franchise, shall be assessed on the valuation fixed by the State Corporation Commission with county, city, town, district and road levies at the same rate as real and personal property of natural persons are assessed with such levies.

No State tax, county, city, town, district or road levy shall be laid on the net income of any railway or canal corporation, nor shall any county, city, town, district or road levy be laid on the gross transportation receipts of any such company.

All the taxes and levies shall, until paid, be a lien upon the property within this State of the corporation owning the same, and take precedence of all other liens or encumbrances.

Any such railway or canal corporation, or the State or any county or city at the instance of the Attorney General for the State or the Commonwealth's attorney for any county or city, aggrieved by the assessment and ascertainment of such taxes, may, within thirty days after receiving a certified copy thereof, apply for relief to the circuit court of the city of Richmond. Notice of the application setting forth the grounds of complaint, verified by affidavit if the appeal be taken by any such railway or canal corporation shall be served on the State Corporation Commission, and on the Attorney General, whose duty it shall be to represent the Commonwealth, or, if the appeal be taken by the State or any county or city, notice of the application, setting forth the grounds of complaint, shall be served on such railway or canal corporation. If the court be of opinion that the assessment or tax is excessive, it shall reduce the same, but if of the opinion that it is insufficient, it shall increase the same. Unless the applicant paid the taxes under protest when due the court, if the decision is adverse to the applicant, shall, in disallowing the application, give judgment against it for the taxes assessed by the State Corporation Commission, and for a sum, by way of damages, equal to interest at the rate of one per centum per month upon the amount of taxes from the time the same were payable. If the decision is in favor of such railway or canal corporation, in whole or in part, appropriate relief shall be granted, including the right to recover any excess of taxes that may have been paid, with legal interest thereon, and the legally taxable costs of said application from the State or local authorities, or both, as the case may be, the judgment to be enforced by mandamus or other proper process issuing from the court finally adjudicating the application. If the decision be in

favor of the State or any county or city, appropriate relief shall be granted and the court shall enforce its judgments by mandamus or other proper process.

The Supreme Court of Appeals may, subject to the provisions of article six of the Constitution, allow a writ of error to either party; provided, however, that any steam railway company in which nine-tenths of the stock of such company is owned by a city or county of this State and which is operated at a loss, shall pay to the State an annual State franchise tax of only five dollars.

ADDITIONAL TAX ON RAILWAY AND CANAL CORPORATIONS.

Special Tax of Eight Cents on the One Hundred Dollars Valuation. Act March 15, 1918.

(See copy of act printed on page 36.)

This act imposes and directs to be assessed for the year 1918 and thereafter, until otherwise provided, a special tax of eight cents on every one hundred dollars of the assessed value; four-eighths for the maintenance of the public free schools of the primary and grammar grades from the first to the seventh grades, inclusive; three-eighths for the construction or reconstruction of the roads and projects comprised in the State Highway System of public roads; one-eighth for the prevention and eradication of tuberculosis among the people of this State:

On real estate.

On all tangible personal property.

On rolling stock of corporations.

On all intangible personal property (except money, and bonds of counties, cities and towns, or other political subdivisions of this State).

Special Tax of Seven Cents on the One Hundred Dollars Valuation. Act September 5, 1919.

(See copy of act printed on page 40.)

This act imposes and directs to be assessed and collected for the year 1919 and thereafter, until otherwise provided, a special tax of seven cents for the construction or reconstruction of the roads and projects comprised in the State Highway System, as established by act approved January 31, 1918, entitled "an act to establish The State Highway System":

On real estate.

On all tangible personal property.

On rolling stock of corporations.

On all intangible personal property (except money, and bonds of counties, cities and towns, or other political subdivisions of this State).

Additional Franchise Tax on Railway and Canal Corporations.

(See copy of act, printed on page 42.)

This act imposes and directs to be assessed for the year 1918 and thereafter, until otherwise provided, an additional tax of one-sixteenth of one per cent upon the gross transportation receipts of every railway and canal corporation in this State not exempt from taxation by virtue of its charter and of every railway and canal corporation incorporated under the laws of any other State and doing business in this State.

Additional Franchise Tax on Railway and Canal Corporations of One-Sixteenth (1/16) of one (1) Per Centum of the Entire Gross Transportation Receipts Imposed by Act Approved March 15, 1924.

(See copy of act printed on page 44.)

Upon the gross transportation receipts of every railway and canal corporation in this State, not exempt from taxation by virtue of its charter, and of every railway and canal corporation incorporated under the laws of any other State and doing business in this State, the additional tax shall be as follows:

(a) When the road or canal of the corporation lies wholly within this State the additional tax shall be equal to one-sixteenth of one per centum of the entire gross transportation receipts of such corporation; and,

(b) When the road or canal of the corporation lies partly within and partly without this State, or is operated as a part of a line or system extending beyond this State, the additional tax shall be equal to one-sixteenth of one per centum of the gross transportation receipts earned within this State, to be determined in the manner provided for by chapter four hundred and eighty-five of the Acts of the General Assembly of Virginia for the year nineteen hundred and sixteen.

Note—This law not in force after December 31, 1925, after which date additional tax of one-sixteenth (1/16) of one (1) per centum not to be charged and collected.

Also Special Tax of One-tenth of One Per Centum of Gross Receipts of An Electric Railway Corporation to Defray Expenses of Valuation of Its Properties by the State Corporation Commission, Imposed By Act Approved March 20, 1924 (see page 47).

State Tax on Rolling Stock of Corporations Operating Railroads by Steam.

(See act imposing special tax of eight cents, printed on page 36, and act imposing special tax of seven cents, printed on page 40.)

Code Sec. 2207. Rolling stock of railroads assessed by State Corporation Commission; rate of taxation; how taxes paid.—The value of rolling stock of all corporations operating railroads by steam and doing business in this State, so far as the same is taxable in this State, and segregated and made subject to taxation by the State only under the preceding section shall be assessed annually by the State Corporation Commission.

The total annual rate for such segregated rolling stock shall be one and three-fifths per cent of the assessed value thereof, to be applied to the support of the government of the State.

Said corporation shall pay to the State Treasurer the taxes due under the assessment of rolling stock aforesaid at the same time and in the same manner as taxes levied on the other properties of such corporations for State purposes are required to be paid.

Rolling Stock of Electric Railway Companies. Situs for Taxation, Etc., Etc.

Code Sec. 2208. State Corporation Commission shall ascertain and assess value of rolling stock of electric railway corporations; how assessment to be made; situs of such rolling stock for purpose of taxation.—The rolling stock of the various electric railway corporations doing business in Virginia shall not be assessed for taxation at the principal office of said corporation, but the value of said rolling stock shall be ascertained and assessed by the State Corporation Commission for the purpose of State taxation, and for local taxation shall be divided, apportioned and distributed among the several counties, magisterial districts, cities and towns in this State in and through which any part of any such electric railway is located, in the ratio and proportion that the total assessed value of the right of way, road bed, track and all other property (except rolling stock) of such electric railway corporations, respectively, located in any such county, magisterial district, city or town, bears to the assessed value of all such property (except rolling stock) of said electric railway corporation, respectively.

The State Corporation Commission shall annually, on or before the fifteenth day of October, divide, apportion and

distribute, according to the ratio and proportion aforesaid, the assessed value of rolling stock of said electric railway corporations, respectively, among the several counties, magisterial districts, cities and towns in and through which the line, or roadway of any such electric railway corporation is located, and certify to the board of supervisors of said counties, and to the councils, or any other governing board, of said cities and towns, respectively, the proportion of the assessed value of said rolling stock for local taxation by said counties, magisterial districts, cities, and towns, respectively; and the proportion of the assessed value of said rolling stock which shall be subject to taxation for local purposes by the counties, magisterial districts, cities and towns, as aforesaid, shall be that part of said assessed value of said rolling stock certified by the State Corporation Commission to the respective boards of supervisors of the counties, and the councils or any other governing board of the cities and towns, as hereinbefore provided.

The said valuation of said rolling stock, when so ascertained and certified and apportioned, as aforesaid, shall be held to be situated for the purpose of local taxation in said cities, towns, counties and districts and taxable therein in the same way and manner as the physical properties of said railroad are taxed for the purpose of local taxation; and said apportionment shall be treated in all respects, for the purpose of local taxation, as if said rolling stock was actually situated in said cities, towns, counties or districts, and the situs, or place of taxation of such rolling stock, to the extent of said valuation and apportionment, shall be in the said cities, towns, counties and districts aforesaid and not elsewhere.

As used in this section the term "electric railway" shall be construed to mean a railroad the greater part of the mileage of which is operated by electricity.

Express Companies (Refrigerator, Oil, Stock, Fruit, and Other Car Loaning and Other Car Companies, Operating Upon the Railroads in this State), Except Sleeping Car, Dining Car, Drawing Room Car and Palace Car Companies.

(See act relating to oil, stock, etc., cars, which follows Sec. 29½, which supersedes this Section (29), as to oil, stock, etc., car companies.)

Sec. 29. (As amended by chapter 141, p. 202, Acts extra session 1915.) All companies doing express business on any railroad, steamboat or vessel in this State; all refrigerator, oil, stock, fruit, and other car loaning, and other car companies, operating upon the railroads in this State except sleeping car, dining car, drawing room car and palace car com-

panies, shall report annually on or before the first day of September to the State Corporation Commission all of its real and personal property of every description in this State belonging to it on the thirtieth day of June preceding, showing particularly in what city, town, county and school district property is located and classifying the same under the following heads:

(a) All of its real and personal property of every description in this State belonging to it on the thirtieth day of June next preceding, showing the cost and present market value of said property;

(b) The total number of miles operated within and without this State for the year ending June thirtieth next preceding;

(c) The gross receipts from operations entirely within this State, and if operations are partly within and partly without this State the entire gross receipts from operations for the year ending June thirtieth next preceding;

(d) Any and all other information, in such manner and in such detail as the State Corporation Commission shall require.

The said State Corporation Commission shall, after thirty days' notice previously given by it to the president or other proper officer, assess the value of the property of each such companies.

Should any such company fail to make the report required by this section on or before the first day of September, the said State Corporation Commission shall, at such time as it may elect, upon the best and most reliable information that can be procured, assess the value of the property of said company within this State, and shall ascertain the information required herein, and in the execution of the duty shall be authorized and empowered to take testimony, summons and compel the attendance of witnesses and send for persons and papers.

A certified copy of the assessment when made shall be immediately forwarded by the clerk of the State Corporation Commission to the Auditor of Public Accounts and to the president or other proper officer of each such company, and such company shall pay into the treasury of the State by the first day of December following the taxes assessed against it.

It shall be the duty of the clerk of the State Corporation Commission to furnish to the council of every city and town and to the board of supervisors of every county wherein the property belonging to said company is situated a certified copy of the assessment made by the State Corporation Commission of such companies' property, which assessment shall definitely show the character of the property, its value and location for the purpose of taxation in each city, town, county,

and district, so that city, town, county and district levies may be imposed upon the same; provided, however, that it shall be the duty of the division superintendent of schools in each such county in which any express company, refrigerator, oil, stock, fruit, and other car loaning; and other car companies own property, on or before the first day of July in each year to furnish to such companies the boundaries of the school districts of said county wherein any such property is situated.

Any such company failing to pay said taxes into the treasury within the time herein prescribed shall incur a penalty thereon of five per centum, which shall be added to the amount of said taxes.

Any such company failing to make the report hereinbefore required within the time herein prescribed shall be liable to a fine of not less than twenty-five dollars nor more than one hundred dollars for each day such company may be in default in making such report, the said fine to be imposed and judgment entered therefor by the State Corporation Commission after thirty days' notice to any such defaulting corporation to appear before the said commission and show cause, if any, against the imposition of such fine, subject to appeal to the Supreme Court of Appeals of Virginia.

Tax on Express Companies.

(See act imposing special tax of eight cents, printed on page 36, and act imposing special tax of seven cents, printed on page 40, and act imposing additional license tax of three-twentieths of one per centum upon gross receipts, printed on page 42.)

Sec. 29½. (As amended by chapter 43, p. 70, Acts extra session 1919.) Each and every one of the said companies doing business in this State shall, on or before the first day of December of each and every year pay to the State and to the several counties, cities and towns of the State wherein they may have taxable properties located, the taxes levied on said property as follows:

(a) The State tax on the intangible personal property (other than bonds issued by counties, cities and towns or other political subdivisions of this State) owned by every such company, shall be at the rate of sixty-five cents on every one hundred dollars of the assessed value thereof, the proceeds of which shall be applied to the expenses of the government, and upon all such intangible personal property there may be local levies at the rate authorized by law; however, such rates not to exceed thirty cents on every one hundred dollars of the assessed value thereof, the proceeds of said local levies to be applied as is provided by law. •

(b) The State tax on the money of every such company shall be twenty cents on every one hundred dollars assessed value thereof, one-half of which shall be applied to the support of the government, and one-half of which shall be applied to the support of the public free schools of this State, and there shall be no local levies assessed on such money.

(c) The State tax on bonds issued by counties, cities and towns or other political subdivisions of this State, owned by every such company shall be at the rate of thirty-five cents on every one hundred dollars assessed value thereof, the proceeds of which tax shall be applied to the payment of the expenses of the government.

(d) The State tax on the real estate and tangible personal property of every such company shall be at the rate of ten cents on every one hundred dollars assessed value thereof, the proceeds of which shall be applied to the support of the public free schools of this State, and on such real estate and tangible personal property there shall be local levies at the same rate or rates as are assessed upon other real estate and tangible personal property located in such localities, the proceeds of which local levies shall be applied as is provided by law.

(e) Every such company, for the privilege of doing business in this State, in addition to the annual registration fee and the property tax as herein provided, shall pay an annual license tax as follows:

Said tax shall be equal to the percentages herein fixed upon the gross receipts from operations of such companies and each of them within this State. When such companies are operating partly within and partly without this State, the gross receipts within this State shall be deemed to be all receipts on business beginning and ending within this State and all receipts earned in Virginia on business passing through, into or out of this State; provided, unless otherwise clearly shown, such last-mentioned receipts shall be deemed to be that portion of the total receipts from such business which the entire mileage over which such business is done bears to the mileage operated within this State the percentages above mentioned shall be as follows:

On all companies doing express business within this State, one and one-half per centum; on all refrigerator, oil, stock, fruit and other car loaning and other car companies, except sleeping car, dining car, drawing room car and palace car companies, six per centum. (See act relating to oil, stock, etc., cars, which follows this section (29½) and which supersedes this provision in this section as to tax on oil, stock, etc., cars.)

Additional License Tax on Express Companies; of Three-Twentieths (3/20) of One (1) Per Centum Upon the Gross Receipts Imposed By Act Approved March 15, 1924.

(See copy of act printed on page 44.)

For the privilege of doing business in this State every company doing express business on any railroad, steamboat or vessel in this State, * * * there shall be an additional tax of three-twentieths of one per centum upon the gross receipts from the operations of such companies within this State, to be determined as provided for by the provisions of chapter one hundred and forty-one of the Acts of Assembly of Virginia for the year nineteen hundred and fifteen, * * * .

Note—This law not in force after December 31, 1925, after which date additional tax of three-twentieths (3/20) of one (1) per centum not to be charged and collected.

Tax on Stock Cars, Furniture Cars, Fruit Cars, Refrigerator Cars, Meat Cars, Oil Cars, Tank Cars, and Other Similar Cars.

AN ACT providing for the assessment and taxation of stock cars, furniture cars, fruit cars, refrigerator cars, meat cars, oil cars, tank cars, and other similar cars used in this State and owned by corporations or individuals having no domicile within the State. Approved March 17, 1916. Chapter 283, p. 499, Acts 1916. (This act continued in force by Code section 2399.)

1. Be it enacted by the General Assembly of Virginia, That the president or other chief officer of every car company, car trust, mercantile company or corporation or individual not domiciled within this State owning any stock cars, furniture cars, fruit cars, refrigerator cars, meat cars, oil cars, tank cars, or other similar cars other than a railroad operating a line of railroad, shall annually, on or before the first day of September in each year, report to the State Corporation Commission a true, full and accurate statement, verified by the affidavit of the officer or person making the same, showing the aggregate number of miles made by their several cars over the several lines of railroad in this State during the year next preceding the thirtieth day of June, and a further statement showing the average number of miles traveled per day by the cars of the particular class or classes covered by the statement, in the ordinary course of business during the year.

2. The president or other chief officer of every railroad company whose lines run through or into this State shall also annually, on or before the first day of September in each year, furnish to the State Corporation Commission a statement, verified by the affidavit of the officer or person making the same,

showing the total number of miles made by the cars of every such car company, car trust, mercantile company or individual over their lines in this State during the year next preceding the thirtieth day of June. Such statement shall also show separately the names and aggregate number of miles traveled over their lines in this State, by the cars of each such car company, car trust, mercantile company, or individual, and the average number of miles traveled per day by each of the particular class of cars covered by the statement in the ordinary course of business during the year.

3. It shall be the duty of the State Corporation Commission, annually, after thirty days' notice previously given by it to the president or other proper officer of the company owning such property, or to the individual owning it, to ascertain from the best and most reliable information that can be obtained and from said statements the number of cars required to make the total mileage of the cars of each such car company, car trust, mercantile company, or individual within the period of one year next preceding the thirtieth day of June. The State Corporation Commission shall ascertain and fix the valuation upon each particular class of such cars, and the number so ascertained to be required to make the total mileage of the cars of each such car company, car trust, mercantile company, or individual within such period, shall be assessed to the respective car companies, car trusts, mercantile companies and individuals. For the purpose of making this assessment the said commission is authorized to base the assessment upon the returns of the several railroad companies, in case any such car company, car trust, mercantile company or individual shall fail or refuse to make the statement herein required, and in determining the daily average travel of such cars the commission, in so far as may be practicable, shall harmonize the statements of the several railroad companies, car companies, car trusts, mercantile companies and individuals with respect thereto, fixing a uniform daily average travel of each particular class.

4. A certified copy of the assessment thus made shall be immediately forwarded by the clerk of the State Corporation Commission to the Auditor of Public Accounts and to the president or other proper officer of such corporation so assessed, or to such individual so assessed, whose duty it shall be to pay into the treasury of the State on or before the first day of December after receiving such certified copy of the assessment, the taxes upon its property as shown by said copy of the assessment, taxes at the rate of one and three-fifths per centum of the assessed value thereof annually, to be applied to the support of the government of this State.

5. Any such company or individual failing to pay said

taxes into the treasury within the time herein prescribed shall incur a penalty thereon of five per centum, which shall be added to the amount of such taxes. Any such company or individual herein referred to failing to make the report hereinbefore required within the time herein prescribed shall be liable to a fine of not less than twenty-five dollars nor more than one hundred dollars for each day such company or individual may be in default in making such report, the said fine to be imposed and judgment entered therefor by the State Corporation Commission after thirty days' notice to any such defaulting corporation or individual to appear before said commission and show cause, if any it can, against the imposition of such fine, subject to appeal to the Supreme Court of Appeals of Virginia.

6. Nothing in this act shall be construed to apply to or impose any tax, upon any rolling stock or cars which are either owned by or leased to any railroad company operating a line of railroad in this State and otherwise assessed for taxation against such railroad company.

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

Corporations Operating Steamboats, Steamships, or Other Floating Property for the Transportation of Passengers or Freight.

30. (As amended by chapter 141, p. 205, Acts extra session 1915.) Each and every corporation which operates steamships, steamboats, or other floating property for the transportation of passengers or freight, shall report annually, on or before the first day of September, to the State Corporation Commission, all of its real and personal property of every description in this State belonging to it on the thirtieth day of June preceding, showing particularly in what city, town, county and school district the property is located, and classifying the same under the following heads:

First. All steamships, steamboats, and other floating property, their machinery and equipments.

Second. All wharves, sheds, offices, stores, docks, machine shops, granaries, elevators, and other buildings.

Third. All real estate and personal property not included in the foregoing classification.

Each such corporation shall also give in said report (a) the total number of miles operated with and without this State for the year ending June thirtieth next preceding; (b) the gross receipts from operations entirely within this State, and if operations are partly within and partly without this State, the entire gross receipts from operations for the year ending June thirtieth next preceding; (c) any and all other

information in such manner and in such detail as the State Corporation Commission shall require.

The said Corporation Commission shall, after thirty days' notice previously given by it to the president or other proper officer, assess the value of the property of each of such corporations.

Should any such corporation fail to make the report required by this section on or before the first day of September, the said Corporation Commission shall, at such time as it may elect, upon the best and most reliable information that can be procured, assess the value of the property of said company, and shall ascertain the information required herein, and in the execution of the duty shall be authorized and empowered to send for persons and papers.

The State Corporation Commission shall assess upon said property the taxes imposed thereon by law, and upon said corporations the license tax imposed by law.

A certified copy of the assessment, when made, shall be immediately forwarded, by the clerk of the State Corporation Commission to the Auditor of Public Accounts and to the president or other proper officer of each such corporation, and such corporation shall pay into the treasury of the State by the first of December following the taxes assessed against it.

It shall be the duty of the clerk of the State Corporation Commission to furnish to the council of every city and town, and to the board of supervisors of every county wherein the property belonging to said corporation is situated, a certified copy of the assessment made by the State Corporation Commission of such corporation's property, which assessment shall definitely show the character of the property, its value and location for the purpose of taxation in each city, town, county, and district, so that city, town, county, and district levies may be imposed upon the same; provided, however, that it shall be the duty of the division superintendent of schools in each such county in which any such corporation owns property, on or before the first day of July in each year, to furnish to each such corporation the boundaries of the school districts of said county wherein any such property is situated.

Any such corporation failing to pay said taxes into the treasury within the time herein prescribed shall incur a penalty thereon of five per centum, which shall be added to amount of said taxes.

Any such corporation which shall fail to make the report hereinbefore required within the time herein prescribed shall be liable to a fine of not less than twenty-five dollars nor more than one hundred dollars for each day such corporation may be in default in making such report. The said fine shall be imposed and judgment entered therefor by the said Corpora-

tion Commission after thirty days' notice to any such defaulting corporation, to appear before the said commission and show cause, if any, against the imposition of such fine, subject to appeal to the Supreme Court of Appeals of Virginia.

Tax on Corporations Which Operate Steamships, Steamboats, or Other Floating Property for the Transportation of Passengers or Freight.

(See also act imposing special tax of eight cents, printed on page 36, and act imposing special tax of seven cents, printed on page 40; also see act imposing additional license tax, printed on page 42.)

31. (As amended by chapter 141, p. 206, Acts extra session 1915.) The State tax on the intangible personal property (other than bonds issued by counties, cities and towns or other political subdivisions of this State) owned by corporations which operate steamships, steamboats, or other floating property for the transportation of passengers or freight, shall be at the rate of sixty-five cents on every hundred dollars of the assessed value thereof, the proceeds of which shall be applied to the expenses of the government, and upon all such intangible personal property, there may be local levies at the rate authorized by law; however, such rates not to exceed thirty cents on every one hundred dollars of the assessed value thereof, the proceeds of said local levies to be applied as is provided by law.

The State tax on the money of every such company shall be twenty cents on every one hundred dollars assessed value thereof, one-half of which shall be applied to the support of the government and one-half of which shall be applied to the support of the public free schools of this State, and there shall be no local levies assessed on such money.

The State tax on bonds issued by counties, cities and towns or other political subdivisions of this State owned by every such company shall be at the rate of thirty-five cents on every one hundred dollars assessed value thereof, the proceeds of which tax shall be applied to the payment of the expenses of the government.

The State tax on the real estate and tangible personal property of every such company shall be at the rate of ten cents on every one hundred dollars assessed value thereof, the proceeds of which shall be applied to the support of the public free schools of this State, and on such real estate and tangible personal property there shall be local levies at the same rate or rates as are assessed upon other real estate and tangible property located in such localities, the proceeds of which local levies shall be applied as is provided by law. •

Every such company for the privilege of doing business in this State, in addition to the annual registration fee, and property tax, shall pay an annual State license tax as follows:

Said tax shall be equal to one and one-eighth per cent upon the gross receipts from the operation of such companies, and each of them, within this State. When such companies are operated partly within and partly without this State, the gross receipts within this State shall be deemed to be all receipts on business beginning and ending within this State and all receipts earned in Virginia on business passing through, into or out of this State; provided, that unless otherwise clearly shown such last-mentioned receipts shall be deemed to be that proportion of the total receipts from such business which the entire line mileage over which said business is done bears to the mileage operated within this State.

Additional Tax on Corporations Which Operate Steamships, Steamboats, or Other Floating Property for the Transportation of Passengers or Freight.

Special Tax of Eight Cents on the One Hundred Dollars Valuation. Act March 15, 1918.

(See copy of act printed on page 36.)

This act imposes and directs to be assessed for the year 1918 and thereafter, until otherwise provided, a special tax of eight cents on every one hundred dollars of the assessed value; four-eighths for the maintenance of the public free schools of the primary and grammar grades from the first to the seventh grades, inclusive; three-eighths for the construction or reconstruction of the roads and projects comprised in the State Highway System of public roads; one-eighth for the prevention and eradication of tuberculosis among the people of this State:

On real estate; on all tangible personal property; and on all intangible personal property (except money, and bonds of counties, cities and towns, or other political subdivisions of this State).

Special Tax of Seven Cents on the One Hundred Dollars Valuation. Act September 5, 1919.

(See copy of act printed on page 40.)

This act imposes and directs to be assessed and collected for the year 1919 and thereafter, until otherwise provided, a special tax of seven cents for the construction or reconstruction of the roads and projects comprised in the State High-

way System, as established by act approved January 31, 1918, entitled "act to establish The State Highway System":

On real estate; on all tangible personal property; and on all intangible personal property (except money, and bonds of counties, cities and towns, or other political subdivisions of this State).

Additional License Tax on Corporations Which Operate Steamships, Steamboats, or Other Floating Property for the Transportation of Passengers or Freight.

(See copy of act printed on page 42.)

This act imposes and directs to be assessed for the year 1918 and thereafter, until otherwise provided, an additional annual license tax equal to one-sixteenth of one per cent upon the gross receipts from the operation of such companies, and each of them, within this State; to be determined in the manner provided for by chapter one hundred and forty-one of the Acts of Assembly for the year nineteen hundred and fifteen, relating to the taxation of corporations operating steamboats, steamships, or other floating property for the transportation of passengers or freight.

Sleeping Car, Parlor Car, and Dining Car Companies.

32. (As amended by chapter 219, p. 330, Acts 1908.) Each sleeping car, parlor car and dining car company doing business between points in this State shall report annually, on or before the first day of September, to the State Corporation Commission, the number of miles of track over which it operates its cars in this State on the thirtieth day of June preceding.

The report herein required shall be verified by the oath of the president or other proper officer of the company making the same.

Every such company which shall fail to make the report required in this section within the time herein prescribed shall be liable to a fine of not less than five hundred dollars nor more than two thousand five hundred dollars. The said fine to be imposed and judgment entered therefor by the State Corporation Commission after thirty days' notice to any such defaulting corporation to appear before the said commission, and to show cause, if any, against the imposition of such fine, subject to appeal to the Supreme Court of Virginia.

If any such company should fail to make such report at the time herein prescribed, the State Corporation Commission shall, at such time as it may elect, upon the best and

most reliable information that can be procured, ascertain the number of miles operated by it in this State, and in the execution of such duty shall be authorized and empowered to send for persons and papers. The State Corporation Commission shall assess upon said companies the license tax imposed thereon by law.

A certified copy of the assessment when made shall immediately be forwarded by the clerk of the State Corporation Commission to the Auditor of Public Accounts, and to the president or other proper officer of each such company, and such company shall pay into the treasury of the State by the first day of December following the tax assessed against it.

Any such company failing to pay said tax into the treasury within the time herein prescribed shall incur a penalty thereon of five per centum, which shall be added to the amount of said tax.

License Tax on Each Sleeping Car, Parlor Car, or Dining Car Company.

Sec. 33. (As amended by chapter 24, p. 49, Acts extra session 1915.) Each and every sleeping car, parlor car, and dining car company doing business in this State shall, for the privilege of doing business in this State, pay a license tax as follows:

Each and every sleeping car, parlor car, and dining car company operating a mileage and doing business within this State shall pay a license tax of three dollars for each and every mile of track over which it operates its cars in this State.

The taxes herein imposed shall be in lieu of all other taxes, State, county and municipal, against such companies except that they shall be required to pay to the State the annual registration fee.

Additional License Tax on Sleeping Car, Parlor Car and Dining Car Companies.

(See copy of act printed on page 42.)

This act imposes and directs to be assessed for the year 1918 and thereafter, until otherwise provided, upon every sleeping car, parlor car and dining car company doing business in this State, an additional license tax of fifteen cents for each and every mile of track over which it operates its cars in this State.

Incorporated Telegraph and Telephone Companies.

Sec. 34. (As amended by chapter 141, p. 207, Acts extra session 1915.) Each incorporated telegraph and tele-

phone company doing business in this State, owning and operating a telegraph or telephone line in this State, shall report annually on the first day of September to the State Corporation Commission all of its real and personal property of every description in this State belonging to it on the thirtieth day of June preceding, showing particularly in what corporation, county and school district the property is located and classify the same under the following heads:

(1) Number of miles of poles or conduits owned or operated by it within this State on the thirtieth day of June preceding in each county, city, town and school district.

(2) Number of miles of wire in excess of one wire in each city, county, town and school district.

(3) Real and personal property, including the value of the telephone instruments, switchboards, et cetera, and the value of telegraph instruments, apparatus, et cetera, in each city, county, town or school district.

(4) The gross earnings and receipts in this State for the twelve months next preceding the thirtieth day of June.

The report herein required shall be certified by the oath of the president or other proper officer of the company making the same.

The State Corporation Commission shall, after thirty days' notice, previously given by it to the president or other proper officer of each of such companies incorporated under the laws of this or any other State, assess the value of the property of said company and assess upon said property the State taxes imposed by law, and shall also assess the State license tax imposed by law upon every such company. Should any such incorporated company fail to make such report at the time herein prescribed, the State Corporation Commission shall, at such time as it may elect, upon the best and most reliable information that can be procured, assess the value of the property of said company and assess upon said property the taxes imposed by law, and shall also assess the license tax imposed by law upon every such company, and in the execution of such duty shall be authorized and empowered to send for persons and papers.

A certified copy of the assessment, when made, shall be immediately forwarded by the clerk of the State Corporation Commission to the Auditor of Public Accounts and to the president or other proper officer of each such company, and such company shall pay into the treasury of the State by the first day of December following the taxes assessed against it.

It shall be the duty of the State Corporation Commission to furnish to the council of every corporation and to the board of supervisors of every county, and to every city and county treasurer wherein any property belonging to

any such corporation is situated a certified copy of the assessment made by the State Corporation Commission of such company's property, which assessment shall definitely show the character of the property, its value and the location for the purposes of taxation in each city, town, county and district, so that city, town, county, district and road levies may be imposed upon the same.

It shall be the duty of the division superintendent of schools in each county in which any such telegraph or telephone company operating a telegraph or telephone line owns property, on or before the first day of July of each year, to furnish such telegraph or telephone company and the clerk of the State Corporation Commission the boundaries of the school district of said county wherein any such property is situated.

It shall be the duty of the judge of the circuit court for each county, at the next term of said court after the first day of July in each year, to instruct the grand jury to inquire into and ascertain whether or not the division superintendent of schools has furnished the boundaries of each school district to such telegraph and telephone companies operating in said county and to the clerk of the Corporation Commission. If the grand jury shall find that the division superintendent of schools has not furnished the boundaries of such school district, as herein provided, indictments shall be found against him for a misdemeanor, and, upon conviction thereof, he shall be fined not less than twenty-five nor more than one hundred dollars for each school district so omitted.

Any company failing to pay said taxes into the treasury within the time herein prescribed shall incur a penalty thereon of five per centum, which shall be added to the amount of said taxes.

Tax on Incorporated Telegraph and Telephone Companies Owning or Operating Telegraph or Telephone Lines in This State.

(See also act imposing special tax of eight cents, printed on page 36, and act imposing special tax of seven cents, printed on page 40; also see acts imposing additional license tax, printed on pages 42 and 44; also see act imposing special tax to defray expenses of valuation of their properties, printed on page 47.)

Sec. 35. (As amended by chapter 141, p. 208, Acts extra session 1915.) The State tax on the intangible personal property (other than bonds issued by counties, cities and towns or other political subdivisions of this State) owned by every incorporated telegraph or telephone company own-

ing or operating telegraph or telephone lines in this State shall be at the rate of sixty-five cents on every hundred dollars of the assessed value thereof, the proceeds of which shall be applied to the expenses of the government, and upon all such intangible personal property there may be local levies at the rate authorized by law; however, such rates not to exceed thirty cents on every one hundred dollars of the assessed value thereof, the proceeds of said local levies to be applied, as is provided by law.

The State tax on the money of every incorporated telegraph and telephone company owning or operating telegraph or telephone lines in this State shall be twenty cents on every one hundred dollars assessed value thereof, one-half of which shall be applied to the support of the government, and one-half of which shall be applied to the support of the public free schools of this State, and there shall be no local levies assessed on such money.

The State tax on bonds issued by counties, cities and towns or other political subdivisions of this State, owned by every incorporated telegraph and telephone company owning or operating telegraph or telephone lines in this State shall be at the rate of thirty-five cents on every one hundred dollars, assessed value thereof, the proceeds of which tax shall be applied to the payment of the expenses of the government.

The State tax on the real estate and tangible personal property of every incorporated telegraph and telephone company owning or operating telegraph or telephone lines in this State shall be at the rate of ten cents on every one hundred dollars, assessed value thereof, the proceeds of which shall be applied to the support of the public free schools of this State, and on such real estate and tangible personal property there shall be local levies at the same rate or rates as are assessed upon other real estate and tangible personal property, located in such localities, the proceeds of which local levies shall be applied as is provided by law.

Additional Tax on Incorporated Telegraph and Telephone Companies Owning or Operating Telegraph or Telephone Lines in This State.

Special Tax of Eight Cents on the One Hundred Dollars Valuation. Act March 15, 1918.

(See copy of act printed on page 36.)

This act imposes and directs to be assessed for the year 1918 and thereafter, until otherwise provided, a special tax of eight cents on every one hundred dollars of the assessed value; four-eighths for the maintenance of the public free

schools of the primary and grammar grades from the first to the seventh grades, inclusive; three-eighths for the construction or reconstruction of the roads and projects comprised in the State Highway System of public roads; one-eighth for the prevention and eradication of tuberculosis among the people of this State:

On real estate; on all tangible personal property; and on all intangible personal property (except money, and bonds of counties, cities and towns, or other political subdivisions of this State).

Special Tax of Seven Cents on the One Hundred Dollars Valuation. Act September 5, 1919.

(See copy of act printed on page 40.)

This act imposes and directs to be assessed and collected for the year 1919 and thereafter, until otherwise provided, a special tax of seven cents for the construction or reconstruction of the roads and projects comprised in the State Highway System, as established by act approved January 31, 1918, entitled "an act to establish the State Highway System":

On real estate; on all tangible personal property; and on all intangible personal property (except money, and bonds of counties, cities and towns, or other political subdivisions of this State).

License Tax on Telegraph and Telephone Companies, and on Any Firm or Person Operating the Apparatus Necessary to Communicate by Telegraph or Telephone.

Sec. 36. (As amended by chapter 496, p. 829, Acts 1920.) Each telegraph company and firm, or person, operating the apparatus necessary to communicate by telegraph, shall, for the privilege of doing business between points within this State, pay a license tax as follows, to-wit: Two dollars per mile of line of poles or conduits owned or operated by the company, firm or person in this State, and an additional charge of two per centum of the gross receipts of the company, firm or person received (or due, though not received), from business done within this State during the year ending the thirtieth day of June.

The specific license tax to be paid by every corporation, person or association for the privilege of operating the apparatus necessary to communicate by telephone, shall be, when the gross receipts do not exceed fifty thousand dollars, and when the number of poles do not exceed six hundred miles, and a majority of the stock or other property of such company is not owned or controlled by any other telephone

or telegraph company whose receipts exceed fifty thousand dollars, a sum equal to one per centum of the gross receipts of such corporation, person or association from business done within this State during the year ending the thirtieth day of June preceding; when the gross receipts from business done within this State during any such year are in excess of fifty thousand dollars, or the number of miles of poles exceed six hundred or a majority of the stock or other property of such company is owned or controlled by any other telephone or telegraph company whose receipts exceed fifty thousand dollars, the license tax shall be a sum equal to one per centum of such receipts up to fifty thousand dollars and an additional sum equal to two per centum of such receipts exceeding fifty thousand dollars, and, in addition, a sum equal to two dollars per mile of line of poles or conduits, owned or operated by such corporation, person, or association in this State; provided, that no license tax shall be charged against any telephone company, chartered in this State for the privilege of prosecuting its business when such company is purely a local mutual association, and does not charge others for transmitting messages over its line or lines, and is not designed to accumulate profits for the benefit of, or to pay dividends to, the stockholders or members thereof.

The license tax to be paid by any firm or person not incorporated, transacting a telegraph or telephone business, or owning or operating a telegraph or telephone instrument, line or conduit, shall be assessed by the commissioner of the revenue for the district or city wherein the principal office of such firm or person is located, or in which such firm or person resides.

Additional License Tax on Telegraph Companies.

(See copy of act printed on page 42.)

This act imposes and directs to be assessed for the year 1918 and thereafter, until otherwise provided, upon each incorporated telegraph company doing business in this State and owning and operating a telegraph line in this State an additional license tax of twelve and one-half cents per mile of line of poles or conduits owned or operated by the company in this State, and an additional charge of one-eighth of one per cent. of the gross receipts of such company from business done within this State during the year ending the thirtieth day of June preceding, this tax to be determined as provided for by chapter one hundred and fifty of the Acts of the General Assembly of Virginia for the year nineteen hundred and ten, relating to the taxation of telegraph and telephone companies.

Additional License Tax on Telegraph Companies of Twelve and One-Half (12½) Cents Per Mile of Line of Poles or Conduits, and of One-fourth (¼) of One (1) Per Centum of the Gross Receipts in Excess of Fifty Thousand Dollars (\$50,000.00) Imposed by Act Approved March 15, 1924.

(See copy of act printed on page 44.)

Upon each incorporated telegraph company doing business in this State and owning and operating a telegraph line in this State there shall be an additional license tax of twelve and one-half cents per mile of line of poles or conduits owned or operated by the company in this State, and an additional charge of one-fourth of one per centum of the gross receipts of such company in excess of fifty thousand dollars from business done within this State during the year ending the thirtieth day of June.

Note—This law not in force after December 31, 1925, after which date additional tax of twelve and one-half (12½) cents, and of one-fourth (¼) of one (1) per centum not to be charged and collected.

Also Special Tax of One-Tenth of One Per Centum of Gross Receipts of a Telegraph Company to Defray Expenses of Valuation of Its Properties by the State Corporation Commission, Imposed by Act Approved March 20, 1924 (see page 47).

Additional License Tax on Telephone Companies.

(See copy of act printed on page 42.)

This act imposes and directs to be assessed for the year 1918 and thereafter, until otherwise provided, upon each incorporated telephone company doing business in this State and owning and operating a telephone line in this State, an additional license tax equal to one-sixteenth of one per cent of the gross receipts of such corporation from business done within this State during the year ending the thirtieth day of June preceding, this tax to be determined as provided for by chapter one hundred and fifty of the Acts of the General Assembly of Virginia for the year nineteen hundred and ten, relating to the taxation of telegraph and telephone companies.

Additional License Tax on Telephone Companies of One-Fourth ($\frac{1}{4}$) of One (1) Per Centum of Gross Receipts in Excess of Fifty Thousand Dollars (\$50,000.00) and Twenty-five (25) Cents Per Mile of Line of Poles or Conduits Imposed by Act Approved March 15, 1924.

(See copy of act printed on page 44.)

Each incorporated telephone company doing business in this State and owning and operating a telephone line in this State shall pay an additional license tax equal to one-fourth of one per centum of the gross receipts of such corporation in excess of fifty thousand dollars from business done within this State during the year ending the thirtieth day of June preceding, and a sum equal to twenty-five cents per mile of line of poles or conduits owned or operated by such corporation in this State. Provided, however, that this tax shall not apply to any telephone company chartered in this State when such company is purely a local mutual association, and does not charge others for transmitting messages over its line or lines, and is not designed to accumulate profits for the benefit of, or to pay dividends to the stockholders or members thereof. In computing the taxes imposed by this section on telegraph and telephone companies, the provisions of chapter one hundred and fifty of the Acts of Assembly of Virginia, for the year nineteen hundred and ten, shall be applied.

Note—This law not in force after December 31, 1925, after which date additional license tax of one-fourth ($\frac{1}{4}$) of one (1) per centum and twenty-five (25) cents not to be charged and collected.

Also Special Tax of One-Tenth of One Per Centum of Gross Receipts of a Telephone Company to Defray Expenses of Valuation of its Properties by the State Corporation Commission, Imposed by Act Approved March 20, 1924 (see page 47).

Water, Heat, Light and Power Companies.

Sec. 36 $\frac{1}{4}$. (Section added by chapter 472, p. 800, Acts 1916.) 1. All corporations doing in Virginia the business of furnishing water or heat, light and power, whether by means of electricity or gas, shall, on or before the first day of September of each year, report to the State Corporation Commission all of its real and personal property of every description in this State belonging to it on the thirtieth day of June preceding, showing particularly in what city, town or county and school district therein the property is located. This report shall include all water power rights and privileges, dams, flumes and canals, and shall be itemized as provided in sec-

tions two, three, and four of this section. Each such corporation shall also report its gross receipts from all business done in Virginia for the year ending June thirtieth preceding. The reports herein required shall be verified by the oath of the president or other proper officer or person making the same. The State Corporation Commission shall, after thirty days' notice, previously given to the president or other proper person, assess the value of the property of each such corporation, and shall assess the franchise tax hereinafter provided for. Should any such corporation fail to make the reports required by this section on or before the first day of September of each year, the State Corporation Commission shall, at such time as it may elect, upon the best and most reliable information that can be procured, assess the value of the property of such corporation, and shall in the execution of such duties, be authorized and empowered to send for persons and papers, and administer an oath to witnesses and examine the same. The State Corporation Commission shall, after thirty days' notice previously given by it to the president, treasurer or other proper officer of such corporation, proceed to ascertain the value of the property and gross receipts so reported upon the best and most reliable information that can be procured, and to this end shall be authorized and empowered to send for persons and papers. The State Corporation Commission shall assess upon said property and gross receipts the taxes imposed thereon by law. A certified copy of the assessment when made shall be immediately forwarded by the clerk of the State Corporation Commission to the Auditor of Public Accounts and to the president or other proper officer of each such corporation, and such corporation shall pay into the treasury of the State by the first day of December following the taxes assessed against it. It shall be the duty of the clerk of the State Corporation Commission to furnish to the council of every city and town and to the board of supervisors of every county wherein any property belonging to such corporation is situated a certified copy of the assessment made by the State Corporation Commission of such company's property, which assessment shall definitely show the character of the property, its value and location for the purpose of taxation in each city, town or county and school district therein, so that city, town, county and district levies may be imposed upon the same; provided, however, that it shall be the duty of the county superintendent of schools in each county in which any such corporation set forth in this section does business or owns property, on or before the first day of July of each year, to furnish each such corporation the boundaries of the school districts of the said county wherein any such property is situated or business done. Any such corporation failing to pay

the tax into the treasury within the time herein prescribed, shall incur a penalty thereon of five per centum, which shall be added to the amount of said tax. Any such company which shall fail to make the report hereinbefore required within the time herein prescribed shall be liable to a fine of not less than twenty-five nor more than one hundred dollars for each day such company may be in default in making such report, the said fine to be imposed and judgment entered therefor by the State Corporation Commission after thirty days' notice to any such defaulting corporation, to appear before said Commission, and show cause, if any, against the imposition of such fine, subject to appeal to the Supreme Court of Appeals.

2. All electric light and power companies shall, to the extent that the property hereinafter particularly set forth is situated in Virginia, report to the State Corporation Commission the following property, which shall be particularly set forth in said report: The number of feet of conductor or cable, number of conductors, insulators, size of conductor, and standard of gauge, total cost of conductor installed, number, kind, height, diameter at top, average, cost, including arms and insulators of poles carrying conductors; number, kind, and total cost of lamp poles erected; number of arc lamps, type, capacity in amperes, and total cost of same; number of incandescent lamps, candle power, and total cost of same; number of transformers, capacity of each in kilowatts and the total cost of same installed; length in feet and size of each conduit, number of ducts, type of ducts, number of duct feet in each size conduit, character of excavation, manner in which the ducts are laid, number of manholes and handholes, size and character of manholes and handholes, character and number of square yards of paving, and total cost of each conduit; the number of feet of cable in each conduit, number of conductors, character of insulation, working pressure, size and standard of gauge, total cost of cable installed with junction boxes, and the number, type, and total cost of junction boxes installed; the number and capacity each in kilowatts of subway transformers and the total cost of subway transformers installed.

3. All corporations manufacturing and furnishing gas shall report the diameter in inches of their mains, length of cast iron mains, length of steel and wrought iron mains, the depth laid of mains, the kind of soil or rock excavated for same, the age, cost per foot, including paving, kind of paving, and total cost as laid; the number, size, age and cost of each installed of valves and curb boxes, and the total cost of same; the number, diameter in inches, length in feet, cost per foot, including paving, and the total cost of services, including meters; number of street lamps, cost of same installed.

4. All corporations furnishing and selling water shall report, the diameter in inches of mains, length of cast iron mains, length of steel and wrought iron mains, the depth laid and the kind of soil or rock excavated, the age and cost per foot, including paving, kind of paving, and total cost of said mains; the number, size, age, and cost of each gate installed and the total cost of gates installed; the number, size, age and cost of each hydrant, and the total cost of hydrant installed; the number, diameter in inches, length in feet, cost per foot, including paving, of each service, and the total cost of service.

5. Railway companies, which, in addition to operating a railroad, also sell heat, light or power within this State, shall come within the provisions of this act. The value of the plant of each such company shall be apportioned as between its heating, lighting and power business on the one hand, and its railroad business on the other, upon the basis of its gross receipts from each department, and each such company shall segregate its gross receipts from the sale of heat, light and power from its gross receipts from its railroad, and report its gross receipts from the sale of heat, light and power to the State Corporation Commission, and pay the property and franchise tax as herein provided.

Tax on Water, Heat, Light and Power Companies.

(See also act imposing special tax of eight cents, printed on page 36, and act imposing special tax of seven cents, printed on page 40; also see acts imposing additional franchise tax, printed on pages 42 and 44; also see act imposing special tax to defray expenses of valuation of their properties, printed on page 47.)

Sec. 361½. (Section added by chapter 472, p. 802, Acts 1916.) The State tax on the intangible personal property (other than bonds issued by counties, cities and towns or other political subdivisions of this State) owned by every corporation doing in this State the business of furnishing water or heat, light and power, whether by means of electricity or gas, shall be at the rate of sixty-five cents on every hundred dollars of the assessed value thereof, the proceeds of which shall be applied to the expenses of the government, and upon all such intangible personal property there may be local levies at the rate authorized by law; however, such rates not to exceed thirty cents on every one hundred dollars of the assessed value thereof, the proceeds of said local levies to be applied, as is provided by law.

The State tax on the money of every corporation doing in this State the business of furnishing water or heat, light

and power, whether by means of electricity or gas, shall be twenty cents on every one hundred dollars assessed value thereof, one-half of which shall be applied to the support of the government and one-half of which shall be applied to the support of the public free schools of this State, and there shall be no local levies assessed on such money.

The State tax on bonds issued by counties, cities and towns or other political subdivisions of this State, owned by every corporation doing in this State the business of furnishing water or heat, light and power, whether by means of electricity or gas, shall be at the rate of thirty-five cents on every one hundred dollars assessed value thereof, the proceeds of which tax shall be applied to the payment of the expenses of the government.

The State tax on the real estate and tangible personal property of every corporation doing in this State the business of furnishing water or heat, light and power, whether by means of electricity or gas, shall be at the rate of ten cents on every one hundred dollars assessed value thereof, the proceeds of which shall be applied to the support of the public free schools of this State, and on such real estate and tangible personal property there shall be local levies at the same rate or rates as are assessed upon other real estate and tangible personal property, located in such localities, and proceeds of which local levies shall be applied as is provided by law.

Every corporation coming within the provisions of this and the preceding section shall pay to the State an annual State franchise tax equal to three-fourths of one per centum of its gross receipts, for the privilege of exercising its franchises in this State, which, with the taxes hereinbefore provided for, shall be in lieu of all State taxes or license charges whatsoever upon the franchises of such corporation, and the shares of stock issued by it, and upon all its property as hereinbefore provided; provided, that nothing herein contained shall exempt such corporation from the annual fee required by section one hundred and fifty-seven of the Constitution, or from assessments for street and other local improvements, which shall be authorized by law, nor from the county, city, town, district, or road levies; provided, that any city or town may impose a license tax upon such corporation for the privilege of doing business therein, which shall not exceed one-half of one per centum of the gross receipts of such business accruing to such corporation from said business in such city or town; and, provided, further, that from the amount of any such license tax there shall be deducted any sum or sums paid by such corporations to such city or town as a merchant's license tax, and license taxes; and provided, further, that nothing herein contained shall annul or interfere with or pre-

vent any contract or agreement by ordinance between such corporations and municipalities as to compensation for the use of the streets or alleys of such municipalities by such corporations.

The real and personal property of such corporation, other than its franchise, shall be assessed on the valuation fixed by the State Corporation Commission with county, city, town, district and road levies, at the same rate as real and personal property of natural persons are assessed with such levies.

No State tax, county, city, town, district or road levy shall be laid on the net income of any such corporation, nor shall any county, city, town, district or road levy be laid on the gross receipts of any such company.

All taxes and levies shall, until paid, be a lien upon the property within this State of the corporation owning the same, and take precedence of all other liens or encumbrances.

Any such corporation, or the State or any county or city, at the instance of the Attorney General of the State, or of the Commonwealth's attorney for any county or city aggrieved by the assessment and ascertainment of such taxes, may, within thirty days after receiving a certified copy thereof, apply for relief to the circuit court of the city of Richmond. Notice of the application setting forth the grounds of complaint, verified by affidavit, if the appeal be taken by any such corporation, shall be served on the State Corporation Commission, and on the Attorney General, whose duty it shall be to represent the Commonwealth, or if the appeal be taken by the State or any county or city, notice of the application, setting forth the grounds of complaint, shall be served on such corporation. If the court be of the opinion that the assessment or tax is excessive, it shall reduce the same, but if of the opinion that it is insufficient, it shall increase the same. Unless the applicant pay the taxes under protest when due, the court, if the decision is adverse to the applicant, shall, in disallowing the application, give judgment against it for the taxes assessed by the State Corporation Commission, and for a sum, by way of damages, equal to interest at the rate of one per centum per month upon the amount of the taxes from the time same were payable. If the decision is in favor of such corporation, in whole or in part, appropriate relief shall be granted, including the right to recover any excess of taxes that may have been paid with legal interest thereon, and the legally taxable cost of said application from the State or local authorities, or both, as the case may be, the judgment to be enforceable by mandamus or other proper process issuing from the court finally adjudicating the application. If the decision be in favor of the State or any county or city, appro-

appropriate relief shall be granted, and the court shall enforce its judgment by mandamus or other proper process.

The Supreme Court of Appeals may, subject to the provisions of article six of the Constitution, allow a writ of error to either party.

Additional Tax on Water, Heat, Light and Power Companies.

Special Tax of Eight Cents on the One Hundred Dollars Valuation. Act March 15, 1918.

(See copy of act printed on page 36.)

This act imposes and directs to be assessed for the year 1918 and thereafter, until otherwise provided, a special tax of eight cents on every one hundred dollars of the assessed value; four-eighths for the maintenance of the public free schools of the primary and grammar grades from the first to the seventh grade, inclusive; three-eighths for the construction or reconstruction of the roads and projects comprised in the State Highway System of public roads; one-eighth for the prevention and eradication of tuberculosis among the people of this State:

On real estate; on all tangible personal property; and on all intangible personal property (except money, and bonds of counties, cities and towns, or other political subdivisions of this State).

Special Tax of Seven Cents on the One Hundred Dollars Valuation. Act September 5, 1919.

(See copy of act printed on page 40.)

This act imposes and directs to be assessed and collected for the year 1919 and thereafter, until otherwise provided, a special tax of seven cents for the construction or reconstruction of the roads and projects comprised in the State Highway System, as established by act approved January 31, 1918, entitled "an act to establish the State Highway System";

On real estate; on all tangible personal property; and on all intangible personal property (except money, and bonds of counties, cities and towns, or other political subdivisions of this State).

Additional Franchise Tax on Water, Heat, Light and Power Companies.

(See copy of act printed on page 42.)

This act imposes and directs to be assessed, for the year 1918 and thereafter, until otherwise provided, upon each cor-

poration doing in Virginia the business of furnishing water, heat, light or power, whether by means of electricity or gas, an additional annual State franchise tax equal to one-thirty-second of one per cent of its gross receipts, to be determined in the manner provided for by chapter four hundred and seventy-two of the Acts of Assembly for the year nineteen hundred and sixteen, relating to water, heat, light and power companies.

Additional Franchise Tax on Water, Heat, Light, Power, Etc., Companies of One-Sixteenth (1/16) of One (1) Per Centum of Gross Receipts Imposed By Act Approved March 15, 1924.

(See copy of act printed on page 44.)

Each corporation doing in Virginia the business of furnishing water, heat, light or power, whether by means of electricity or gas, shall pay to this State an additional annual State franchise tax equal to one-sixteenth of one per centum of its gross receipts, to be determined in the manner provided for by chapter four hundred and seventy-two of the Acts of Assembly of Virginia for the year nineteen hundred and sixteen.

Note—This law not in force after December 31, 1925, after which date additional annual State franchise tax of one-sixteenth (1/16) of one (1) per centum not to be charged and collected.

Also special Tax of One-tenth of One Per Centum of Gross Receipts of a Water, Heat, Light or Power Company to Defray Expenses of Valuation of Its Properties by the State Corporation Commission, Imposed By Act Approved March 20, 1924 (see page 47).

MOTOR VEHICLE CARRIERS.

AN ACT providing for the regulation, supervision and control of persons, firms, corporations and associations owning, controlling, operating or managing motor vehicles used in the business of transporting persons or property for compensation on the improved public highways of this State which are, or may hereafter be declared to be, parts of the State highway system or any of the county highway systems; declaring motor vehicle carriers, as herein defined, to be common carriers, transportation companies and public service corporations within the meaning of the law; and prescribing and imposing license fees and providing for the disposition of the revenue raised by the same.

Approved April 3, 1923. (Chapter 161, Acts 1923, as amended in sections 2, 3, 4, 5, 6, 8 and 9, by chapter 222, Acts 1924.)

Sec. 1. Be it enacted by the General Assembly of Virginia, as follows:

(a) The term "corporation," wherever used in this act, means a corporation, company, association, or joint stock association.

(b) The term "person," wherever used in this act, means an individual, a firm or a co-partnership.

(c) The term "commission," wherever used in this act, means the State Corporation Commission of the Commonwealth of Virginia.

(d) The term "motor vehicle carrier," wherever used in this act, means every corporation or person, their lessees, trustees, or receivers, owning, controlling, operating or managing any motor propelled vehicle not usually operated on or over rails used in the business of transporting persons or property for compensation over any improved public highway, as hereinafter defined, in this State. No motor vehicle weighing less than three tons, including carrying capacity, carrying property exclusively, is subject to the provisions of this act, so long as the loads carried therein contain as much as fifty per centum of the motor vehicle carrier's own produce.

(e) For the purposes of this act trailers shall be deemed to be motor vehicles and subject to the provisions of this act.

(f) The term "improved public highway," wherever used in this act, means every improved public highway in this State which is, or may hereafter be declared to be, a part of the State highway system or any county highway system.

Sec. 2. (As amended by chapter 222, Acts 1924.) No corporation or person, their lessees, trustees, or receivers, shall operate any motor propelled vehicle as hereinbefore defined for the transportation of persons or property for compensation on any improved public highway in this State, except in accordance with the provisions of this act, and every motor vehicle carrier, as hereinbefore defined, is hereby declared to be a common carrier, a transportation company and a public service corporation within the meaning of the laws of this State, and as such subject to control, supervision and regulation by the Commission in the manner provided by law; but no such motor vehicle carrier shall be deemed to possess the power of eminent domain, and in the matters of fixing and regulating rates the procedure shall be as provided by law for public utility companies. All provisions of the general law contained in chapter one hundred and fifty-five of the Code of Virginia, requiring the separation of white and colored passengers shall, so far as reasonably applicable, be observed by the common carriers and their passengers in this act mentioned; provided, however, that nothing in this act

contained shall apply to motor vehicles while used exclusively for transporting persons to or from schools, Sunday Schools, churches or religious service of any kind, or to or from picnics or upon special prearranged excursions, or to United States mail carriers operating star routes, while engaged solely in carrying mail.

And, provided, further, That except as in this proviso set forth, nothing in this act contained shall apply to persons, partnerships, associations, or corporations, their lessees, trustees or receivers operating motor vehicles for the carriage of persons, employed exclusively in the conduct of educational or sightseeing excursions or tours from points outside of this State to and from points of educational and historic interest in the State of Virginia, that do not solicit or receive patronage along the route. But, all such persons, partnerships, associations or corporations, their lessees, trustees or receivers, shall be required only to obtain from the State Corporation Commission a certificate or permit to operate motor vehicles so employed over the improved public highways of this State, which is, or may hereafter be declared to be, a part of the State highway system or any county highway system or the streets of any city or town and to pay the license fees and charges imposed by section five of this act upon motor vehicles of like class as those operated by such persons, partnerships, associations or corporations, their lessees, trustees or receivers.

Sec. 3. (As amended by chapter 222, Acts 1924.) No motor vehicle carrier shall hereafter operate for the transportation of persons or property for compensation on any improved public highway without first having obtained from the Commission, under the provisions of this act, a certificate and paid the license fee herein required. The Commission shall have power to grant four classes of such certificates after application therefor has been made in writing by the owner of such vehicle upon blanks provided by the Commission, and after such hearing as the Commission may deem proper. To the granting of any certificate the Commission shall hear any objection which may be filed thereto with the Commission by any interested party. The said four classes of certificates shall be respectively designated, Certificate A, Certificate B, Certificate C, and Certificate D. All holders of certificates heretofore granted by the Commission under the act approved April third, nineteen hundred and twenty-three, are authorized to retain same, and shall be and are hereby included within the designation of Certificate A, where they are passenger carriers, and within the designation of Certificate D where they are carriers of freight, and are subject to the provision of this act as to such class of certificates and to

the rules and regulations of the Commission relative to such certificate holders. Provided, that the Commission shall grant a certificate as of right where it appears that the applicant was operating for at least one year prior to February 28, 1923, but was not operating immediately prior thereto or on said date because of necessary repairs being made to his vehicle.

The Commission shall have power to grant a Certificate A in the following cases: (1) to an applicant to operate in territory already served by any certificate holder under this act, or any other common carrier when the public convenience and necessity in such territory are not already being reasonably served by some other certificate holder or other common carrier, provided, such applicant proposes to operate on a fixed schedule and to comply with the other provisions contained in this act and the rules and regulations which may be made by the Commission respecting holders of this class of certificates, and, provided, that the existence of a railroad or other motor vehicle carrier in the territory sought to be served by such applicant shall not be sufficient cause for a refusal to grant a certificate, but may be considered by the Commission as constituting good cause for limiting the number of vehicles which such applicant may operate on the route mentioned in his application; (2) to an applicant for a certificate to operate upon a regular schedule in a territory not already served by the holder of a Certificate A, when public convenience and necessity in such territory are not being reasonably served by a certificate holder under this act or other common carrier; provided, that where such Certificate A is issued to such applicant over territory which is being served at the time such certificate is granted by the holder of a Certificate B, that the right of such applicant to operate under Certificate A shall not begin until the expiration of the then license year of the holder of the Certificate B; and, provided, further, that the existence of a railroad, or other motor vehicle carrier in the territory sought to be served by such applicant shall not be considered by the Commission as good cause for refusing the application.

The Commission shall have power to grant a Certificate B in cases where the applicant does not propose to regularly operate upon a fixed schedule over a particular route, but only desires to operate over a particular route or routes which are not already served by the holder of a Certificate A, but will only operate in instances where by his solicitation or otherwise he has procured passengers to be transported over the route or routes designated in his application, but in the granting of such Certificate B the Commission may consider the public convenience and necessity and whether the terri-

tory proposed to be served is already reasonably served by a common carrier, and if the public convenience and necessity require the granting of more than one Certificate B over such route or routes, the Commission may grant additional certificates B, but such certificate may be revoked by the Commission at the end of any license year as to any particular route or routes, if prior to the expiration of such year the Commission has granted over said route a Certificate A.

The Commission shall have power to grant a Certificate C to any applicant who does not propose to in any way solicit the transportation of persons over such improved public highways nor to operate upon a regular schedule, but who is privately employed for a specific trip and who will not solicit or receive patronage along the route.

In the granting of either a Certificate A or Certificate B the Commission may issue same for partial exercise only of the privilege sought, but without alteration of the license charges fixed herein.

The Commission may, at any time, by its order, duly entered after a hearing had upon notice to the holder of any certificate hereunder, and an opportunity to such holder to be heard, at which it shall be proved that such holder has wilfully made any misrepresentation of a material fact in obtaining a certificate, or violated or refused to observe the laws of this State touching motor vehicle carriers, or any of the terms of his certificate, or any of the Commission's proper orders, rules or regulations, suspend, revoke, alter or amend any certificate issued under the provisions of this act, but the holder of such certificate shall have the right of appeal to the Supreme Court of Appeals as in other cases of appeals from the Commission; provided, however, that a certificate, when once granted by the Commission, shall not thereafter be suspended, revoked, altered or amended for any other cause than stated in this act.

Sec. 4. (As amended by chapter 222, Acts 1924.) The Commission may, in the granting of a certificate, require the applicant to procure and file with said Commission liability and property damage insurance, or bond with surety, on such motor vehicles to be used in the service aforesaid, in such amount as the Commission may determine, insuring or indemnifying passengers and the public receiving personal injury by reason of an act of negligence, and for damage to property of any person other than the assured, such policy or bond to contain such conditions, provisions and limitations as the Commission may prescribe, and shall be kept in full force and effect, and failure to do so shall be cause for the revocation of such certificate; provided, that when bond, with solvent personal surety, is offered, the same may be accepted.

Sec. 5. (As amended by chapter 222, Acts 1924.) Every motor vehicle carrier now operating or which shall hereafter operate in this State shall, as soon as such certificate is issued, and annually on or before each succeeding January first, as long as such certificate remains in force, present same, with any changes which have been made therein by the Commission, to the Secretary of the Commonwealth, according to the method and provisions prescribed by law from owners of all other motor vehicles to make an application in writing for registration and license, and state in said application, besides the other matters by law prescribed, the following:

(1) In case of holders of Certificate A for passenger vehicles, the seating capacity for passengers of said motor vehicles, the route on which said motor vehicle is to be used, whether reserve or substitute cars are maintained by the applicant to be used only in emergencies, and if so, the number of such reserve and substitute cars and a complete description of each, and when in use same to be designated by a special marker to be furnished by the Secretary of the Commonwealth, the length of route in miles on improved public highways in this State, the weight of the vehicle when empty and the schedule under which it shall operate during the ensuing year, and for all such motor vehicles, except reserve or substitute vehicles, the following annual fees shall be paid to the Secretary of the Commonwealth for license issued by him; and no additional license fee or license tax shall be charged the motor vehicle carrier by the State; nor as to holders of Certificate A shall any city or town impose a license fee or license tax on such motor vehicle carrier for the use of streets or roads maintained by such city or town, greater than the State license fee or license tax computed upon a mileage basis; that is to say, computed upon the proportion that the route over such streets or roads within the corporate limits of such city or town bears in length to the entire route of such motor vehicle carriers:

Class "A." Motor vehicles weighing less than three thousand pounds shall each be charged and pay one-fiftieth of a cent per passenger seat multiplied by the total number of miles that said application shall show will be traveled by such motor vehicle over the improved public highways of this State by such motor vehicles during the year for which said license is issued.

Class "B." Motor vehicles weighing over three thousand pounds and less than seven thousand pounds, if equipped with solid tires, or eight thousand five hundred pounds if equipped with pneumatic tires, shall each be charged and pay one-fortieth of a cent per each passenger seat, multiplied by the total number of miles that said application shall show

will be traveled over the improved public highways of this State by such motor vehicles during the year for which said license is issued.

Class "C." Motor vehicles weighing over seven thousand pounds, if equipped with solid tires, or over eight thousand five hundred pounds, if equipped with pneumatic tires, shall each be charged and pay one-twentieth of a cent per each passenger seat, multiplied by the total number of miles that said application shall show will be traveled over the improved public highways of this State by such motor vehicles during the year for which said license is issued.

The holder of Certificate B shall annually pay to the Secretary of the Commonwealth, for license to operate as holder under such certificate, the same amount as hereinbefore required of holders of Certificate A, except that in computing the amount to be paid for such license, the applicant shall estimate the number of miles which his vehicle will travel during the period for which his license shall issue; provided, however, that the minimum amount of such estimate shall be twenty thousand miles.

The holder of Certificate C shall pay to the Secretary of the Commonwealth for the privilege of operating under such certificate, ten dollars (\$10.00) for each license year, in addition to the State license tax.

(2) In addition to Certificates A, B and C, as hereinbefore described, the Commission may grant a Certificate D for property carrying vehicles over said highways. In case of property carrying vehicles, the applicant shall state in said application, besides the other matters by law provided, the carrying capacity as given by manufacturer of such motor vehicles, the route on which said motor vehicle is to be used, whether reserve or substitute cars are maintained by the applicant to be used only in emergencies, and if so, the number of such reserve and substitute cars and a complete description of each, and when in use same to be designated by a special marker to be furnished by the Secretary of the Commonwealth, the length of the route in miles on improved public highways in this State, the weight of the vehicle when empty, and the schedule under which it shall operate during the ensuing year, and for all such motor vehicles, except reserve or substitute vehicles, the following annual fees shall be paid to the Secretary of the Commonwealth for license issued by him, and no other additional license fee or license tax shall be charged the motor vehicle carrier by the State; nor shall any city or town impose a license fee or license tax on such motor vehicle carrier for the use of streets or roads maintained by such city or town, greater than the State license fee or license tax computed upon a mileage basis; that is to

say, computed upon the proportion that the route over such streets or roads within the corporate limits of such city or town bears in length to the entire route of such motor carrier.

Class "X." Motor vehicles weighing three tons or less, including the carrying capacity, shall each be charged and pay one-fifth of a cent per each ton mile, multiplied by the total number of miles that said application shall show will be traveled by such motor vehicle over the improved public highways of this State during the year for which said license is issued.

Class "Y." Motor vehicles weighing over three tons and not over ten tons, if equipped with pneumatic tires, including carrying capacity, shall each be charged and pay two-fifths of a cent per each ton mile, multiplied by the total number of miles that said application shall show will be traveled by such motor vehicle over the improved public highways of this State during the year for which license is issued.

Class "Z." Motor vehicles weighing over seven tons, and not over ten tons, if equipped with solid tires, including carrying capacity, shall each be charged and pay three-fifths of a cent per each ton mile, multiplied by the total number of miles the said application shall show will be traveled by such motor vehicle over the improved public highways of this State during the year for which said license is issued. Motor vehicles weighing over ten tons, including carrying capacity, shall not be licensed. The provisions of this act as to motor vehicles carrying property shall not apply to baggage of passenger being transported by holders of Certificates A, B, or C.

Sec. 6. (As amended by chapter 222, Acts 1924.) It shall be the duty of the Secretary of the Commonwealth, upon the presentation of a certificate from the Commission, authorizing the motor vehicle carrier to operate, to furnish the motor vehicle carrier with a distinguishing plate or marker, which, in addition to the other matters otherwise by law provided to be placed thereon, shall bear the letter stating the class under which such vehicle shall operate, such as A, number; B, number; C, number; or X, number; Y, number, and Z, number No motor vehicle carrier holding a Certificate A, B, or C, shall change said route or schedule of his motor vehicle during any year for which a license has been issued, without a permit, in writing, from the Commission, a copy of which shall be sent to the Secretary of the Commonwealth before said route is changed, whereupon a proper readjustment of charges shall be made upon the basis aforesaid. But nothing in this act shall be construed to prevent a motor vehicle carrier from making occasional departures from his

regular route or from replacing in an emergency such vehicles by a substitute vehicle in order to maintain an approved schedule, or in an emergency from operating temporarily, reserve vehicles on its routes for the public accommodation. The license fees charged under this act shall be on the basis of the entire year for the remainder of the year, expiring on the thirty-first day of December, in which event one-half of the yearly fee shall be paid. No portion of the license fee paid as aforesaid will be refunded for any part of the year during which said license is not used.

Sec. 7. It shall be the duty of the Secretary of the Commonwealth to keep a separate account of all moneys collected under this act, and any and all moneys so collected shall be accounted for by him and paid into the State treasury monthly. Each of the payments aforesaid shall be accompanied by a statement showing the amount collected for the use of roads comprising the State Highway System and the amount collected for the use of roads comprising the county highway system of each county, the amount in each case to be computed upon a mileage basis. The amount so remitted which was collected for the use of the State Highway System shall be placed to the credit of, and shall supplement, the then current appropriation made for the maintenance of the roads comprising that system; and the amount so remitted which was collected for the use of the county highway systems shall be semi-annually distributed among, and paid to, the counties shown by said statements to be entitled thereto, said payments to be made on warrants of the Auditor of Public Accounts to the county treasurers and appropriated by the respective boards of supervisors, or other local road authorities, for the maintenance of the roads over which said motor vehicles shall operate.

Sec. 8. (As amended by chapter 222, Acts 1924.) Every officer, agent or employee of any corporation and every other person who violates or fails to comply with, or who procures, aids or abets in the violation of any provision of this act, or who fails to obey, observe or comply with any lawful order, decision, rule or regulation, direction, demand or requirement of the Commission or any part or provision thereof, shall be guilty of a misdemeanor and punishable by a fine of not less than fifty dollars (\$50.00) nor exceeding five hundred dollars (\$500.00); all fines so collected shall be placed to the credit of and be disbursed as follows: One-half to the State Highway System and the remaining half to the credit of the highway system of the county in which such fine was collected.

Sec. 9. (As amended by chapter 222, Acts 1924.) Neither this act nor any provision thereof, shall apply or be construed to apply to interstate or foreign commerce, except in so far as

the same may be permitted under the provisions of the Constitution of the United States and the acts of Congress, nor to farmers or dairymen when hauling dairy and farm products along with similar products of their own, so long as the loads therein contain as much as fifty per centum of the motor vehicle carrier's own product, nor to any person, firm or corporation operating any bus line for the transportation of passengers or property wholly in any city or town of this State over the streets maintained by such city or town, nor to any person, firm, or corporation operating taxicabs, equipped with taximeters whose business originates wholly within the corporate limits of any city or town in this State, and who only occasionally operate beyond said limits.

Sec. 10. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this act.

Sec. 11. All acts or parts of acts inconsistent herewith, are hereby repealed to the extent of said inconsistency, but nothing herein shall be construed to relieve any motor vehicle carrier as herein defined from any regulation otherwise imposed by law or lawful authority.

Note—In addition to the tax on motor vehicle carriers imposed by act approved April 3, 1923, as amended in sections 2, 3, 4, 5, 6, 8 and 9 by Chapter 222, Acts 1924, approved March 14, 1924, there is also special tax of one-tenth of one per centum of gross receipts of a motor vehicle carrier to defray expenses of valuation of its properties by the State Corporation Commission imposed by act approved March 20, 1924 (see page 47).

Note—All the powers conferred and all the duties imposed upon the Secretary of the Commonwealth by this act shall hereafter be exercised and performed by the Motor Vehicle Commissioner, provided for by act approved March 4, 1924, and wherever the words "Secretary of the Commonwealth," or words denoting that officer, appear in this act, they shall be construed to mean the "Motor Vehicle Commissioner."

The Commissioner of Motor Vehicles and his assistants severally are vested with the powers of a sheriff for the purpose of enforcing the laws of this State concerning motor vehicles and the taxes on motor vehicle fuels, and it shall be the duty of such officer and his assistants to use their best efforts to enforce the same; but nothing in this law shall be construed as relieving any sheriff, constable, commissioner of the revenue or police officer from the duty of aiding and assisting in the enforcement of such laws.

Fees on Charters.

Sec. 37. (As amended by chapter 53, p. 78, Acts 1910.)
Every domestic corporation authorized by its charter to exer-

cise the powers of a transportation or transmission company, or to own, lease, construct, maintain and operate a public service line or road of any kind, upon the granting or extension of its charter, shall pay a fee into the treasury of the State of Virginia to be ascertained and fixed as follows:

For a company whose maximum capital stock is five thousand dollars or under, twenty-five dollars; for a company whose capital stock is over five thousand dollars, and not to exceed ten thousand dollars, fifty dollars; over ten thousand and not to exceed twenty-five thousand dollars, seventy-five dollars; over twenty-five thousand dollars, and not to exceed fifty thousand dollars, one hundred and twenty-five dollars; over fifty thousand dollars, and not to exceed one hundred thousand dollars, two hundred dollars; over one hundred thousand dollars and not to exceed three hundred thousand dollars, three hundred and twenty-five dollars; over three hundred thousand dollars, and not to exceed five hundred thousand dollars, four hundred and fifty dollars; over five hundred thousand dollars, and not to exceed eight hundred thousand dollars, five hundred and seventy-five dollars; over eight hundred thousand dollars, and not to exceed one million dollars, seven hundred and fifty dollars; over one million dollars, and not to exceed ten million dollars, one thousand dollars; over ten million dollars, and not to exceed twenty million dollars, one thousand two hundred and fifty dollars; over twenty million dollars, and not to exceed thirty million dollars, one thousand five hundred dollars; over thirty million dollars, and not to exceed forty million dollars, one thousand seven hundred and fifty dollars; over forty million dollars, and not to exceed fifty million dollars, two thousand dollars; over fifty million dollars, and not to exceed sixty million dollars, two thousand two hundred and fifty dollars; over sixty million dollars, and not to exceed seventy million dollars, two thousand five hundred dollars; over seventy million dollars, and not to exceed eighty million dollars, two thousand seven hundred and fifty dollars; over eighty million dollars, and not to exceed ninety million dollars, three thousand dollars; over ninety million dollars, five thousand dollars.

For the purpose of this act the amount to which the company is authorized by the terms of its charter to increase its capital stock shall be considered its maximum capital stock.

Sec. 38. (As amended by chapter 301, p. 596, Acts 1912.) Every domestic corporation, other than such as are described in the last preceding section, upon the granting or extension of its charter, shall pay a fee into the treasury of the State of Virginia to be ascertained and fixed as follows:

For a company whose maximum authorized capital stock is fifty thousand dollars or less, ten dollars; for a company

whose maximum authorized capital stock is over fifty thousand dollars and less than three million, twenty cents for each one thousand dollars or fraction thereof; for a company whose maximum authorized capital stock is three million dollars or more, six hundred dollars; provided, however, that building fund associations, mutual insurance companies without capital stock, and other mutual companies not organized for strictly benevolent or charitable purposes, shall pay twenty-five dollars only for such certificate of incorporation or charter granted; and, provided, further, that no fee shall be imposed on corporations organized for religious, benevolent or literary purposes, or to conduct a purely charitable institution or institutions.

Sec. 38a. (Section added by chapter 53, p. 79, Acts 1910.) Every foreign corporation, when it obtains from the State Corporation Commission a certificate of authority to do business in this State, shall pay an entrance fee into the treasury of Virginia to be ascertained and fixed as follows:

For a company whose maximum capital stock is fifty thousand dollars, or less, thirty dollars; for a company whose capital stock is over fifty thousand dollars, and not to exceed one million dollars, sixty cents for each one thousand dollars or fraction thereof; over one million dollars, and not to exceed ten million dollars, one thousand dollars; over ten million dollars, and not to exceed twenty million dollars, one thousand two hundred and fifty dollars; over twenty million dollars, and not to exceed thirty million dollars, one thousand five hundred dollars; over thirty million dollars, and not to exceed forty million dollars, one thousand seven hundred and fifty dollars; over forty million dollars, and not to exceed fifty million dollars, two thousand dollars; over fifty million dollars, and not to exceed sixty million dollars, two thousand two hundred and fifty dollars; over sixty million dollars, and not to exceed seventy million dollars, two thousand five hundred dollars; over seventy million dollars, and not to exceed eighty million dollars, two thousand seven hundred and fifty dollars; over eighty million dollars, and not to exceed ninety million dollars, three thousand dollars; over ninety million dollars, five thousand dollars; provided, however, that foreign corporations without capital stock shall pay fifty dollars only for such certificate of authority to do business in this State.

For the purpose of this act the amount to which the company is authorized by the terms of its charter to increase its capital stock shall be considered its maximum capital stock.

Sec. 39. (As amended by chapter 53, p. 79, Acts 1910.) A charter heretofore granted or issued under the law of this State, whereby none of the powers of a transportation or transmission company or other public service corporation

were conferred upon the corporation so chartered, shall not be amended so as to add to the powers and privileges originally acquired by the corporation, any of the powers, rights and privileges of a transportation or transmission or of any other public service company.

Upon the amendment of any charter, domestic or foreign, the fee to be charged on the amended charter shall be an amount equal to the difference between the amount already paid on the original charter and the amount required by this act to be paid on the maximum amount provided for in such amendment and upon the amendment or extension of any charter, domestic or foreign, if no fee was paid to this State on the original charter, the amount to be paid shall be the same as would have to be paid on an original charter.

Upon the amendment or extension of a charter of a transportation or transmission company, or any other public service company, in the event that the charter fee paid on the original charter and any prior amendments, shall be less than the amount of charter fee required to be paid on an original charter of that character by the terms of this act, then a charter fee shall be paid on the amended charter equal in amount to the difference between the charter fee already paid on the original charter and any prior amendments thereof and the amount required by this act to be paid on the maximum amount of authorized capital stock provided for in the charter of said corporation at the time of such amendment.

Upon the merger or consolidation of two or more corporations in the manner provided for by the laws of this State, whenever one of the corporations so merging or consolidating is a foreign corporation, then a charter fee shall be paid, as provided for in this act, upon the amount of capital stock proposed to be issued by the new or consolidated corporation taken as the maximum capital stock for the purpose of estimating said charter fee.

How Fees Paid by Foreign Corporations; How Preceding Sections Construed.

Sec. 40. The fees hereinbefore required to be paid by corporations organized under the laws of a jurisdiction beyond this State, and proposing to transact business in this State, shall be paid direct into the treasury of the State, whereupon the State Corporation Commission may issue a certificate authorizing the said corporation to transact such business and conduct operations of a character to be described in said certificate within this State, but the said corporation shall not have the right to transact business or conduct operations of any character in this State until said fees have been paid and said certificates been duly issued. Nothing con-

tained in this section or the three preceding sections shall be construed to impose a fee for a charter, or for authority to transact business in this State, upon any company which has already paid the fee or tax heretofore imposed by law upon its charter, or for authority to transact its business in this State; but this provision shall not be construed to exempt any amendment or extension of any such charter or of such authority to transact business in this State from the fees imposed by the sections hereinbefore mentioned, or either of them. And the clerk of the State Corporation Commission shall, along with the order of the Commission in the premises record said certificate and the certificate of the Auditor of Public Accounts as to the payment of such fees in a proper book to be kept by said clerk for the purpose.

Annual Registration Fee.

Sec. 41. (As amended by chapter 169, p. 362, Acts 1922.) Every domestic corporation, other than a purely charitable institution, and every foreign corporation doing, or authorized to do, business in this State, whose maximum capital stock is fifteen thousand dollars, or under, and every such corporation organized on a mutual basis or without capital stock, shall pay into the treasury of the State, on or before the first day of March in each and every year, an annual registration fee of five dollars; a corporation whose maximum capital stock is over fifteen thousand dollars, and does not exceed fifty thousand dollars, shall pay an annual registration fee of ten dollars; a corporation whose maximum capital stock is over fifty thousand dollars and does not exceed one hundred thousand dollars, shall pay an annual registration fee of fifteen dollars; a corporation whose maximum capital stock is over one hundred thousand dollars and does not exceed three hundred thousand dollars, shall pay an annual registration fee of twenty dollars; and a corporation whose maximum capital stock exceeds three hundred thousand dollars shall pay an annual registration fee of twenty-five dollars; said annual registration fee shall be irrespective of any specific license tax or other tax or fee imposed by law upon said corporation for the privilege of carrying on its business in this State, or upon its franchise, property or receipts.

The State Corporation Commission shall ascertain from its records the amount of the authorized maximum capital stock of each of said corporations, as of the first day in January of each year, and shall assess against each such corporation the registration fee herein imposed, and a certified copy of the assessment, when made, shall be forwarded by the clerk of the State Corporation Commission, before the fif-

teenth day of February, to the Auditor of Public Accounts, and to each such corporation.

The State Corporation Commission may require every domestic and foreign corporation, in the month of January, in each year, and within such times as it may prescribe, to make to the Commission, on forms prescribed by it, such report of the status, business and condition of each such corporation as the Commission may call for.

The failure of any corporation for two successive years to pay its annual registration fee or to make such report, shall, when such failure shall have continued for ninety days after the expiration of such two years, operate, without further proceedings, as a revocation and annulment of the charter of such corporation, if it be a domestic corporation, or if its certificate of authority to do business in this State, if it be a foreign corporation, and the State Corporation Commission shall publish the fact of such revocation of annulment once a week for four consecutive weeks in a daily newspaper published in the city of Richmond, Virginia.

The failure of any corporation to pay its annual registration fee for any single year shall, when such failure shall have continued for ninety days after the same has been assessed, subject such corporation to a fine of not less than double the amount of such assessment to be imposed and judgment entered therefor by the State Corporation Commission.

Sec. 42. Any such corporation which shall fail to make the report hereinbefore required within the prescribed time shall be liable to a fine of not less than twenty-five nor more than one hundred dollars for each offense, and each period of thirty days wherein such company may be in such default in making such report shall constitute a distinct and separate offense. The said fine to be imposed and judgment entered therefor by the State Corporation Commission, after thirty days' notice to any such defaulting corporation to appear before the said Commission, and to show cause, if any, against the imposition of such fine, subject to appeal to the Supreme Court of Appeals of Virginia.

Annual State Franchise Tax.

Sec. 43. (As amended by chapter 338, Acts 1924.) **Annual State franchise tax.**—Every corporation, joint stock company, or association, organized or formed under, by or pursuant to law in this State, except railway, canal, light, heat, and power companies, gas and water companies, insurance, banking and security companies, telephone companies, having an authorized maximum capital stock of five thousand dollars or less, cemetery, religious and charitable associations, shall, in addition to the charter fee, tax on property,

and income or receipts, and license tax, and the registration fee prescribed by law, pay into the treasury of the State on or before the first day of March, of each and every year, an annual State franchise tax to be assessed by the State Corporation Commission.

The amount of such franchise tax shall be as follows: Where the maximum capital stock is twenty-five thousand dollars, and under, ten dollars; over twenty-five thousand dollars, and not in excess of fifty thousand dollars, twenty dollars; over fifty thousand dollars, and not in excess of one hundred thousand dollars, forty dollars; over one hundred thousand dollars, and not in excess of three hundred thousand dollars, sixty dollars; over three hundred thousand dollars, and not in excess of five hundred thousand dollars, one hundred dollars; over five hundred thousand dollars, and not in excess of one million dollars, two hundred dollars; and for all in excess of one million dollars, and not greater than fifty million dollars, an additional sum of ten dollars for each hundred thousand dollars or fraction thereof in excess of one million dollars; and for all in excess of fifty million dollars, and not greater than one hundred million dollars, the further additional sum of seventy-five dollars for each million dollars or fraction thereof in excess of fifty million dollars; and for all in excess of one hundred million dollars, and not greater than one hundred and fifty million dollars, the further additional sum of fifty dollars for each million dollars or fraction thereof in excess of one hundred million dollars; and for all in excess of one hundred and fifty million dollars, and not greater than three hundred million dollars, the further additional sum of twenty-five dollars for each million dollars or fraction thereof in excess of one hundred and fifty million dollars; and for all in excess of three hundred million dollars, the further additional sum of ten dollars for each million dollars or fraction thereof in excess of three hundred million dollars.

The State Corporation Commission shall ascertain the amount of the authorized maximum capital stock of each such corporation, company or association as of the first day of January in each year, and shall assess against each such corporation, company, or association the State franchise tax herein imposed, and a certified copy of such assessment, when made, shall be forwarded by the clerk of the State Corporation Commission before the fifteenth day of February to the Auditor of Public Accounts and to the president or other proper officer of every such corporation, company or association.

Any such corporation, company or association failing to pay said tax into the State treasury within the time prescribed

shall incur a penalty thereon of five per centum and interest at the rate of six per centum per annum on the total amount of tax and penalty from the date when the same was due until paid, which shall be added to the amount of said tax.

Code Sec. 4168. Exemption of building and loan associations from payment of franchise tax.—All building and loan associations or companies organized under the laws of this State, doing only the business of building and loan association or company in the counties or cities in which their principal offices are located, and in not more than five contiguous counties and in the cities located in such counties, and organized on the wholly mutual plan, shall be exempt from the payment of any State franchise tax.

Tax on Inheritances.

Sec. 44. (As amended by chapter 305, Acts 1924.) Subsection (1). Classification of beneficiaries; rates of tax; exemptions.—All property within the jurisdiction of the Commonwealth, real, personal and mixed, and any interest therein, whether belonging to inhabitants of the Commonwealth or not, which shall pass by will, or by the laws regulating descents and distributions, or grant or gift (except in case of a bona fide purchase for full consideration in money or money's worth) made or intended to take effect in possession or enjoyment after the death of the grantor, or grant or gift made in contemplation of death, and all grants or gifts made within one year next preceding the death of the decedent shall be deemed prima facie to have been made in contemplation of death, whether absolutely or in trust, except to or for the use of (Class A) the husband, wife, lineal ancestor or lineal descendant of a decedent, or to or for the use of (Class B) the brother, sister, nephew, or niece of a decedent, shall be subject to a tax of five per centum of the actual value of so much thereof as is in excess of one thousand dollars and not in excess of twenty-five thousand dollars, to a tax of seven per centum upon all in excess of twenty-five thousand dollars and up to fifty thousand dollars, to a tax of nine per centum upon all in excess of fifty thousand dollars and up to one hundred thousand dollars, to a tax of twelve per centum upon all in excess of one hundred thousand dollars and up to five hundred thousand dollars, and to a tax of fifteen per centum upon all in excess of five hundred thousand dollars; and such property which shall so pass to or for the use of a member of Class A shall be subject to a tax of one per centum of the actual value of so much thereof, as is in excess of ten thousand dollars, and not in excess of fifty thousand dollars, to a tax of two per centum upon all in excess of fifty thousand dol-

lars and up to one hundred thousand dollars, to a tax of three per centum upon all in excess of one hundred thousand dollars and up to five hundred thousand dollars, and to a tax of four per centum upon all in excess of five hundred thousand dollars and up to one million dollars, and to a tax of five per centum upon all in excess of one million dollars; and such property which shall so pass to or for the use of a member of Class B shall be subject to a tax of two per centum of the actual value of so much thereof as is in excess of four thousand dollars and not in excess of twenty-five thousand dollars, to a tax of four per centum upon all in excess of twenty-five thousand dollars and up to fifty thousand dollars, to a tax of six per centum upon all in excess of fifty thousand dollars and up to one hundred thousand dollars, to a tax of eight per centum upon all in excess of one hundred thousand dollars and up to five hundred thousand dollars, and to a tax of ten per centum upon all in excess of five hundred thousand dollars; but no such gift, bequest, devise, or distributive share of an estate which shall so pass to or for the use of the husband, wife, lineal ancestor or lineal descendant of a decedent, unless its actual value exceed the sum of ten thousand dollars, and no such gift, bequest, devise or distributive share of an estate which shall so pass to or for the use of the brother, sister, nephew or niece of a decedent, unless its actual value exceed the sum of four thousand dollars, and no other such gift, bequest, devise or distributive share of an estate unless its actual value exceed the sum of one thousand dollars, nor any such gift, devise or bequest made exclusively for State, county, or municipal purposes in this State, or charitable, educational or religious purposes within this State, nor any such gift, devise or bequest made for the exclusive benefit of any institution, association or corporation in this State whose property is exempt from taxation by the laws of this State, shall be subject to the provisions of this act; provided, however, that the tax shall be determined upon the aggregate actual value of all property within the jurisdiction of the Commonwealth, as aforesaid, which shall pass from the decedent to any beneficiary, by will or by the laws regulating descents and distributions, or by grant or gift made or intended to take effect in possession or enjoyment after death of the grantor or by grant or gift made in contemplation of death, or by any number or all of such methods of transmission; and, provided, further, that where any beneficiary has died or may hereafter die within one year after the death of the decedent and before receiving his or her share of the estate to which he or she is entitled, and taxes on said share have not been assessed and paid, then such share shall be taxed only once and the tax shall be assessed on the property received from such share

by each beneficiary thereof as if there had been no intermediate beneficiary; and, provided, further, that this act shall not apply to the personal property of a non-resident decedent. But it is expressly provided that the total tax on all the shares of the beneficiaries of an estate shall not in any case exceed the sum of four million dollars in the aggregate; and in any case where, but for this limitation, the total tax would exceed the sum of four million dollars, the tax shall be computed in accordance with the rates hereinbefore prescribed, and the share of each beneficiary taxable hereunder shall be liable for such proportion of the tax so computed as the said sum of four million dollars bears to the total tax which would be assessable against the shares of all beneficiaries except for the said limitation.

Subsection (2). Tax to be paid by personal representative; exception; liability of surety.—The personal representative of such decedent shall withhold and pay the whole of said tax, except the tax on the transfer of such real estate belonging to the estate of the decedent, as he is not authorized to sell or receive the rents and profits from, and the sureties on his official bond shall be bound for the payment thereof, and the part of the tax so paid by the personal representatives assessed to the several beneficiaries shall be charged against their respective shares in the distribution of the estate, unless the will directs otherwise.

Subsection (3). Cases in which tax to be paid by devisee, devisees or heirs at law.—Where the personal representative is not authorized to sell or receive the rents and profits from any real estate belonging to the estate of his decedent and passing at his death, the taxes upon the transfer of such real estate shall be paid by the devisee, devisees, or heirs at law of such decedent, or other person or persons to whom such real estate shall pass, whether by the terms of the decedent's will or of any grant or gift made by him in his lifetime and taking effect at his death, or of any grant or gift made by him in contemplation of death, or by operation of the statutes regulating descents and distributions.

Subsection (4). Cases in which tax to be paid by legatee, legatees, distributee, distributees, heir or heirs at law.—The tax on the transfer of any property, of whatever nature, which is not under the control of a personal representative, shall be paid by the legatee, legatees, distributee, distributees, heir or heirs at law of such decedent, or by the other person or person to whom such property shall pass under the laws regulating descents and distributions, or by operation of any grant or gift made by the decedent in his lifetime and taking effect upon his death, or by any grant or gift made by him in contemplation of death.

Subsection (5). Report by personal representative.—The personal representative of every decedent whose gross estate is in excess of one thousand dollars shall, within four months after the death of the decedent, report under oath, to the Auditor of Public Accounts, on forms provided for that purpose, an itemized schedule of all the property (real, personal and mixed) of the decedent; the actual value thereof at the time of the death of the decedent, the name or names of the persons to receive the same and the actual value of the property that each will receive; the relationship of such persons to the decedent, and the age of any persons who receive a life interest in the property, and any other information which the Auditor may require.

Subsection (6). Reports of estates on which no qualification is had.—Every beneficiary of estates of over one thousand dollars gross value on which no qualification is had, shall, within four months after the death of the decedent, report under oath to the Auditor of Public Accounts, on forms provided for that purpose, an itemized schedule of all property (real, personal and mixed) received or to be received by such beneficiary, the actual value of the same at the time of the death of the decedent and the relationship of such beneficiary to the decedent, and any other information which the Auditor may require; provided, however, that the Auditor may extend the time for the filing of any report required under this or the preceding subsection, and if the said report is not filed within the four months or within the time, as extended, the Auditor of Public Accounts shall refer the estate to the proper inheritance tax commissioner who shall investigate and report the same in accordance with the provisions of subsection (8) eight.

Subsection (7). Report by clerks of courts.—The clerk of every court of every county and city having jurisdiction to admit wills to probate and to grant letters of administration, shall report to the Auditor of Public Accounts on forms provided for the purpose, every qualification upon the estate of a decedent in such court or in the clerk's office thereof. Such reports shall be filed with the Auditor not less than once every month, and shall contain the name of the decedent; the date of his death; the name and address of the personal representative, and the value of the estate upon which the will or administration tax was paid. Such report shall also contain the name of all decedents whose wills are probated in the court or before the clerk thereof, upon which no qualification is had, the name and address of the beneficiaries under such wills and the value of the property passing under such wills.

Subsection (8). Appointment, duties and compensation of inheritance tax commissioner.—For the purpose of ascer-

taining the taxes due under this act, the court of every county and city, having jurisdiction to admit wills to probate and to grant letters of administration, shall designate one of its commissioners, whose duty it shall be to investigate and report, upon forms provided for the purpose, to the Auditor of Public Accounts, the value of the estate of every decedent which shall be referred to him by the said Auditor, the net amount of said estate, after deducting debts and costs of administration and the kinds thereof and the persons who are entitled to the same and the relationship of such persons to the decedent; and in cases where the estate is subject to a tax hereunder the said commissioner shall be allowed for his services for making said appraisal and report one-tenth of one per centum of the gross estate so investigated and reported, payable out of said estate as part of the costs of administration; provided, however, that said compensation shall in no case be less than five nor more than fifty dollars, except that for special services rendered, the court by whom the said commissioner is appointed may, by its order entered of record after reasonable notice to the personal representative, allow greater compensation. In cases referred to such commissioner where it is determined that no part of the estate is subject to taxation hereunder, the compensation of said commissioner shall be five dollars. The Auditor of Public Accounts shall refer each estate to the inheritance tax commissioner appointed by the court in which the will was probated or the letters of administration were granted, or, if there was no qualification to the inheritance tax commissioner appointed by the court in which qualification might have been had, unless the Auditor is fully satisfied that no taxes are assessable on the estate. It shall also be the duty of the inheritance tax commissioner to notify the Auditor of Public Accounts of the death of any decedent within the county or city in which such commissioner was appointed upon whose estate no qualification is had.

Subsection (9). Tax to be assessed upon actual value of property; manner of determining value of annuities, life estates and interests less than absolute interests.—Said taxes shall be assessed upon the actual value of the property at the time of the death of the decedent. In every case where there shall be a devise, descent, bequest or grant to take effect in possession or enjoyment after the expiration of one or more life estates, the tax shall be assessed on the actual value of the property or the interest of the beneficiary therein at the time when he or she becomes entitled to the same in possession or enjoyment. The value of an annuity or a life interest in such property, or any interest therein less than an absolute interest, shall be determined by the annuity tables provided

for by section fifty-one hundred and thirty-one of the Code of Virginia. In every case in which it is impossible to compute the present value of any interest in property so passing the Auditor of Public Accounts may effect such settlement of the tax as he shall deem to be for the best interest of the Commonwealth, and payment of the same so agreed upon shall be a full satisfaction of such taxes.

Subsection (10). Manner of determining tax.—The Auditor of Public Accounts shall determine all taxes assessable under this act and immediately upon the determination of same, shall forward a statement of the taxes determined to the person or persons chargeable with the payment thereof. Within sixty days after the tax has been determined, any person aggrieved by the determination, may apply to the Auditor of Public Accounts, who may make such corrections of the taxes as he may determine proper; provided, however, that the rejection of the application in whole or in part by the Auditor shall not prevent any person from applying to the court, as hereinafter provided, for the correction of the said taxes.

Subsection (11). Payment of tax; penalty and interest.—Taxes imposed by the provisions of this act shall be payable to the Auditor of Public Accounts and at the expiration of one year after the death of the decedent. In all cases in which there shall be a grant, devise, descent or bequest to take effect in possession or come into actual enjoyment after the expiration of one or more life estates or a term of years, the taxes thereon shall be payable by the executors, administrators or trustees in office when such right of possession accrues, and no distribution shall be made of the estate until such taxes have been paid, or, if there is no such executor, administrator or trustee, by the person or persons so entitled thereto, and at the expiration of one year after the date when the right of possession accrues to the person or persons so entitled. If the taxes are not paid when due, one per centum interest for each month or portion of a month from the date when the same were due until paid, shall be added to the amount of said taxes and collected as a part of the same; provided, however, that when the estate of any decedent is being administered in a suit, or when for any other cause, the amount of such tax is not determinable until more than eleven months after the death of such decedent, then such penalty shall not be added until thirty days after such tax is determinable. Upon the payment of the tax or upon the ascertainment that no tax is due, the Auditor of Public Accounts shall prepare duplicate certificates of payment, or of ascertainment that no tax is due, as the case may be, one of which shall be forwarded to the person paying the tax or receiving

the property, and one to the proper clerk who shall record the same in the book in which accounts of personal representatives are recorded.

Subsection (12). Lien; manner of enforcing payment.—Property of which a decedent dies seized or possessed subject to taxes as aforesaid, in whatever form of investment it may happen to be, and all property acquired in substitution therefor shall be charged with a lien for all taxes and interest thereon which are or may become due on such property; but said lien shall not affect any personal property after the same has been sold or disposed of to a bona fide purchaser for value by the executors, administrators or trustees. The lien charged by this act upon any real estate or separate parcel thereof may be discharged by the payment of the taxes due and to become due upon said real estate or separate parcel, or by an order or decree of the court discharging said lien and securing the payment to the Commonwealth of the taxes due or to become due by bond or deposit. If the taxes are not paid within one hundred and twenty days after they shall have become due, the Auditor shall forward a bill for the same to the sheriff of the county or the sergeant of the city in which any property belonging to the estate is located, and the sheriff or sergeant shall immediately levy upon and sell so much of the said property, real or personal, as shall be sufficient to pay the taxes and expenses of sale, including the regular sheriff's or sergeant's fees for sale of property under an execution, or, he may rent or lease any property charged with taxes for cash sufficient to pay the amount of taxes due, expenses and fees.

Subsection (13). Application for relief from taxes determined; notice required; proceedings.—Any person aggrieved by taxes determined under this act, may, within one year after the date of such determination, apply for relief to the court in which the will of the decedent was probated, qualification on the estate of the decedent was had or might have been had. An application in writing, setting forth the manner in which the applicant considers himself aggrieved, shall be filed with the clerk of said court at least ten days before the hearing of the cause, and notice of the time at which such application will be presented to the court shall be served upon the attorney for the Commonwealth, and a copy of both the application and the notice mailed to the Auditor of Public Accounts by registered mail. Said notice shall be served on the clerk and the attorney for the Commonwealth, and a copy thereof mailed to the Auditor of Public Accounts at least fifteen days prior to the date on which the application is presented to the court. The attorney for the Commonwealth, or such other attorney as the Auditor may designate,

shall defend the application and no order made in favor of the applicant shall have any validity unless it is stated therein that such attorney did so defend; and the facts proved upon such hearing shall be certified.

Subsection (14). Jurisdiction of court upon hearing of the application.—If the court be satisfied that the applicant is erroneously charged with taxes and that the erroneous charge was not caused by the failure or refusal of the applicant to furnish an inventory of the property subject to the tax to the Auditor of Public Accounts, the court may correct the tax. If the applicant is charged with more than the proper amount, the court may order that he be exonerated from the payment of so much as is erroneously charged, if not already paid, and if paid, that it be refunded to him. If the applicant is charged with less than the proper amount the court shall order that the applicant pay the proper taxes. A copy of any order made under this section shall be certified by the court to the Auditor of Public Accounts.

Subsection (15). Appeal from order of court.—The applicant shall have the right of appeal from the order of the court to the Supreme Court of Appeals as in other cases except appeals of right, and if the Supreme Court of Appeals shall decide that the tax determined by the lower court is erroneous, the lower court shall have authority to order a refund of so much of the tax as shall have been erroneously paid.

Subsection (16). Petition for rehearing on behalf of Commonwealth by Auditor of Public Accounts; proceedings; appeals; costs.—If, from the statement of the facts or other evidence, the Auditor of Public Accounts shall be of opinion that the order of the court is erroneous, he may, within one year from the time such order is made, file a petition for a rehearing or review of such order; said petition may be filed in the court by which the order was entered or of which the clerk is an officer, or with the judge or clerk thereof in vacation, and shall be in the name of the Commonwealth, and on the filing of the same shall operate as a supersedeas and the matter shall thereupon be reheard or the order reviewed in said court, and witnesses examined in the same manner as if no previous determination had been had. The petition shall be presented and the hearing conducted by the attorney for the Commonwealth of the county or corporation, or such other attorney as the Auditor may designate. At the rehearing the court shall make such order therein as may be proper, and should the order of the court be against the Commonwealth, the Auditor of Public Accounts may take an appeal to the Supreme Court of Appeals, and a supersedeas may be granted in such case in the same manner as now provided by law in

cases other than cases of appeal of right. No costs shall be adjudged against the Commonwealth on the appeal.

Subsection (17). If any person shall fail to perform any duty imposed upon him by the provisions of this act the Auditor of Public Accounts shall proceed by petition for mandamus before the appropriate court to compel performance and upon the granting of such writ the court shall adjudge all costs of such proceeding against the delinquent and enter judgment against him in favor of the Commonwealth for such penalty not exceeding one hundred dollars as the court shall deem proper.

Subsection (18). **Distribution of Taxes.**—Of all the taxes upon said inheritances paid into the State treasury, one-third shall be credited to the general fund of the Commonwealth for the support of the government; one-third shall be placed to the credit of the public free schools of the Commonwealth and shall be apportioned according to school population; and one-third thereof shall be remitted to the county and city in which such taxes are respectively collected for school purposes, and all such school taxes shall be used for the primary and grammar grades of the public free schools of the State; provided, however, that if the inheritance taxes placed to the credit of the public free schools of the Commonwealth for the fiscal years ending September thirtieth, nineteen hundred and twenty-four, and September thirtieth, nineteen hundred and twenty-five, shall be less than the amount placed to the credit of such fund from inheritance taxes during the fiscal year ending September thirtieth, nineteen hundred and twenty-three; so much of the one-third credited to the general fund of the Commonwealth as may be necessary shall be used to make up such deficit.

Subsection (19). **Auditor to provide tax forms.**—The Auditor of Public Accounts shall provide such books and forms as are requisite for the execution of this act.

Subsection (20). **Expense of administration.**—The expense of the execution of this act shall be paid by the Auditor of Public Accounts out of the funds collected hereunder, but the Auditor shall not, under the authority of this section, pay out of said funds the salaries of any employees and the Auditor of Public Accounts shall receive one thousand dollars per annum, payable out of the funds collected hereunder as compensation for additional duties hereby imposed upon him.

Subsection (21). The provisions of this act shall apply to the estate of every person who shall die on or after April first, nineteen hundred and twenty-four, and to all estates created by will which shall vest in interest on or after said date.

Estates—List of Heirs, etc.

Sec. 5379. (As amended by act approved March 15, 1924.) **Personal representatives to furnish the ages and addresses of heirs; affidavit; clerk to record list; cost of recording; list as evidence; commissions of personal representatives.**—Every personal representative of decedent, whether such decedent died testate or intestate, shall, at the time of his qualification, furnish the court or clerk before which or before whom he qualifies, a list of the names, and as far as possible, the ages and addresses, of the heirs of his decedent, if intestate; and, if testate, a list of those persons who would have been the decedent's heirs, had he died intestate, and the degree of kinship of each, to the decedent, accompanied by affidavit that he has made diligent inquiry as to such names, ages and addresses, and that he believes such list to be true and correct; which list it shall be the duty of the clerk to record in the will book and index in the name of the decedent as grantor and the heirs as grantees. Such list so made and recorded shall be prima facie evidence of facts therein stated. The cost of recording such list shall be deemed a part of the cost of administration, and be paid out of the estate of the decedent. Such personal representative shall not receive any compensation for his services until such list is filed and recorded, unless he files an affidavit before the commissioner of accounts that said heirs are unknown to him, and that after diligent inquiry he has been unable to ascertain their names, ages, or addresses, as the case may be.

Transfer Tax—Personal Estate—Nonresidents.

(Section added by Act approved March 27, 1922, chapter 460, Acts 1922.)

Sec. 44½. **Tax upon the transfer at death of the personal property of nonresidents.** (1) All personal property within the jurisdiction of the State and any interest therein, belonging to persons whose domicile is without the State shall, upon the death of the owner, be subject to a tax of two per centum of its actual value for the support of the State government, upon its transfer, payment or delivery to the executor, administrator or trustee of the estate of said deceased.

(2) No stock or obligation of any national bank located in this State or of any corporation organized under the laws of this State, deposit in any bank, trust company, or other similar institution located in this State or organized under its laws, obligation of any citizen of this State, or securities or personal property of any description within the jurisdiction of the State, or any interest therein, belonging to the estate of a nonresident

shall be transferred, paid or delivered to any person except an executor, administrator or trustee of the estate of said deceased duly appointed either in this State or in the State of the decedent's domicile by a court having jurisdiction for that purpose.

(3) Such property shall not be transferred, paid or delivered to a foreign executor, administrator or trustee until the tax has been paid. Any person or corporation which shall transfer, pay, or deliver or having control thereof, shall permit the transfer, payment, or delivery of any such property to any person other than a resident executor, administrator or trustee before such tax has been paid, shall be liable for the tax and an additional penalty of not more than one thousand dollars in an action brought by the Auditor of Public Accounts. Any such bank or corporation which shall record such a transfer of any share of its stock or if (of) its obligation or issue a new certificate of stock or other instrument to evidence such a transfer before all taxes imposed upon the transfer by this act have been paid shall be subject to the same liability and penalty.

(4) Executors, administrators, and trustees shall be liable for such transfer tax upon all such property which shall come to their hands, with interest as hereinafter provided.

(5) Every person having in his possession or control any personal property belonging to a nonresident, shall, unless the property is delivered to a resident administrator within thirty (30) days after the death of the owner, notify the Auditor of Public Accounts and prepare and transmit to him an itemized schedule of the property. If the tax is not paid or a resident administrator appointed within four months after the owner's death the circuit court of the city of Richmond shall, upon petition of the Auditor of Public Accounts, appoint a resident administrator or a special administrator, as the circumstances of the case may require, to whom the property shall be transferred, whose duty it shall be to collect and pay the tax and to account for the balance of the property according to law under order of the court.

(6) All taxes imposed by this act shall be due and payable at the time of the transfer of the property, and if not then paid interest at the rate of ten per centum per annum shall be charged and collected from the time of the transfer and said taxes and interest shall be and remain a lien on the property transferred until the same are paid. Provided, however, that if the transfer is not made within four months after the owner's death, interest as aforesaid, shall be charged and collected after the expiration of said four months.

(7) Personal property within the jurisdiction of this State belonging to nonresidents, which shall pass by deed, grant, bargain, sale, or gift, made in contemplation of death, or made or intended to take effect in possession or enjoyment at or after

the death of the grantor or donor shall be subject to the same tax imposed upon the transfers hereinbefore described in this act. The taxes upon such transfers shall become due at once upon the death of the grantor or donor, and if not paid within four months shall be subject to interest, as aforesaid, after the expiration of said period, until paid. Said taxes and interest shall be a charge against the persons receiving such transfer, and the property transferred and any other property of the grantor or donor within the jurisdiction of the State shall be subject to a lien to secure its payment. All persons or corporations within the jurisdiction of the State, in whose possession or control any such property so transferred or to be transferred remains at the time of the death of the grantor or donor shall be subject to all the duties, liabilities, and penalties imposed by this act upon persons having the possession or control of personal estate of such decedent.

(8) A resident executor, administrator, or trustee holding personal property of a deceased nonresident subject to said tax shall deduct the tax therefrom or collect it from the executor, administrator, or trustee in the State of the decedent's domicile, and shall not deliver such property to him or any other person until he has collected the tax. When the transfer of such personal property, other than money, is subject to a tax under the provisions of this act and the executor, administrator, or trustee in the State of domicile neglects or refuses to pay the tax upon demand, or if for any reason the tax is not paid within four months after the decedent's death, the resident administrator, executor, or trustee may, upon such notice as the circuit court of the city of Richmond may direct, be authorized to sell such property, or if the same can be divided such portion thereof as may be necessary, and shall deduct the tax from the proceeds of such sale and shall account for the balance, if any, in lieu of the property. When a conveyance made by a nonresident decedent in his lifetime is subject to said tax, the resident executor or administrator shall collect the taxes due on account of such conveyance and may be authorized to sell any property subject to the lien of such tax, as in other cases.

(9) The Auditor of Public Accounts shall determine the amount of all taxes due and payable under the provisions of this act and shall certify the amount due and payable to the resident executor, administrator or trustee, if any, otherwise to the person or persons by whom the tax is payable. Said tax shall be assessed upon the actual value of the property transferred at the time of the decedent's death. Such tax shall be determined by the Auditor of Public Accounts, who shall certify the same to the person or persons by whom the tax is payable, and such determination shall be final, unless the tax shall be reduced or increased, upon application by the person assessed therewith, with-

in one year from the date of such assessment, to the circuit court of the city of Richmond. Upon such application the procedure shall be as near as may be the same procedure prescribed by section forty-four of this act for the correction of erroneous assessments of inheritance taxes, with the same right of appeal to the Supreme Court of Appeals of Virginia, either to the applicant or the Auditor of Public Accounts, as provided by law for appeals in other cases, except cases in which there is appeal as a matter of right.

(10) The Auditor of Public Accounts, whenever he has knowledge or reason to believe that any person or corporation has in his possession or control any personal property belonging to the estate of a deceased nonresident, upon which the tax has not been paid and a schedule of which has not been furnished him, as herein provided, or that any such person or corporation has received a transfer of such property or made such a transfer (except to a resident executor, administrator, or trustee) upon which the tax has not been paid, as herein provided, or that such person or corporation has knowledge of a transfer of any such personal property of such nonresident decedent in his lifetime by deed, grant, bargain, sale or gift, made in contemplation of death, or made or intended to take effect in possession or enjoyment at or after the death of the grantor or donor, or has possession or control of property so transferred, may require such person or any officer of such corporation to appear at the office of the Auditor of Public Accounts, at such time as the Auditor of Public Accounts may designate and then and there to produce for the use of the Auditor of Public Accounts all books, papers or securities which may be in the possession or control of such person or corporation relating to such property or transfer and to furnish such other information relating to the same as he may be able, and the Auditor of Public Accounts may require. Whenever the Auditor of Public Accounts shall require the attendance of any person, as herein provided, he shall issue a notice stating the time when such attendance is required, and shall transmit the same by registered mail, or cause a copy of the same to be given in hand, to such person fourteen (14) days at least before the date when such person is required to appear. If any person receiving such notice shall neglect to attend or to give attendance, so long as may be necessary, for the purpose for which the notice was issued, or refuses to furnish such books or papers or give such information, or if a corporation, whose officer is thus summoned, refuses to permit him to produce such books, papers or securities as are called for and are within the control of the corporation such person or corporation shall be liable to a penalty of twenty-five (25) dollars for each offense, which may be recovered by the Auditor of Public Accounts for the use of the State.

Any person attending, in response to summons, as herein provided, shall thereafter be entitled to the same travel and witness fees as are allowed to witnesses summoned to testify on behalf of the Commonwealth in other cases. The Auditor of Public Accounts may commence an action for the recovery of any taxes at any time after the same may become payable.

(11) The Auditor of Public Accounts shall provide such books and blanks as are requisite for the execution of this act.

(12) The counsel for the State Tax Board shall conduct all litigation and shall advise the Auditor of Public Accounts upon all questions of law arising in the administration of this act.

LICENSES—SCHEDULE A.

Merchants.

Sec. 45. (As amended by chapter 148, p. 233, Acts extra session 1915.) Every person, firm, company, or corporation engaged in the business of a merchant shall pay a license tax for the privilege of doing business in this State, to be graduated by the amount of purchases made by him during the period for which the license is granted, and all goods, wares and merchandise manufactured by such merchant and sold or offered for sale, in this State, as merchandise, shall be considered as purchases within the meaning of this section; provided, that this section shall not be construed as applying to manufacturers taxed on capital by this State, who offer for sale at the place of manufacture, goods, wares, and merchandise manufactured by them. To ascertain the amount of purchases it shall be the duty of such merchant, on the first day of April of each year, or within ten days thereafter, to make report in writing, under oath, to the commissioner of the revenue for the district for which he was licensed, showing purchases as above defined, and also all goods, wares and merchandise manufactured and sold or offered for sale in this State during the next preceding twelve months; except such goods, wares and merchandise as is manufactured by persons, firms and corporations taxed on their capital by this State. The form of the report required by this section shall be prepared by the Auditor of Public Accounts and furnished to each commissioner of the revenue, and by him distributed to each licensed merchant; and each commissioner shall, in the mode prescribed for making such report by him of violations of the revenue law, report every merchant who shall fail to comply with the requirements of this section. Any person violating the provisions of this section shall pay a fine of not

less than thirty dollars, or more than one thousand dollars, for each offense.

Merchants' License.

Sec. 46. (As amended by chapter 90, p. 149, Acts extra session 1919.) For every license to a merchant, firm, company or corporation, as defined in section forty-five, engaged in the business of a merchant, the amount to be paid shall be graduated as follows: If the amount of purchases shall not exceed one thousand dollars, the amount shall be ten dollars; when purchases exceed one thousand dollars, but do not exceed two thousand dollars, the amount shall be twenty dollars, and when purchases exceed two thousand dollars, but do not exceed one hundred thousand dollars, the amount shall be twenty dollars for the first two thousand, and twenty cents on the one hundred dollars on the excess from two thousand dollars to one hundred thousand dollars, and when purchases exceed one hundred thousand dollars, the amount shall be twenty dollars on the first two thousand dollars, twenty cents on the one hundred dollars from two thousand to one hundred thousand dollars, and ten cents on the one hundred dollars upon all in excess of one hundred thousand dollars.

Each merchant shall keep his invoices and a record with ink of all purchases, and from whom made, which record shall be open to inspection and examination by the taxing officers of the State, and the report of purchases made by the merchant shall be taken from that record; and he or his agents shall make oath to the correctness of the report and that the same is in accordance with said record, and that the record has been accurately kept.

It shall be the duty of the commissioner of the revenue to examine the record of purchases required to be kept by the merchant and to verify the merchant's report of purchases by that record; and he shall state upon the report of purchases made to him by the merchant that he did examine the record of purchases kept by the merchant. Every merchant who does not keep the record herein provided for shall be assessed with and pay a minimum State license tax of twenty-five dollars, in addition to such tax as may be ascertained by the local board of review as hereinafter provided for. Every merchant who does not keep the record herein provided for shall be reported by the commissioner of the revenue to the local board of review, whose duty it shall be to ascertain the correct purchases of such merchant by summoning the merchant before it and by such investigation and examination as it deems proper to make or to have made, to correctly determine the true and correct purchases of such merchant, and when this fact has been ascertained the local board of review

shall direct the commissioner of revenue to assess such merchant with the State license tax provided by law upon the purchases so ascertained, in addition to the minimum State license tax of twenty-five dollars hereinbefore provided for, but the minimum State license tax of twenty-five dollars, hereinbefore provided for, shall not apply to licenses granted merchants in the license year beginning May first, nineteen hundred and sixteen, and ending April thirtieth, nineteen hundred and seventeen. Should the commissioner of the revenue fail to perform the duty herein imposed upon him he shall not be paid by the State any commission upon the tax so assessed, and he shall be subject, in each case of failure, to a fine of twenty-five dollars, to be recovered as other fines are recovered, and it shall be the duty of the local board of review to bring to the attention of the attorney for the Commonwealth each failure of the commissioner of revenue to perform the duty herein required of him.

Provided, further, that goods, wares and merchandise not belonging to a merchant, which are offered for sale by the merchant, or by another person at the merchant's duly licensed place of business, shall require such merchant to take out the license of a commission merchant. The sums imposed under and by virtue of this section shall be in lieu of all taxes for State purposes on the capital actually employed by said merchants or mercantile firms or corporation in said business, except the registration fee and franchise tax, and except that such merchant shall not be exempt from the payment of county, district and road or other levies on the net amount of capital on hand on the first day of February of each year, and may be required to pay the usual city, county, district and road, or other levies thereon, notwithstanding this act. The word "capital" shall be defined as "capital," is defined in subsection two, of section eight, of an act entitled an act to raise revenue for the support of the government and public free schools, and to pay the interest on the public debt, and to provide a special tax for pensions, as authorized by section 189 of the Constitution. Approved April 16, 1903, as amended.

For the purpose of ascertaining the tax to be paid by a merchant beginning business, his purchases shall be considered to be the amount of goods, wares and merchandise bought to commence business with, including goods, wares and merchandise manufactured by him to be offered for sale at the place at which he conducts his business as a merchant, provided such place is not the place of manufacture, also including an estimate of purchases which the merchant will make between the date of the issuance of his license and the thirty-first of March following, and including an estimate of

the amount of goods, wares and merchandise manufactured by him to be offered for sale at the place at which he conducts his business as a merchant, provided such place is not the place of manufacture.

If, after the close of the year for which the license is issued, the merchant should elect not to renew it, but desires the privilege to sell whatever remnant or purchase he may have on hand at the time, it may be lawful for him to do so upon the payment of a license upon said remnant of merchandise to be regarded for purposes of revenue as purchases.

All other property held by such merchant, or firm, or corporation, engaged in mercantile business, not offered for sale as merchandise, shall be separately listed and taxed as other property. The sums required by this section to be paid when the license is taken out shall be collected in the same manner that the amount required to be paid for other licenses are collected. Dealers in coal, wood, or ice, paying license tax under this section, may peddle the same from vehicles without paying additional tax. But nothing in this section shall be so construed as to require a license of any person who may canvass any county or corporation to buy lambs, pigs, calves, fowls, eggs, butter and such like small matters of subsistence designed as food for man, but any person who shall keep a place of business for the purpose of selling such articles in, or within a half mile of, any city or town in the State, shall take out license therefor, as hereinbefore prescribed; provided, that dealers in coal and wood in cities of forty thousand inhabitants or more, who peddle the same from vehicles, shall pay an additional tax of fifty dollars for each wagon thus used.

Merchant on Train.

Sec. 46 $\frac{1}{2}$. (As amended by chapter 148, p. 234, Acts extra session 1915.) That every person, firm, company or corporation engaged in the business of selling on railroad trains in this State, newspapers, periodicals, magazines, candies, fruits, et cetera, shall pay a license tax at the rate of twenty cents for each and every mile of track for which the person, firm, company or corporation operates in this State.

The person, firm, company or corporation desiring to take out the license required by this act shall make a sworn statement of the trackage over which it is proposed to operate in Virginia, and file the same with the commissioner of the revenue, to whom he applies for the license. Any person, firm, company or corporation making a false statement under oath as to trackage shall be guilty of a misdemeanor, and shall be fined not less than twenty-five dollars nor more than five hundred dollars for each offense.

The license required by this act shall be issued by the commissioner of the revenue, and the tax thereon shall be paid to the county or city treasurer where the license is issued, in the same manner other licenses are applied for and tax thereon paid is now provided by law. The license issued under this section shall be good on railroad trains throughout the State.

Railroads and Other Incorporated Companies Which Sell Mineral or Forest Products or Other Articles.

Sec. 47. (As amended by chapter 472, p. 798, Acts 1916.) Every railroad company or other incorporated company in this Commonwealth, whether such privilege be granted in its charter or not, which shall sell any mineral or forest product, or any other article, shall be taxed as other merchants dealing in like commodities. This act shall apply to companies keeping commissaries, or having agents for the sale of any other article than their own product; provided, that nothing herein contained shall prevent a railroad company from buying and distributing to its employees, as a part of their compensation, meat, meal and flour, at the cost price thereof, but nothing in the foregoing shall be construed as requiring a company selling the products of their own mines, or lands, or manufacturies, to pay a merchant's license for so doing, but any such company selling its products at a definite place of business apart from its mine, land or place of manufacture shall pay the merchant's license tax, as provided by law. Any railroad company or other incorporated company selling any article or product on account of the owner, and receiving a compensation therefor, other than for transportation, storage or handling, as provided for in its charter, shall pay a license, the same as commission merchants. It shall be the duty of the commissioner of the revenue to ascertain the liability of such individuals or companies in this State to the payment of such license taxes, and shall assess the same in the same manner as other merchants.

Commission Merchants and Brokers.

Sec. 48. (As amended by chapter 70, p. 109, Acts 1922.) Every person, firm or corporation, doing business in this State, who receives or distributes provisions and merchandise, including flour, hay or grain, shipped to such person, firm or corporation for distribution, on account of the shipper, or who participates in the profits, ensuing from or accruing out of the sales of such provisions or merchandise, including flour, hay or grain, or who invoices such sales or collects the money therefor, shall be deemed to be a broker who receives or dis-

tributes provisions and merchandise, including flour, hay or grain.

Every person, firm or corporation, buying or selling for another, any kind of merchandise, on commission, except associations or organizations of farmers, including produce exchanges, organized and maintained by farmers for mutual help in the marketing of their produce and not for profit, shall be a commission merchant. Any person, firm or corporation licensed as a commission merchant, may sell any personal property which may be left with, or consigned to him for sale, except wine, ardent spirits and malt liquor, gold or silver coin, bonds, certificates of public or private debts or other securities; provided, however, that any such merchant may sell wine, ardent spirits and malt liquor, gold or silver coin, certificates of public or private debts or other securities, by taking out the license therefor prescribed in the case of liquor merchants or stock brokers. Any person, firm or corporation, buying or selling, contrary to the provisions of this act, or who shall in any manner violate the same, shall pay a fine of not less than fifty dollars nor more than one thousand dollars, for every offense.

Note—This section, as amended, specifically excepts associations or organizations of farmers, including produce exchanges, organized and maintained by farmers for mutual help in the marketing of their produce and not for profit.

Commission Merchants' and Brokers' License.

Sec. 49. (As amended by chapter 148, p. 237, Acts extra session 1915.) Every person, firm or corporation shall pay for the privilege of transacting the business of a commission merchant or broker the sum of fifty dollars; provided, the commissions do not exceed one thousand dollars, but when the commissions exceed one thousand dollars, the tax shall be fifty dollars, and an additional tax at the rate of one dollar on each one hundred dollars, or fraction thereof, of commissions in excess of one thousand dollars, and if the license is to include the privilege of selling wine, ardent spirits, and malt liquors, gold or silver coins, bonds, certificates of public or private debts, or other securities, there shall be paid, in addition, the amounts required in each case to be paid by liquor merchants and stock brokers, and in like manner.

Sale by Peddlers.

Sec. 50. (As amended by chapter 457, p. 772, Acts 1916.) Any person who shall carry from place to place any goods, wares or merchandise, and offer to sell or barter the same, or actually sell or barter the same, shall be deemed to

be a peddler, and any person licensed as a peddler may sell any personal property a merchant may sell, or he may exchange the same for other articles; and whenever a license is granted to a peddler to sell such goods, wares, or merchandise, his license shall be valid for one year from date of its issue. Said license shall not be transferable, and any person so licensed shall endorse his name on said license, and such license shall confer authority to sell at any house or place within the county or city in which the license was granted. Any peddler who shall peddle for sale or sell or barter without a license shall pay a fine of not less than fifty dollars, nor more than five hundred dollars for each offense, one-half of which shall go to the informer; any person selling or offering to sell as a peddler shall exhibit his license on demand of any citizen of the county, city or town in which he sells or offers to sell or barter, and upon his failure or refusal to do so he shall be subjected to the penalties of peddling without a license. This section shall be construed to include persons engaged in peddling lightning rods. All persons who do not keep a regular place of business (whether it be in a house, or a vacant lot, or elsewhere), open at all times in regular business hours, and at the same place, who shall offer for sale goods, wares and merchandise, shall be deemed peddlers under this act. All persons who keep a regular place of business, open at all times in regular business hours and at the same place, and who shall elsewhere than at such regular place of business personally, or through their agents, offer for sale or sell, and at the time of such offering for sale, deliver goods, wares and merchandise, shall also be deemed peddlers, as above, but this section shall not apply to those who sell or offer for sale, in person or by their employees, ice, wood, meats, milk, butter, eggs, poultry, fish, oysters, game, vegetables, fruits, or other family supplies of a perishable nature, grown or produced by them and not purchased by them for sale. But a dairyman who uses upon the streets of any city one or more wagons, may sell and deliver from his wagons milk, butter, cream and eggs in said city without procuring a peddler's license.

Peddlers' License.

Sec. 51. (As amended by chapter 148, p. 237, Acts extra session 1915.) For the privilege of peddling or bartering in any county, city or town, there shall be paid two hundred and fifty dollars for each person so engaged or employed, when he travels on foot, and when he peddles otherwise than on foot the tax shall be five hundred dollars, except that the tax on peddlers of ice, wood, meat, milk, butter, eggs, poultry, fish, oysters, game, vegetables, fruits, or other family supplies

of a perishable nature, not grown or produced by them, shall be twenty-five dollars for each vehicle used in such peddling except that no State license shall be charged for peddling fish and oysters in the country or in incorporated towns, nor shall this section apply to persons who are engaged in selling melons from a car or cars in the country, and in towns where the same does not remain for more than twenty-four hours at any one place, and except that the tax on peddlers of pianos and organs shall be ten dollars for each person engaged in selling pianos or organs from a peddler's wagon, said tax to be paid to the proper officer of each county, city and town wherein such wagon is so used; provided, however, that nothing in this act shall be construed to prevent any city or town from requiring an additional license tax on such peddlers of pianos and organs, where the charter of such city or town authorizes it to impose license taxes, and except that the tax on the peddlers of lightning rods shall be two hundred dollars, and that peddlers in coal and wood in cities of over forty thousand inhabitants, who peddle the same from vehicles, shall pay a tax of fifty dollars for each vehicle used; provided, that no State license tax shall be imposed on peddlers of meats sold in the country. Every vehicle used in peddling, as aforesaid, shall have conspicuously displayed thereon the name of the peddler using the same, together with the street and number of his residence, if he resides in any city or town.

It shall be the duty of the commissioner of revenue to issue a peddler's license to a person desiring to obtain the same, upon the presentation to him of the certificate of the county or city treasurer that the license tax has been paid to him. Nothing under this or the preceding section shall be construed to require of any farmer a peddler's license for the privilege of selling or peddling farm products, wood or charcoal grown or produced by him.

Itinerant Merchant, Vender, Auctioneer.

AN ACT to regulate the business of itinerant venders and itinerant auctioneers, prescribing a specific license therefor and providing penalties for a violation thereof. Approved March 16, 1918. Chapter 317, p. 490, Acts 1918.

Whereas, certain evil disposed and irresponsible persons have been in the habit of engaging in business in this State as itinerant venders and auctioneers of goods, wares and merchandise, and by fraudulent and deceptive practices in advertising and conducting their business have greatly defrauded and damaged the people of the State; therefore,

1. Be it enacted by the General Assembly of Virginia, That no persons, co-partnership or corporation shall engage in the business or trade of an itinerant vender or itinerant

auctioneer without first obtaining a specific license so to do from the commissioner of the revenue of the county or city in which such business is to be conducted; and the said commissioner of the revenue shall not issue a license to any such itinerant vender or itinerant auctioneer until he is satisfied that neither fraud or deception of any kind is contemplated or will be practiced, and that neither the sale, the reasons therefor nor the goods to be sold have not already been or will not thereafter be fraudulently or falsely advertised or in any wise whatsoever misrepresented.

2. The sums to be paid by itinerant venders or itinerant auctioneers shall be for such privilege, a specific tax of two hundred dollars per month or fraction thereof, and to be granted for a period of time of not less than one month nor more than three months, which shall be assessed and collected as other license taxes; but shall not be in lieu of the merchants' licenses on purchases or county, city or town license taxes or levies. Said license to be renewed monthly during the continuance of said sale, but not exceeding three months, and shall be a personal privilege and shall not be transferable nor shall there be an abatement in any instance of the tax upon such license by reason of the fact that such person or persons so licensed shall have exercised such license for any period of time less than for which it was granted. The license shall at all times be kept publicly exposed by the licensee on his business premises.

3. The application for such license shall be in writing and verified by oath of the applicant and shall state the name of the applicant, residence, street and number of the proposed place of sale, and shall set forth in detail the goods to be sold and what statements or representations are to be made or advertised as to the same, and the length of time for which the license is desired, and if previously engaged in a like or similar business to designate all the places where the same was conducted within the preceding twelve months, and shall furnish to said commissioner, if demanded, such further evidence as shall be by him deemed necessary to establish the truth of the statements made in the said application.

4. That no specific license, as herein provided, shall be required for the sale at auction of any wagon, carriage, automobile, mechanics' tools, used farming implements, live stock, poultry (dressed or undressed), sea food, vegetables, fruits, melons, berries, flowers, leaf tobacco, or for the sale of used household furniture and used household effects when being sold at the residence of the housekeeper desiring to dispose of the same.

5. No itinerant vender or itinerant auctioneer shall advertise, represent or hold forth any sale as an insurance, bank-

rupt, insolvent, assignee, trustee, estate, executor, administrator, receiver, wholesale or manufacturer's or closing out sale, or as a sale of any goods damaged by smoke, fire, wreck, water or otherwise, or in any similar form, unless he shall, before so doing, state under oath to the commissioner of the revenue, either in the original application for a license or in a supplementary application subsequently filed and copied on the license, all the facts relating to the reasons and character of such special sale so advertised or represented, including a statement of the names of the persons from whom the goods, wares and merchandise were obtained, the date of delivery to the persons applying for the license, and the place from which said goods, wares and merchandise were last taken, and all details necessary to exactly locate and fully identify all goods, wares and merchandise to be so sold.

6. Any false statement in an application, either original or supplementary, for a license, and any failure on the part of any licensee to comply with all the requirements of the last preceding section, shall subject said itinerant vender or itinerant auctioneer to the same penalty as if he had no license, and to further and additional penalty of a fine of two hundred dollars, one-half to be paid to the person first filing complaint therefor with the proper prosecuting officer.

7. That no person licensed, as hereinbefore provided, shall sell at auction, as herein provided, from the first day of April until the thirtieth day of September, both inclusive, between the hours of seven o'clock in the evening and eight o'clock the following morning, nor from the first day of October until the thirtieth day of March, both inclusive, between the hours of six o'clock in the evening and eight o'clock in the morning, any jewelry, diamond, or other precious stone, watch, clock, gold and silverware, gold and silver-plated ware, rugs, curtains, carpets, tapestries, statuary, porcelains, china ware, pictures, paintings, bric-a-brac, or articles of vertu.

8. That any person selling or offering for sale property, under the provisions of this act shall, in describing the same, be truthful with respect to the kind, quality and description of the same and which, for the purposes hereof, shall be considered as warranties, and any breach of the same shall be sufficient to vitiate such sale, and the person making such false representation shall be liable to a fine as hereinafter provided.

9. Itinerant vender or itinerant auctioneer within the meaning of this act, is a person, firm or corporation who shall engage in, do or transact any temporary or transient business in this State, either in one locality or in traveling from place to place in the sale of goods, wares and merchandise, and

who, for the purpose of carrying on such business, shall hire, lease, use or occupy any building or structure, tent, car, boat or public room, or any part thereof, including rooms in hotels, lodging houses, or houses of private entertainment, or in any street, alley or other public place in any city or town, or in any public road in any county, for the exhibition of or sale of such goods, wares or merchandise. This act shall apply to and include principals and their agents and employees and persons forming a co-partnership. But no person shall be exempt from the provisions of this act by reason of associating temporarily with any local merchant, dealer, trader or auctioneer, or by reason of conducting such temporary or transient business in connection with or as a part of the business in the name of any local merchant, dealer, trader or auctioneer.

10. That nothing herein shall be construed to excuse or release any person, firm or corporation, or property from the payment of any occupational or property tax, or any other tax imposed or levied by law. Neither shall anything herein be construed to obviate the application of any fraudulent or false advertisement statute of the State of Virginia to any person who may violate the same; nor shall anything herein be construed to prevent any prosecution for fraud, deceit, or larceny by trick; nor to in any way estop or hinder any remedy at law or in equity or the right to cancel or estop any unconscionable bargain or fraudulent transaction.

11. Nothing in this act shall be held or construed to affect sales made to dealers by commercial travelers or selling agent of regularly established merchants or of manufacturers selling to the trade by sample for future delivery from their established place of business; nor to any person selling products raised upon lands leased or owned by him; nor to individuals handling vegetables, fruits or other farm products, nor to hawkers on the streets.

12. Any person, and the several officers and employees of any corporation, who shall violate any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than twenty-five nor more than five hundred dollars (\$500.00), or by imprisonment of not more than six (6) months, or by both such fine and imprisonment, in the discretion of the court.

13. This act shall not be construed to prohibit the sale of any goods by an assignee, trustee, executor, fiduciary, officer in bankruptcy or other officer appointed by any court of this Commonwealth or of the United States.

14. Nothing in this act shall apply to venders of medicine, salves, liniments, et cetera, the licenses for whom are provided for by sections 119 and 120 of the tax laws, nor to

apply to peddlers, the licenses for whom are provided for in sections 50, 51 and 51a of the tax laws.

Lightning Rod Merchant.

Sec. 51a. (Section added by chapter 148, p. 238, Acts extra session, 1915.) 1. That any person, firm or corporation who sells by sample, in person or through agents, taking orders, and thereafter delivering the lightning rods and all material necessary to the erection of the same to the person or persons from whom said orders have been secured and erecting the same as directed, the same shall be known as a lightning rod merchant.

2. Every such lightning rod merchant shall pay a specific State license tax of twenty-five dollars for each license year, which shall not be subject to any abatement, and shall, in addition to said State license, secure from the commissioner of every county or city, in which such business is done, an additional license for each license year of ten dollars.

3. Nothing in this act shall apply to peddlers of lightning rods selling and delivering same at the time of the sale. Any person, firm or corporation selling contrary to the provisions of this act shall be fined not less than fifty dollars nor more than five hundred dollars for each offense.

Mineral Water—Sale of, License Tax.

Sec. 51½. (New section added by chapter 90, p. 153, Acts extra session 1919.) No person, firm or corporation shall sell or barter bottled mineral water unless such person, firm or corporation shall first obtain a license from the State for that purpose.

Every person, firm or corporation who shall sell or barter such bottled mineral water shall pay for the privilege the sum of five dollars when the gross sales do not exceed five thousand gallons annually, and when the gross sales exceed five thousand gallons annually, shall pay, in addition to the five dollars, the sum of ten cents for each one hundred gallons in excess of five thousand gallons.

Every such person, firm or corporation selling or offering for sale such mineral water, shall keep an accurate account of sales in a book provided by them for that purpose, and it shall be the duty of the proper assessing officer to make the assessment of this tax from said book; and if any such person, firm or corporation, shall fail to keep such book, it shall be deemed guilty of a misdemeanor, and fined not less than one hundred dollars, and, in addition thereto, shall pay to the State a minimum license tax of twenty-five dollars, and the amount of such sales shall be ascertained by the local

board of review when there has been a failure to keep such books in the manner provided by law.

Sale or Barter of Patent Rights.

Sec. 52. (As amended by chapter 148, p. 238, Acts extra session 1915.) No person, except the patentee, shall sell or barter the right to manufacture or use any machinery or other thing patented under the laws of the United States, without first having obtained a license therefor from some commissioner of the revenue of a county or city, which license shall grant the privilege of selling anywhere in the State, but if used out of the county or city where granted, shall be authenticated by the certificate of the clerk of the circuit court of the county, or the clerk of the corporation court of the city where granted, that the person signing the same is really the commissioner of the revenue, and that his signature is believed to be genuine. A separate license shall be required on each patented thing of which the right to make or use is sold, but any person owning the State right for any patented thing may sell anywhere in the State through agents provided with a copy of his license thus obtained certified as hereinbefore provided. Any person violating the provisions of this section shall pay a fine of not less than fifty dollars, nor more than five hundred dollars for each offense.

License for Sale or Barter of Patent Rights.

Sec. 53. (As amended by chapter 148, p. 239, Acts extra session 1915.) Every person who shall sell or barter the right to manufacture or use machinery or other thing patented under the laws of the United States, except the patentee, if he be a citizen of the United States, shall pay for the privilege the sum of twenty-five dollars. Nothing in this or the preceding section shall be construed to authorize the sale of the article or thing patented.

Land Agents.

Sec. 54. (As amended by chapter 148, p. 239, Acts extra session 1915.) No person, firm or corporation shall, without a license, act as agent for the sale of lands. Any person licensed as a land agent may sell land in this Commonwealth entrusted to him for sale. Any person selling land or offering to sell the same, who is not an auctioneer, or who has not the fee simple title, or any other less estate therein, shall be held to be a land agent; but this section shall not be construed to prevent any person not engaged in the business of selling land for compensation, from selling, without license,

any lands for the sale of which he has a duly authenticated power of attorney, nor commissioners and receivers appointed by the courts, nor executors of wills, nor trustees in deeds of trust. For any violation of this section the person offending shall pay a fine of not less than one hundred dollars nor more than five hundred dollars for each offense.

License on a Land Agent.

Sec. 55. (As amended by chapter 148, p. 239, Acts extra session 1915.) A land agent shall pay for the privilege of selling land entrusted to him for sale, the sum of ten dollars and one-eighth of one per centum on amount of sales; provided, however, that if his place of business is in a town or city of more than two thousand and not exceeding three thousand inhabitants, he shall pay the additional sum of ten dollars; if in a town or city of more than three thousand and not exceeding four thousand inhabitants, he shall pay the additional sum of twenty dollars; if in a town or city of more than four thousand and not exceeding five thousand inhabitants, he shall pay the additional sum of thirty dollars; if in a town or city of five thousand inhabitants or more, he shall pay the additional sum of forty dollars; and, provided, further, that where there is a firm of land agents doing business at one locality, said tax shall be on the firm and not on each member thereof.

Book Agents.

Sec. 56. (As amended by chapter 148, p. 239, Acts extra session 1915.) No person, firm or corporation shall, without a license, act as a book agent.

Any person, firm or corporation, other than a licensed merchant, who shall receive subscriptions for, or shall in any manner furnish books, maps, prints, pamphlets or periodicals, shall be deemed to be a book agent. Any person desiring to distribute any religious books, pamphlets, or periodicals, may apply to the judge of the county, circuit or corporation court of any county or city in which he may desire to distribute the same, and said judge, upon being satisfied that the person applying is of good character, and a proper person in whom to confide the trust of distributing such books, may direct the commissioner of the revenue to grant him a license without the payment of a license tax therefor. Any person, firm or corporation violating the provisions of this section shall pay a fine of not less than fifty dollars nor more than one hundred dollars for each offense.

License on Book Agents.

Sec. 57. (As amended by chapter 148, p. 240, Acts extra session 1915.) A book agent shall pay for the privilege of acting as such, the sum of ten dollars.

Auction Sales; Who May Sell Without a License.

Sec. 58. (As amended by chapter 148, p. 240, Acts extra session 1915.) No person shall sell at auction or public outcry, for compensation, without a license, except in the following cases—to-wit:

First. The estate of a decedent may be sold by his personal representative or his agent, according to law or the provisions of the will.

Second. Property conveyed by deed of trust, or decreed or ordered to be sold by a court, may be sold according to the deed, decree or order.

Third. Any person may sell the agricultural products of this State arising from his own or other labor under his control, or his real or personal estate not sold or purchased on speculation.

Fourth. Any officer may sell property distrained by him under execution or other legal process.

Fifth. Licensed commission merchants may sell live or dressed fowls, fresh vegetables, and fresh fish, upon taking out a license of a common crier.

Auctioneer's Account of Sales.

Sec. 59. (As amended by chapter 148, p. 240, Acts extra session 1915.) Every auctioneer, other than a tobacco auctioneer, shall keep an account of sales made by him, showing the aggregate amount thereof; and whenever required by a commissioner of the revenue, shall render an account for assessment of all his sales during the period for which his license was granted, and shall sign and answer all interrogatories respecting such sales as may be propounded to him in pursuance of law. Such accounts, statements and answers shall always be on oath.

What an Auctioneer May Do.

Sec. 60. (As amended by chapter 148, p. 240, Acts extra session 1915.) An auctioneer may conclude the sales of anything he is authorized to sell, grant a certificate or other evidence of the sale, and receive the money; but no auctioneer shall authorize or permit any person to sell any property under and by virtue of his license, except the person

so authorized or permitted is actually and bona fide in the employment of such auctioneer, and is actually and bona fide a resident of the county or city where such auctioneer is licensed to do business, and the commissions on such sale are actually and bona fide for the benefit of such auctioneer; and no license shall be construed to authorize the person to whom it is issued to sell at more than one regular establishment; but an auctioneer may sell anywhere in the county or city wherein he is licensed, public stocks, houses, lots and furniture on ships or vessels, on the premises where the same may be or at the exchange or the store of a regular licensed merchant declining business, or goods in the original form and packages, as imported, and bulky articles such as have been usually sold in warehouses, or in the public streets, or on the wharves, or at such other places in the county or city wherein such auctioneer is licensed, as shall be desired by the owner or importer of such bulky articles or imported goods. If any auctioneer shall violate any of the provisions of this section he shall forfeit and pay for every offense twenty dollars, to be recovered for the use of the party prosecuting the same before a justice of the peace, in like manner as other fines and penalties are imposed and collected. The offer to sell each article shall be deemed a separate offense.

Classification of Auctioneers.

Sec. 61. (As amended by chapter 237, p. 460, Acts 1916.) Auctioneers shall consist of general auctioneers, real estate auctioneers, tobacco auctioneers, and live stock auctioneers, and shall be so classified that their powers and duties and the restrictions and penalties thereon shall be separate and distinct—that is to say:

General Auctioneers; What They May Sell.

Sec. 62. (As amended by chapter 148, p. 241, Acts extra session 1915.) Any person, licensed as a general auctioneer, may sell any goods, wares, merchandise and other articles not prohibited by law; but he shall not sell wine, ardent spirits, malt liquors or any mixture thereof, unless and until he shall have obtained a license therefor in the mode prescribed by law.

Sec. 63. (As amended by chapter 113, p. 149, Acts extra session 1915.) A general auctioneer shall pay the sum of fifty dollars, and if the place of business is in a city or town having a population of more than five thousand inhabitants, two dollars for every thousand above that number, but said sum shall in no case exceed one hundred and thirty dollars. And he shall pay an additional sum of one-fourth of one per

centum on the amount of sales for the year. Provided, however, a general auctioneer is not required to pay the percentage tax on sales made by him under order of court, or for persons acting in a fiduciary capacity where the general auctioneer only cries the sale and grants the certificate thereof. If he sells wine, ardent spirits, malt liquors, or any mixture thereof, he shall pay one-half of one per centum on the amount of such sales.

Real Estate Auctioneers.

Sec. 64. (As amended by chapter 148, p. 241, Acts extra session 1915.) Any person licensed as a real estate auctioneer may sell, in the county or city wherein he is licensed, at auction or privately, any real estate in this Commonwealth entrusted to him for sale; provided, that no such auctioneer shall be allowed to negotiate loans upon a mortgage of real estate or otherwise, without taking an additional license as a private banker. For any violation of this section the person so offending shall pay a fine of not less than one hundred dollars nor more than one thousand dollars for each offense.

Real Estate Auctioneer's License.

Sec. 65. (As amended by chapter 148, p. 241, Acts extra session 1915.) A real estate auctioneer shall pay the sum of fifty dollars; if the place of business is in a city or town containing a population of five thousand inhabitants or under, he shall pay seventy-five dollars; if in a city of more than five thousand, but not exceeding twenty thousand inhabitants, he shall pay one hundred dollars; and in a city of more than twenty thousand inhabitants, he shall pay one hundred and twenty-five dollars.

Tobacco Auctioneers.

Sec. 66. (As amended by chapter 148, p. 241, Acts extra session 1915.) Any person or firm licensed as a tobacco auctioneer may sell at auction any tobacco not prohibited by law to be sold. For any violation of this section the person or firm offending shall pay a fine of not less than fifty dollars nor more than five hundred dollars for each offense.

Tobacco Auctioneers' License.

Sec. 67. (As amended by chapter 148, p. 241, Acts extra session 1915.) Tobacco auctioneers shall pay for the privilege of transacting business twenty-five dollars, except in cities they shall pay fifty dollars; and, provided, further,

that in incorporated towns the auctioneer for any warehouse or warehouses in which were sold during the previous year, ending April thirtieth, five million pounds or more of tobacco, shall pay fifty dollars; but in any case where such sales amount to less than one million pounds the tax shall be only ten dollars.

Live Stock Auctioneers.

Sec. 67a. (Section added by chapter 237, p. 460, Acts 1916.) **Live stock auctioneers.**—Any person, firm or corporation licensed as an auctioneer to sell horses, mules and other live stock may sell, in the county or city wherein licensed, at auction or privately, for their own account or for the account of others, horses, mules and other live stock.

Live Stock Auctioneers' License.

Sec. 67b. (Section added by chapter 237, p. 460, Acts 1916.) **Live stock auctioneers' license.**—Live stock auctioneers shall pay for the privilege of transacting business the sum of fifty dollars; provided, the commissions and profits from sales do not exceed one thousand dollars, but when the commissions and profits from sales exceed one thousand dollars, the tax shall be fifty dollars, and an additional tax at the rate of one dollar on each one hundred dollars, or fraction thereof, of commissions and profits from sales in excess of one thousand dollars. Any licensed live stock auctioneer who buys and sells on his own account shall, for the conduct of that business be deemed to be a merchant and shall take out a merchant's license. Said license tax upon a live stock auctioneer, who sells for the account of others, the license tax provided in this section shall be in lieu of any tax, State or local, on capital, except that the cities and towns may prescribe a license tax in addition to the one hereby imposed.

Licenses to Retailers of Tobacco.

Sec. 68. (As amended by chapter 472, p. 799, Acts 1916.) No person, not a producer, shall be allowed to sell by retail, tobacco, snuff and cigars without having obtained a specific license to do so.

The sums to be paid by retailers of tobacco, snuff and cigars shall be for such privilege, a specific tax of five dollars, which shall be assessed and collected as other license taxes; but shall not be in lieu of merchants' license on purchases.

Provided, however, that a licensed hotel keeper or a keeper of a house of private entertainment or eating house whose purchases of tobacco, snuff and cigars are in any year

less than five hundred dollars, may, under the license to retail tobacco, sell such tobacco, snuff and cigars in a duly licensed hotel or house of private entertainment or eating house without taking out a merchants' license; provided, he does not conduct a mercantile business in connection with the business of hotel keeper or keeper of a house of private entertainment or eating house, in which case he shall, for such business, be licensed as a merchant, and required to return with his other purchases his purchases of tobacco, snuff and cigars.

Junk Dealers, Canvassers, Etc.

Sec. 69. (As amended by chapter 148, p. 242, Acts extra session 1915.) No keeper of a shop, for the purpose herein mentioned, or master of a vessel, or other person, shall, without a license authorized by law, purchase, sell, barter or exchange, any kind of second-hand articles, junk, rags in culling, bones, bottles, puer, scrap, metals, metal drosses, steel, iron, paper, old lead pipe, old bathroom fixtures, old rubber, old rubber articles, or other like commodities, except furniture, clothes, shoes and stoves intended to be resold for use as such. The hustings or corporation court of any city, and the circuit court of any county, may grant a license to any citizen of the United States who shall produce to it satisfactory evidence of his good character to carry on the business of a junk dealer, which license shall designate the premises on which said person shall exercise or carry on said business; and no person shall exercise or carry on the business of a junk dealer without being duly licensed, nor in any other premises than the one designated in said license, except by the consent of the court which granted the license, under the penalty of fifty dollars for each day he shall exercise or carry on said business without such license, or in any other premises than the one so designated, except by the consent of the court aforesaid. The place at which such business may be conducted shall be kept open for the purchase or sale of any of the articles mentioned aforesaid. Nor shall any purchase be made by such person, or by any other person or persons for him, except between the hours of sunrise and sunset; and such place of business shall be open at all times to the inspection of any revenue or police officer of the county or corporation wherein the license issued. Every person receiving such license shall place over the principal entrance of his place of business a sign designating that he is a licensed junk dealer. No person shall canvass for the purpose of buying any junk or other like commodity enumerated above in this section, for any such junk dealer, or for sale to such junk

dealer, or to any other person, unless such person be authorized so to do, in writing, by some junk dealer licensed and appointing him under this section. Every such junk dealer, desiring to appoint such canvassers, shall take out a license for each canvasser he shall wish to appoint. Such canvasser's license shall be issued in the name of the dealer applying therefor, and the commissioner of revenue shall furnish with each canvasser's license two tin signs, numbered in duplicate with the following words thereon, viz: "Licensed Junk Canvasser No. ———," and said signs are to be firmly and conspicuously fixed by such canvasser to each side of his vehicle, when using the same in canvassing.

Canvassers so appointed shall be permitted to canvass anywhere in this State. Any person violating the provisions of this section shall pay a fine of not less than fifty dollars nor more than one hundred dollars for each offense. Nothing contained in this section shall be construed or operate to prevent any person, firm or corporation keeping or operating a foundry or machine shop from exchanging his new castings for old ones, or from buying any old metals or old machines for use in his business, or to be renovated and sold; but nothing herein contained shall authorize any such person, firm or corporation operating a foundry or machine shop to buy any old metals or old machines and sell them again in the same condition as they were when purchased. Nothing in this section shall be construed to prevent any regular licensed merchant in the country, or in towns having a population of two thousand or less from buying or trading for rags, old iron, or other articles of junk, unless there be a regular licensed junk dealer within three miles of his place of business, such merchant to be subject at all times to the same conditions of inspection as a regular junk dealer. Every junk dealer and every merchant and foundryman who deals in junk, old metals, et cetera, shall keep at his place of business a book, in which shall be fairly written in English, at the time of each transaction in the course of his business, an accurate account of such transaction except as to the purchase of rags, bones, old iron, and paper, setting forth a description of the goods, articles, or anything purchased, the time of receiving the same, the name and residence of the person selling or delivering the same, the terms and conditions of purchase or receipt thereof, and all other facts and circumstances respecting such purchase or receipt. Which said book or books shall, at all times, be subject to the inspection of the judges of the criminal courts, the chief of police, the captains and sergeants of the police of the city, town or county wherein such business is being conducted, or any or either of them, sergeant and sheriff of such city, town or county or other

officer with police jurisdiction; provided, however, that this section shall not apply to articles bought without the State of Virginia. It shall be the duty of every junk dealer, every such merchant and foundryman to admit to his premises at any time any officer mentioned above, to examine any books or other record on the premises, as well as the articles purchased or received; and to search for and take into possession any article known by him to be missing, or known or believed by him to be stolen, without the formality of search warrant or any other process, which search or seizure is hereby authorized. Every junk dealer shall be liable to all the penalties herein provided for violation of any of the provisions of this section, whether such violation be committed by himself or by his agent, clerk or employee.

Junk Dealers' License.

Sec. 70. (As amended by chapter 148, p. 243, Acts extra session 1915.) Every junk dealer shall pay for the privilege of transacting business the sum of fifty dollars, and for the privilege of doing business at other premises than that designated in the license the sum of twenty-five dollars, and for the privilege of appointing canvassers, for the purpose of buying any junk or other matter or things for any such junk dealer, or for sale to a junk dealer, the sum of thirty dollars for each canvasser appointed and licensed, as well as the cost of the tin signs furnished such canvasser.

Common Criers.

Sec. 71. (As amended by chapter 148, p. 243, Acts extra session 1915.) No person shall act as a common crier without a license. A person licensed as a common crier may, except in cities of over fifteen thousand inhabitants, cry for sale at any place in the county or city in which his license issued, any property, real or personal, for an auctioneer, fiduciary, or the owner of the property, when such owner is authorized to sell the same by auction, but he shall not conduct a sale otherwise than under the present and immediate direction of the property owner or other person authorized to sell the same, nor shall he cry such property or conduct such sale by an agent. He shall not, as such crier, receive money on account of the sale or grant acquittances. He may receive for his services a stated compensation, but he shall not receive any commission or percentage on the amount of the sale, nor any specific or contingent interest in the sale as a compensation for his services, directly or indirectly. Any person licensed as a common crier in a city of over fifteen thousand inhabitants, may sell fowl, butter, fresh fish, fresh vege-

tables, fruit or articles of like perishable nature. For any violation of this section the person offending shall pay a fine of not less than fifty nor more than five hundred dollars for each offense.

License to Common Crier.

Sec. 72. (As amended by chapter 148, p. 244, Acts extra session 1915.) Each and every person, in order to be licensed as a common crier, shall pay five dollars.

Ship Brokers.

Sec. 73. (As amended by chapter 148, p. 244, Acts extra session 1915.) No person, firm or corporation shall act as a ship broker without a license. Any person engaged in the management of business matters occurring between the owners of vessels and the shippers or consignors of the freight which they carry shall be deemed to be a ship broker. Any person, firm or corporation violating the provisions of this section shall pay a fine of not less than one hundred dollars nor more than five hundred dollars for each offense.

Ship Brokers' License.

Sec. 74. (As amended by chapter 148, p. 244, Acts extra session 1915.) A ship broker shall pay for the privilege of transacting business the sum of fifty dollars.

Stock Brokers.

(See act of March 20, 1920, which follows section 76.)

Sec. 75. (As amended by chapter 148, p. 244, Acts extra session 1915.) No person, firm, bank or corporation shall, without license, act as a stock broker. Any person, firm, bank or corporation that deals in coins, foreign or domestic exchange, government stock or other certificates of debt, or shares in any corporation or chartered company, bank notes or other notes used in currency, or who sells the same or any of them on commission or for other compensation, or who negotiates loans upon real estate security, except a licensed attorney at law, shall be deemed to be a stock broker. A stock broker shall have the right to buy and sell for profit, or to sell on commission, the coin, exchange, stocks, certificates of debt, shares in chartered companies, bank notes and notes used as currency as aforesaid, and may sell either privately or by auction, and also negotiable loans upon real estate security. Any person, bank or corporation violating the provisions of this section shall pay a fine of not less than one hundred dollars nor more than five thousand dollars for each offense.

Bankers or Brokers Engaged in Dealing in Options or Futures.

Any person, firm or corporation engaged in buying and selling, or who receives orders to buy or sell cotton, grain, provisions or other commodities, stocks, or bonds, shall be deemed to be a banker or broker dealing in options and futures. Any person so dealing in options or futures without a license to transact or engage in such business, shall pay a fine of not less than three hundred dollars, nor more than five hundred dollars for each offense.

License to Bankers or Brokers Dealing in Options or Futures.

Every banker or broker dealing in options or futures or in buying or selling options or futures, shall pay the sum of two hundred dollars for the privilege of transacting such business.

License to Stock Brokers.

Sec. 76. (As amended by chapter 148, p. 245, Acts extra session 1915.) A stock broker shall pay for the privilege of transacting business the sum of one hundred dollars, but in towns or cities of over five thousand and not more than ten thousand inhabitants he shall pay one hundred and fifty dollars, and in cities of more than ten thousand inhabitants he shall pay two hundred and fifty dollars for each office or place of business kept for that purpose.

BLUE SKY LAW.

As amended by the General Assembly in Extra Session 1923.

To Prevent Unfairness, Imposition or Fraud in the Sale or Disposition of Certain Securities, Etc.

AN ACT to amend and re-enact an act entitled "An act to prevent unfairness, imposition or fraud in the sale or disposition of certain securities herein defined by requiring an inspection and regulation of the business of any person, association, partnership, or corporation, engaged or intending to engage, whether as principal, broker, or agent, in the sale of any such securities in the State of Virginia, as may be necessary to prevent unfairness, imposition or fraud in the sale or disposition of said securities, and prescribing penalties for the violation thereof, approved March 23, 1918," approved March 20, 1920, as amended by an act approved March 29, 1923. (Chapter 359, Acts 1920, and chapter 142, Acts extra session 1923, amending Secs. 1, 2, 9 and 11.)

1. Be it enacted by the General Assembly of Virginia, That an act entitled an act to prevent unfairness, imposition or fraud in the sale or disposition for certain securities herein

defined by requiring an inspection thereof, providing for such inspection, supervision and regulation of the business of any person, association, partnership, or corporation, engaged or intending to engage, whether as principal, broker, or agent, in the sale of any such securities in the State of Virginia as may be necessary to prevent unfairness, imposition or fraud in the sale or disposition of said securities, and prescribing penalties for the violation thereof, approved March twenty-third, nineteen hundred and eighteen, be amended and re-enacted so as to read as follows:

Sec. 1. Definitions of terms "securities," "speculative securities," "speculative enterprise" and "promoter" as used in this act.—The term "securities" as used in this act shall be taken to mean stock certificates, shares, bonds, debentures, certificates of participation, contracts, contracts or bonds for the sale and conveyance of land on deferred payments or installment plan, subscriptions to the capital stock or other securities of any corporation or joint stock company, whether the same has been chartered or organized or not; or other instruments in the nature thereof by whatsoever name known or called. The term "speculative securities" as used in this act shall be taken to mean and include (1) all securities to promote or induce the sale of which, profit, gain or advantage unusual in the ordinary course of legitimate business is in any way advertised or promised; (2) all securities for promoting the sale of which a commission of more than ten per centum is offered or paid, either in money, stock, property or otherwise, either directly or indirectly; (3) the securities of any enterprise, association, partnership or corporation which has included or proposes to include in its assets as a material part thereof, oil, gas, coal or mineral lands, services of any person or persons, leases or rights, options, patents formulae, good-will, promotion, or intangible assets, or which has issued or proposes to issue a material part of its securities in payment for formulae, options, patents, good-will, promotion or intangible assets, oil, gas coal, or mineral lands, services of any person or persons, or any consideration of a similar nature other than money; (4) securities made or issued in furtherance or promotion of any enterprise or scheme for the sale of unimproved or undeveloped land on any deferred payment or installment plan, where the value of such securities materially depends on the future performance of any stipulation or promise to furnish irrigation or transportation facilities, sidewalks, sewers, gas, light, streets, or other value enhancing utility or improvement; (5) contract issued by persons or companies which purport to entitle the holder thereof to a loan from the issuer after the payment of certain installments or dues,

or contracts of a similar nature by whomsoever issued, or by whatsoever name called; (6) any stock contract, certificate of participation or other agreement which purports to permit persons, associations, partnerships or corporations to purchase any property, real, personal, or intangible at a less price or upon more favorable terms than the general public is permitted to purchase same; (7) deeds, contracts, subscription agreements or other papers or contracts, by which persons are or may be sold title to or interests in units or lots of oil or mineral lands or in lands outside of this State, which are so divided to be planted in trees, vines or shrubs, or are divided or to be divided into town or suburban lots; provided, that this clause shall not be construed to include the bona fide owners of any such lot or unit who may sell same for his own account and not as a part of or in furtherance of any promotion. The term "speculative enterprise" as used in this act shall be taken to mean any business undertaking, project, venture or activity for the promotion or furtherance of which "speculative securities" as herein defined are made, issued, sold or offered for sale. The word "promoter" as used in this act shall include any person, agent, broker, partnership, association or corporation who shall sell, offer for sale, advertise or do any act in furtherance of the sale, barter or exchange of any "speculative securities" as defined in this act.

Sec. 2. Information and fees required of promoters; conditions precedent to offering securities for sale; bond required.—It shall be hereafter unlawful for any promoter to sell or offer for sale (except to banks, bankers, trust companies or dealers in securities) or by means of any advertisement, circulars or prospectus, or by any other form of public offering, to attempt to promote the sale of any speculative securities in this State until the said promoter shall have first applied for and secured from the State Corporation Commission, hereinafter called the commission, a permit to do so, and no such permit shall be granted until there first shall have been filed with the commission by the applicant and made a part of such application, duly sworn to: (1) a copy of the securities so to be promoted; (2) a statement in substantial detail of the assets and liabilities of the person or company making and issuing such securities and of any person or company guaranteeing the same, including specifically the total amount of such securities and of any securities prior thereto in interest or lien, authorized or issued by any such person or company; (3) if such securities are secured by mortgage or other lien, a copy of such mortgage or of the instrument creating such lien, and a competent appraisal or valuation of the property covered thereby, with a specific statement of all

prior liens thereon, if any; (4) a full statement of facts showing the gross and net earnings, if any, of any person or company making, issuing or guaranteeing such securities, or of any property covered by any such mortgage or lien; (5) all knowledge or information in the possession of such promoter relative to the character or value of such securities or of the property or earning power of the person or company making, issuing or guaranteeing the same; (6) a copy of any prospectus or advertising matter which is to be used in connection with such promotion, and no such prospectus or advertising matter shall be used, unless the same has been filed hereunder, but same may be amended from time to time, by filing copies of the amendments with the commission; (7) the names, addresses, and selling territory in this State of any agents by or through whom any such securities are to be sold, and no such agents shall be employed unless such statement with respect to them, together with satisfactory evidence of their good character, has been filed hereunder and there shall have been paid to the commission a registration fee of twenty-five dollars for each such agent; provided however, that if such agent's license shall be granted on or after November first of any year the fee for such license shall be the sum of fifteen dollars. The payment of such fee shall be payment in full of all fees for registration of such agent for the sale of any properly licensed issue of securities, until and including the first day of May next following; (8) the name and address of such promoter, including the names and addresses of all partners; if the promoter be a partnership, and the names and addresses of the officers and directors or trustees, if the promoter be a corporation or association; (9) a statement showing in detail the plan on which the business or enterprise is to be conducted; (10) the articles of co-partnership or association, and all other papers pertaining to its organization, if the securities be issued or guaranteed by a co-partnership or unincorporated association; (11) a copy of its charter and by-laws if the securities be issued or guaranteed by a corporation; (12) any other information concerning the said promotion, its assets or the persons interested therein, which the commission may require; (13) a copy of the contract to be used in taking subscriptions for such securities wherein shall be set out a complete and accurate statement, without unnecessary verbiage, of any stock or security of the corporation whose securities are being offered for sale, which has been or is proposed to be issued for any consideration, other than par value or more in money, together with a full statement of the exact amount which is being paid, or is proposed or promised or contracted to be paid, directly or indirectly in money, securities or otherwise for the promotion of such corporation or the flotation of such securities, either directly or indirectly, to any person what-

soever; (14) a filing fee of fifty dollars; (15) in any case the commission shall have the right to require of any promoter before granting a permit for the sale of stock a bond the form whereof shall be prescribed and the surety approved by the commission penalty whereof shall be fixed by the commission at not more than twenty per centum of the face value of the securities issued or proposed or authorized to be issued. The said bond shall be with surety and payable to the Commonwealth, conditioned that the facts set forth in the application for such permit and in all other documents required by this act to be filed with the commission are true, and that the provisions of this act shall be strictly complied with. Such bond may be made with individual sureties or a surety company authorized to do business in this State, but it shall be the duty of the commission to satisfy itself that such surety is amply solvent before accepting same; if and when the application shall have been approved by the commission, the applicant shall before receiving a permit to sell stock in the State, pay a license fee, which license fee shall be computed at the rate of one-fourth of one per centum upon the par value of all securities permitted to be sold in the State, irrespective of the actual value of such securities or the consideration to be received therefor; but the maximum fee to be charged or collected hereunder shall not exceed five hundred dollars. For the purposes of this section, stock without nominal or par value shall be assumed to have a par value of one hundred dollars per share. The amount of the filing fee hereinbefore provided for shall be deducted from the amount of license fee so ascertained.

Sec. 3. Suits on bond.—Any person who shall be induced to purchase any speculative securities as defined in this act by any promoter, by reason of any misrepresentation of any material fact concerning such securities, contained in said application or other documents submitted in connection therewith or furnished to the commission, upon its request or any other written or printed matter issued or used by said promoter or its or his agents in making such sale, shall have the right to bring suit upon the bond above provided for, and such bond shall be security for such person for his losses; but such person shall not be entitled to recover more than the money paid, or the actual value of the property given, or the labor performed, in exchange for such securities, with legal interest from the date of the payment or the performance of the services or the transfer of the property. One or more recoveries upon such bond shall not vitiate the same, but it shall remain in full force and effect, but no recoveries upon such bond shall ever exceed the full amount of same, and upon suits being commenced in excess of the amount of same, the commission may require a new bond, and, if the same is not

given within thirty days, the commission may revoke the permit herein provided for; provided, however, that any suit or action instituted under this section shall be commenced within one year from the date of any such sale by such promoter or its or his agents.

Sec. 4. Foreign promoter to appoint Secretary of the Commonwealth as agent on whom process may be served; effect of service.—Every foreign promoter, before being granted a permit to sell or offer for sale any speculative securities in this State, shall also file in duplicate with the commission his or its written consent, irrevocable, that action or suit may be commenced against him or it in the proper courts of any county or city in this State in which a cause of action may arise, by the service of process on the Secretary of the Commonwealth and stipulating and agreeing that such service of process on the Secretary of the Commonwealth shall be taken and held in all courts, to be as valid and binding as if due service had been made upon himself in person or the company itself, according to the laws of this or any other State, and such instrument shall be authenticated by the seal of said foreign corporation, and shall be accompanied by a duly certified copy of the order or resolution of the board of directors, trustees, or managers of the corporation authorizing the said secretary and president to execute the same; it shall be the duty of the commission to file one copy of such consent with the Secretary of the Commonwealth. When lawful process against any such promoter shall be served upon the Secretary of the Commonwealth, he shall forthwith mail a copy of such process to the defendant or defendants therein named, at such address as may have been filed with the commission by such defendant. A judgment, decree or order of any court entered or made against any such person, firm or corporation after service of process or notice as aforesaid shall be valid and binding on such defendant, in case of a corporation, as if it had been incorporated under the laws of this State and served with process or notice therein, and in the case of members of a firm or individuals, as if they had been personally served with process or notice therein. But foreign, unincorporated associations shall not be permitted to sell speculative securities in this State, until the commission shall be satisfied that the officers executing such consent have power under the laws of this State to bind the members of such association.

Sec. 5. Adverse finding of commission, notice of, effect of.—If from the application for a permit to sell or offer for sale speculative securities in this State, and from other statements, papers and documents on file, or from other evidence submitted, or from the investigations of the commission, it

shall appear, and the commission shall find (1) that the makers or guarantors of said securities are insolvent, or are untrustworthy; (2) or that the promoters' plan of business is dishonest, or fraudulent; (3) or that the promoters' plan of business does not adequately secure investors against the unlawful dissipation or misapplication of the funds of the enterprise, or business; (4) or that the promoters' literature or advertising is misleading and calculated to deceive purchasers or investors; (5) or that the enterprise or business of the promoter is unlawful or against public policy; (6) or is a mere scheme of a promoter or promoters to get money or property at the expense of the purchasers of the aforesaid securities; (7) or that the enterprise or business of the promoter is not based upon sound business principles, the said commission may refuse such permit. Notice of such refusal shall immediately be given to the applicant by registered mail.

Sec. 6. Investigation by commission; findings.—The commission, its assistants or agents, shall at any time, have the authority and jurisdiction, to investigate the affairs and audit the books and accounts of any speculative enterprise, the securities of which are being sold or offered for sale or are proposed to be sold or offered for sale in this State, so far as may be necessary to ascertain whether or not the facts would justify any or all of the findings enumerated in section five, and to ascertain whether or not a permit shall be granted, or whether any permit which may have been granted, either heretofore or hereafter, in accordance with this act, shall be continued, suspended or revoked, and after giving the promoters a hearing, may, if the evidence warrant, refuse or revoke said permit, and may make such order as to the costs, including compensation not exceeding twenty dollars per day for the time employed in making such examination or audit and actual hotel, traveling and other expenses of the person or persons making the investigation, as appears to be just, and if upon such investigation such permit shall be revoked or suspended, it shall thereafter be unlawful for any promoter to sell, offer for sale, or by means of any advertisement, circular or prospectus, or by any other form of public offering to attempt to promote the sale of the securities of such speculative enterprise in this State, until such order be set aside as herein provided. The provisions of this section shall apply as well to those securities which are now being sold as to those which may be permitted to be sold in the future.

Sec. 7. Procedure in investigation.—The commission, its assistants or agents shall have the power to issue subpoenas and process compelling the attendance of any person and the production of any papers or books for the purposes of

such investigation and examination as is provided for in this act, and shall have power to administer an oath to any person whose testimony may be required on such examination or investigation; and it shall be unlawful for any person to refuse to obey any such subpoena or make answer to any competent and material questions propounded to him by the commission, its assistant or agent. No person shall refuse to testify because his testimony would tend to incriminate himself, but if called to testify by the commission or the Commonwealth, he shall not thereafter be prosecuted for any crime growing out of the transaction concerning which he testifies. Upon the conclusion of any investigation, the commission may make findings of fact touching the matter or matters under investigation, and such findings shall be prima facie evidence of the truth of the matters therein found by the commission in any action, either civil or criminal, instituted under any of the laws or statutes of this State against the person, persons, partnerships, corporation or association selling or offering for sale such securities, or their agents or representatives. The notices provided for in this act may be given by registered letter mailed to the last known address of person or persons or corporations to be investigated and the commission's certificate shall be sufficient evidence of such notice and the mailing thereof.

Sec. 8. Appeals from decisions of commission.—Appeals may be taken by either party from the decision of the commission to the Supreme Court of Appeals of Virginia. The granting of such appeal, however, unless so ordered by the court, shall not operate as a stay of proceedings.

Sec. 9. Securities exempt from operation of this act.—The provisions of this act shall not apply to (a) securities of the United States; or any foreign country; or of any State or territory; or of any county, city, township, district or other taxing subdivision of any State or territory of the United States or any foreign government. (b) Securities of public service or utilities corporations after organization, which are regulated by the commission or by the public service commission or board of similar authority of any State or territory of the United States; or securities senior thereto. (c) Securities of any national bank, or of any bank, trust company or building and loan association, organized under the laws of this State, after organization and while subject to examination and supervision by the proper authorities thereof. (d) Securities of any domestic corporation organized without capital stock, for religious, charitable or reformatory purposes. (e) Securities of persons, firms or corporations which are not comprehended in the definition of "speculative securities" contained in section one of this act. (f) The capital stock of a corporation, whose authorized capital is not more than

twenty-five thousand dollars; provided, however, that if any single enterprise or business shall be divided into two or more parts and separately incorporated for the purpose of bringing such enterprise or business within this exception, it shall be deemed to be a fraudulent evasion of this act and shall be punishable in the manner prescribed by section eleven hereof. (g) Securities which are offered for sale or exchange only to the persons named in the charter, as directors, officers or incorporators.

Sec. 10. Contract used by promoter, forms, contents, type.—It shall be unlawful for any promoter to engage in selling, offering to sell or contracting to sell any speculative security, except by printed contract, the form of which shall be approved by the Corporation Commission and in which shall be plainly set out in type not smaller than ten point, without unnecessary verbiage, the exact amount of money, fees, commissions, stock or securities which any person has received or is to receive by reason of the promotion or sale of such securities or which has been or is to be given or paid for any property, patents, options, formulae, copyrights, leases or promotion, or intangible assets, either directly or indirectly, by any shift or device whatsoever, and it shall be unlawful for any corporate officer or other person in any capacity whatsoever to pay or issue or cause to be issued or paid for any such consideration, or as a bonus any money, stock or securities except as set forth in such subscription contract, unless any changed plan together with a properly changed form of contract, shall have first been approved by the commission and such change shall be agreed to in a regularly called stockholders' meeting or in the event the promoter be not a corporation, then same must be agreed to by those persons or their assignees, who have purchased at par or more the majority of such securities. In every such contract as provided for in this section the following shall be stated in twelve point bold face type: "The value of the stock or securities referred to in this contract has not been passed upon by the State Corporation Commission."

Sec. 11. Violation of provisions of this act, punishment for.—Any promoter, or other person who shall commit, in whole or in part, in this State any act declared unlawful by this act or who shall fraudulently evade or attempt to evade the provisions thereof, shall be deemed guilty of a misdemeanor where not otherwise provided, and on conviction, be punished by a fine of not less than one hundred nor more than five thousand dollars, or by confinement in jail for not less than thirty days or more than one year, or by both such fine and imprisonment. Indictments or presentments charging violations of this act shall not be certified to a justice of the

peace for trial. The court before whom such fine is imposed shall order one-half of such fine to be paid to the person or persons instigating the prosecution in which such fine was imposed.

Every sale or contract made in violation of any of the provisions of this act shall be voidable at the election of the purchaser, and the person making such sale or contract for sale, and every agent of or for such seller who shall have participated or aided in any way in making such sale, shall be jointly and severally liable to such purchaser, upon tender to the seller or in court of the securities sold or of the contract made, for the full amount paid by such purchaser together with all taxable court costs and reasonable attorney fee in any action brought under this section.

The limitation of any prosecution for a violation of any act declared by this chapter to be a misdemeanor shall hereafter be two years.

Sec. 12. Persons exempt from operation of this act; successive sales evidence of fraud.—This act shall not apply to the owner of any speculative security, who is not the maker or issuer thereof, who shall acquire and sell the same for his own account in the usual and ordinary course of business and not for the direct or indirect promotion of any enterprise or scheme within the purview of this act, providing that such ownership is in good faith. Repeated or successive sales of any such speculative security or securities shall be prima facie evidence that the claim of ownership is not bona fide, but is a mere shift or device to evade the provisions of this act.

Sec. 13. Fees; disposition of; assistants, expenses and salaries.—All fees herein provided for shall be collected by the commission and shall be turned into the State treasury. The commission shall also have full power to employ such temporary assistants or clerks as it may from time to time deem necessary and fix their compensation, and all salaries and expenses necessarily incurred in the administration of this act shall be paid out of any funds appropriated for the purpose.

Sec. 14. False statement or entry, making of, a felony; punishment.—Any person who shall knowingly or wilfully subscribe to, or make or cause to be made any false statements or false entry in any book of account or other paper of any person, co-partnership, association or corporation subject to the provisions of this act, or exhibit any false paper, with intention of deceiving any person authorized to examine into the affairs of such person, co-partnership, association or corporation, or shall knowingly make any false statements materially affecting the value of the stocks, bonds, or other securities, offered for sale by any such person, co-partnership, asso-

ciation or corporation, shall be deemed guilty of a felony and upon conviction thereof, shall be fined not less than one hundred dollars nor more than five thousand dollars, or shall be imprisoned not less than six months or more than one year in jail, or not less than one year nor more than ten years in the State penitentiary, or by both such fine and imprisonment, in the discretion of the jury or the court trying the case without a jury.

Sec. 15. Constitutionality of this act.—Should the courts declare any section or clause of this act unconstitutional, then such decision shall affect only the section or clause so declared to be unconstitutional, and shall not affect any other section or part of this act.

Sec. 16. Promotion securities, powers of commission relating to in escrow.—The commission shall determine what part, if any, of the securities which any person, firm or corporation, subject to the provisions of this act, proposes to offer or are offering are promotion securities and may make such order as may seem just and proper to prevent the sale of such promotion securities in competition with treasury securities, in such way as to defraud the public, as may seem proper and just to that end, and for that purpose shall require that securities issued for other consideration than money, at the same price that like securities are sold to the public be placed in escrow upon such conditions as the commission may direct, to remain in escrow until all treasury stock has been sold or the authority to sell same surrendered, unless for cause shown, same or any part thereof shall be sooner released.

Sec. 17. Promotion fees, amount of; powers of commission relating to.—It shall be unlawful for any person, or persons, associations, co-partnerships or corporation to receive or pay, either directly or indirectly, under any guise, device, or pretext whatsoever, as promotion fee and as compensation for the organization of any corporation and flotation and sale of any security whatsoever, more than twenty per centum of the value of the security promoted, floated and sold, unless in the judgment of the Corporation Commission it should be proper to allow a larger per centum which in no case shall exceed thirty per centum, this is to cover the total promotion, organization or flotation fees and expense either paid to one or more persons, firms or corporations, whether paid in money, stock or other things whatsoever.

Except that in the case of the organization of banks, trust companies, banking companies or building and loan companies, the total costs for organization and sale of securities shall not exceed seven and one-half (7½) per centum of the price at which the securities of such institution are sold, and noth-

ing herein is to be construed as permitting such expenses to be paid out of the capital stock of such institution.

Sec. 18. Purpose of this act.—This act shall not be construed to prevent the sale of purely speculative securities, but to give the commission power to regulate the sale thereof, and to require that the promoters of such securities shall honestly apply the proceeds of the sale thereof to the purpose for which such securities are sold.

Sec. 19. Failure of promoter to comply with orders of commission; effect of.—In the event of the failure of any promoter to comply with any order which the commission is authorized by this act to make, then it shall be unlawful for such security to be sold until such order is complied with or set aside, as herein provided, and the commission shall have power to impose a fine not exceeding five hundred dollars, for failure or refusal of any person or corporation to comply with any order which the commission may have made, under authority of this act, such fine to be collected by its process, as provided by law.

An emergency existing in that the good people of this State shall be further protected from imposition in the manner prohibited by this act, this act shall be in force from its passage.

Private Bankers.

Sec. 77. (As amended by chapter 148, p. 245, Acts extra session 1915.) No person or firm shall engage in the business of a private banker without a license. Any person or firm engaged in the business of receiving money on deposit, in lending or advancing money, or in negotiating loans on notes, bonds, furniture, or any class of security or securities, or in discounting, buying or selling negotiable or other paper or credits, commonly known as street brokers, whether at an office kept for the purpose or elsewhere, shall be deemed to be a private banker. Any person or firm violating the provisions of this section shall pay a fine of not less than one hundred dollars nor more than five thousand dollars for each offense, provided this section shall not apply to a licensed attorney at law or land agent who negotiates loans upon real estate security.

License to Private Bankers.

Sec. 78. (As amended by chapter 148, p. 245, Acts extra session 1915.) A private banker shall pay fifty dollars on a capital of five thousand dollars or under; one hundred dollars on a capital exceeding five thousand and not exceeding ten thousand; one hundred and fifty dollars on a capital from ten thousand dollars to twenty thousand dollars; two

hundred and fifty dollars on a capital of over twenty thousand dollars and not exceeding thirty thousand dollars, and an additional sum of five dollars per thousand on every thousand dollars in excess of thirty thousand dollars.

Pawnbrokers.

Sec. 79. (As amended by chapter 148, p. 245, Acts extra session 1915.) No person shall, without a license, act as a pawnbroker. Any person who shall in any manner lend or advance money on other things for profit on the pledge and possession of personal property, or other valuable things other than securities or written or printed evidences of indebtedness, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back to the seller at a stipulated price, shall be held to be a pawnbroker. Any person acting as pawnbroker without a license shall pay a fine of not less than fifty dollars nor more than five hundred dollars for each offense.

The hustings or corporation court of any city, and the circuit or county court of any county, may, from time to time, grant a license to any citizen of the United States who shall produce satisfactory evidence of his good character, to exercise or carry on the business of a pawnbroker in his city or county, which license shall designate the building in which said person shall carry on said business; and no person shall exercise or carry on the business of a pawnbroker without being duly licensed by the hustings or corporation court of the city, or the circuit court of the county in which he may desire to carry on said business, nor in any other building other than the one designated in said license, except by consent of the court which granted the license, under the penalty of fifty dollars for each day he shall exercise or carry on said business without such license or in any other building than the one so designated.

Every person so licensed shall, at the time of receiving such license and before the same shall be operative enter, with two sufficient sureties, into a joint and several recognizance to the Commonwealth of Virginia in the penal sum of two thousand five hundred dollars, conditioned, for the due observance of all acts of the General Assembly of Virginia, which may be in force respecting pawnbrokers at any time during the continuance of such license. If any person shall be aggrieved by the misconduct of any such licensed pawnbroker, and shall recover judgment against him therefor, such person may, after the return unsatisfied, either in whole or part, of any execution issued upon said judgment, maintain an action in his own name upon the bond of said pawnbroker in any court having jurisdiction of the amount claimed; pro-

vided, such court shall, upon the application made for the purpose, grant such leave to prosecute.

Every pawnbroker shall keep a book, in which shall be fairly written at the time of each loan an accurate account and description of the goods, article or thing pawned or pledged, the amount of money loaned thereon at the time of pledging same, the rate of interest to be paid on such loan, and the name and residence of the person pawning or pledging the said goods, article, or thing, together with a particular description of such person, including complexion, color of eyes and hair, and his or her height and general appearance.

Every pawnbroker shall at the time of each loan deliver to the person pawning or pledging any goods, article, or thing, a memorandum or note, signed by him or her, containing the substance of the entry required to be made in his or her book by the last preceding section, except as to the description of the person, and no charge shall be made or received by any pawnbroker for any such entry, memorandum or note.

Such book shall at all reasonable times be open to inspection of the judges of the criminal courts, the chief of police and captain and sergeants of the police of the city, town or county wherein such business is being conducted, or any or either of them, sergeant and sheriff of such city, town or county, or other officer with police jurisdiction.

No pawnbroker shall sell any pawn or pledge until the same shall have remained four months in his or her possession, unless by consent in writing of the pawner, and all such sales shall be made at public auction, and not otherwise, and shall be made or conducted by such auctioneers as shall be designated and approved of for that purpose by the court granting the license.

Notice of every such sale shall be published for at least five days previous thereto, in one or more of the daily newspapers of general circulation printed in such city. Those doing business in any county shall advertise as above in some newspaper, if any be published in said county, and if no newspaper be published in such county, then in some newspaper published in an adjoining county, and such notice shall specify the time and place at which such sale is to take place, the name of the auctioneer by whom the same is to be conducted, and a description of the articles to be sold.

The surplus money, if any, arising from any such sale, after deducting the amount of the loan, the interest then due on the same, and the expenses of the advertisement and sale, shall be paid over by the pawnbroker to the person who would be entitled to redeem the pledge in case no such sale had taken place.

Any licensed pawnbroker who shall violate or neglect or refuse to comply with any or either of the provisions of this

act, except those contained in section one, shall, for every such offense, upon conviction before a court of competent jurisdiction, pay a fine of not more than one hundred dollars.

No pawnbroker shall ask, demand or receive a greater rate of interest than ten per centum per month on a loan of twenty-five dollars or less, or five per centum per month on a loan of over twenty-five dollars and less than one hundred dollars, or three per centum per month on a loan of one hundred dollars or more, secured by a pledge of tangible personal property. And no loan shall be divided for the purpose of increasing the percentage to be paid the pawnbroker.

Police regulations.—Every pawnbroker shall keep at his place of business a book or books, in which shall be fairly written in English, at the time of each loan or transaction in the course of his business, an accurate account of such loan or transaction, setting forth a description of the goods, article or thing pawned, or received on account of money loaned thereon; the time of receiving the same; the name and residence of the person pawning or delivering the same; the terms and conditions of loan, including the period for which any such loan may be made, and all other facts and circumstances respecting such loan, which said book or books shall at all times be subject to the inspection of the officers before mentioned.

No property of any kind received on deposit or pledge by any pawnbroker shall be disfigured or its identity destroyed or affected in any manner whatsoever, so long as it continues in pawn or in the possession of such pawnbroker, nor shall such property be in any manner concealed for the space of forty-eight hours after the same shall have been received by such pawnbroker.

It shall be the duty of every pawnbroker and of every person in the employ of such pawnbroker to admit to his premises at any time any officer mentioned in this act to examine any pledge or pawn, book, or other record on the premises, as well as the articles pledged, and to search for and take into possession any article known by him to be missing, or known or believed by him to have been stolen, without the formality of the writ of search warrant or any other process, which search or seizure is hereby authorized.

The following regulation is hereby made for storing or taking care to prevent injury during disuse on blankets, clothing, carpets, furs, rugs, dress goods, cloths, mirrors, oil paintings, glass and china and chinaware, pianos, organs, curtains, beddings and upholstered furniture. Pawnbrokers shall be allowed to charge two per centum per month, in addition to the regular charges for the first three months, or part there-

of, while such goods shall remain as pledge for money advanced.

Every pawnbroker shall be liable to all the penalties hereinafter provided for violation of any of the provisions of this article, whether such violation be committed by himself or by his agent, clerk or employee.

Every person who shall be convicted of violating any of the provisions of this section shall, for the first offense, forfeit and pay a penalty, except in cases where a different penalty is herein provided, not exceeding twenty-five dollars, and for a subsequent offense shall pay such penalty as the court may impose, and shall, in the discretion of the court, forfeit his license.

Pawnbrokers' License.

Sec. 80. (As amended by chapter 148, p. 248, Acts extra session 1915.) A pawnbroker shall pay for the privilege of transacting business two hundred and fifty dollars.

License on a Building and Loan Association or Company.

Sec. 82. (As amended by chapter 148, p. 250, Acts extra session 1915.) No building and loan association or company, incorporated under the laws of this or any other State, shall, without a license, conduct any business, or solicit the sale of stock, or offer to lend money in this State, nor shall any person act as agent of any such association or company unless the association or company he represents has a license.

The specific license tax upon every building and loan association or company for the privilege of doing business in this State, shall be seventy-five dollars; provided, the capital of such association or company actually paid in, whether from paid up stock or partially paid up stock, is not over twenty-five thousand dollars; if the capital paid in, whether from paid up stock or partially paid up stock, is over twenty-five thousand dollars, then an additional license tax of three dollars on each one thousand dollars of such capital, or fraction thereof, on such excess shall be paid by all such building and loan associations, or companies; provided, that a nonresident building and loan association or company doing business in this State, which has otherwise complied with the laws of Virginia, shall pay the license tax herein imposed, based upon its capital invested in this State.

A building and loan association or company which does business on a purely mutual plan, and makes loans only to their stockholders, and confines its business solely to the city or county where it is organized, and cities and counties immediately contiguous thereto, shall pay a license tax of fifty dollars.

It shall be the duty of each association or company on the first day of April of each year or within ten days thereafter, to make a report, in writing, of its capital paid in, if the association or company be incorporated under the laws of this State, or of its capital invested in this State, if it be a nonresident association or company, under oath of its chief officer or agent, to the commissioner of the revenue for the district in which its principal office or agency in this State is situated.

Any building and loan association or company, or the agents of any such association or company, which does business in this State, without paying the license tax herein imposed, shall pay a fine of not less than fifty dollars nor more than five hundred dollars.

The shares of stock issued by any building and loan association or company, which has paid the license tax herein imposed shall not be taxable in the hands of the holder, nor shall any additional State tax be imposed on the paid in capital of such association or company.

No city or town shall levy a greater license tax on the paid in capital of any such association or company than that imposed herein for State purposes, and such city or town license tax shall be levied only where the principal office of such association or company is located in this State.

Insurance Brokers.

Sec. 83. (As amended by chapter 148, p. 251, Acts extra session 1915.) No person shall, without a license, act as an insurance broker. Every person who shall solicit for compensation, directly or indirectly, to be derived therefrom any fire, marine, life or other insurance, either on account of any person desiring to effect any such insurance, or on account of any insurance company, except the duly authorized agent (or a clerk actually employed in his office) of any insurance company licensed to do business in this State, shall be deemed an insurance broker. Any insurance agent (or clerk actually employed in his office), who shall solicit, directly or indirectly, any fire, marine, life or other insurance, either on account of any person desiring to effect any such insurance, or on account of any insurance company, licensed to do business in this State, other than for the insurance company or companies for which he is the duly authorized agent, shall be deemed an insurance broker; provided, however, this shall not apply to duly authorized agents exchanging business among themselves. Any person acting as insurance broker without a license shall pay a fine of not less than fifty dollars nor more than five hundred dollars for each offense. And any person

or firm who shall fill up, sign or deliver a policy or certificate of insurance for a corporation, or person, or association, or persons not licensed to do an insurance business in this State by a legally authorized agent, shall be considered an agent of such corporation, or person, or association, and such person, corporation or association shall be liable for all licenses, taxes, and penalties as if represented by a legally appointed agent. No person licensed as an insurance broker shall be authorized, under his license, to place any insurance in a company or association, or with a person or firm not licensed to do an insurance business in this State.

Insurance Brokers—License.

Sec. 84. (As amended by chapter 148, p. 251, Acts extra session 1915.) An insurance broker shall pay the sum of one hundred dollars for the privilege of transacting such business. The license shall be issued by the Commissioner of Insurance, and the tax shall be paid to him, and he shall pay the same into the treasury.

Underwriter's Agency, Etc.—License On.

Code Sec. 4313. The issuance of fire insurance policies to an underwriter's agency.—Every fire insurance company shall conduct its business in this State in the name by which it is incorporated, and the policies issued by it shall be headed or entitled by such name. There shall not appear on the face of the policy or on its filing back anything that would indicate that it is an obligation of any other than the company responsible for the payment of losses under the policy, and the name or names of any fire insurance companies issuing policies through an underwriters' agency shall be stamped or printed on each policy issued by such underwriters' agency, and shall show on each such policy the name of such company or companies, and where there is more than one company, their proportion of liability under said policies shall be distinctly stated therein.

The words "underwriters' agency," as used in this section, shall be held to apply to a company or companies who issued policies severally or jointly under a name other than their own corporate name, or under a contract or agreement with any individual, partnership, corporation or association through whom such policies may be issued.

Before an underwriters' agency shall deliver, or cause to be delivered, a policy in this State, it shall pay an annual specific license tax of two hundred dollars for the privilege of doing business in this State as an underwriters' agency, and shall also deposit with the State Treasurer, bonds equal in

amount to those deposited by the company or companies, whose policies they issue, as required by section forty-two hundred and eleven, and no company shall be permitted to issue an underwriters' policy, or be a party thereto, which has not complied with all of the laws now in force relative to fire insurance companies. But, nothing herein shall be construed to exempt any fire insurance company from the payment of the license tax on premiums required by the laws of this State.

Code Sec. 4314. Penalty for violating preceding section.—Any violation of the preceding section shall be deemed a misdemeanor, and, upon conviction, shall be punished by a fine of not less than fifty nor more than five hundred dollars.

Mercantile Agencies.

Sec. 85. (As amended by chapter 148, p. 251, Acts extra session 1915.) Any person, firm or corporation engaged in reporting the financial standing of merchants and others as a regular business for compensation, shall be deemed a mercantile agency. Any person engaged in such business without a State license to transact such business shall pay a fine of not less than one hundred dollars, and not more than five hundred dollars; provided, that this section shall not apply to employees of mercantile agencies who only report to such agencies, nor to regularly licensed attorneys at law.

Licenses to Mercantile Agencies.

Sec. 86. (As amended by chapter 148, p. 252, Acts extra session 1915.) A mercantile agency shall pay for the privilege of transacting such business the sum of two hundred and fifty dollars. This section shall be construed to levy only one State license tax upon each such mercantile agency, which license tax of two hundred and fifty dollars shall be paid annually direct to the Auditor of Public Accounts.

Collection Agencies Defined; License For.

Sec. 86½. (Section added by chapter 472, p. 799, Acts 1916.) Any person, firm or corporation whose business it is to collect all kinds of claims, including notes, drafts and other negotiable instruments, on behalf of others, and to render an account of the same, shall be deemed a collecting agency. Any such person, firm or corporation engaged in such business without a license, shall be fined not less than one hundred nor more than five hundred dollars; provided, however, that this section shall not apply to a regularly licensed attorney at law. A collecting agency shall pay for the privilege of

transacting such a business a license tax of twenty-five dollars; provided, that his commissions and fees during the year amount to as much as one thousand dollars.

Undertakers.

Sec. 87. (As amended by chapter 148, p. 252, Acts extra session 1915.) Any person, firm, or corporation engaged in the business of burying the dead shall be deemed an undertaker. Any person, firm, or corporation engaged in such business without a license shall pay a fine of not less than ten dollars nor more than twenty-five dollars.

Undertakers' License.

Sec. 88. (As amended by chapter 148, p. 252, Acts extra session 1915.) An undertaker shall pay for transacting such business in the country and in towns of one thousand inhabitants or less, five dollars; and in towns and cities of over one thousand and not over three thousand inhabitants, ten dollars; and in towns and cities of over three thousand and not over five thousand inhabitants, fifteen dollars; and in towns and cities of over five thousand and not over ten thousand inhabitants, twenty-five dollars; and in cities of over ten thousand inhabitants and not over thirty thousand inhabitants, thirty-five dollars; and in cities of over thirty thousand inhabitants, fifty dollars.

Civil and Electrical Engineers.

Sec. 89. (As amended by chapter 148, p. 252, Acts extra session 1915.) Any person or firm who shall, for compensation, engage in the business of civil, mining, mechanical or electrical engineering shall pay a license tax of fifteen dollars per year for the privilege of conducting such business; the said license to be procured from the commissioner of revenue of the city or district in which said engineer shall have his office on the first day of May in each year; provided, that the license of any engineer who has not practiced his profession for more than five years, or whose income from such business is less than five hundred dollars for the preceding year shall be five dollars; and, provided, further, that on the payment of the license as herein provided the said engineer shall be entitled to engage in such business in any part of this State. Any person or firm violating the provisions of this section, shall be fined not less than ten dollars, nor more than thirty dollars, for each offense.

Contractors.

Sec. 90. (As amended by chapter 148, p. 252, Acts extra session 1915.) Any person, firm or corporation accepting orders or contracts for doing any work on or in any building or structure, requiring the use of paint, stone, brick, mortar, wood, cement, structural iron or steel, sheet iron, galvanized iron, metallic piping, tin, lead, electric wiring or other metal or any other building material; or who shall accept contracts to do any paving or curbing on sidewalks, or streets, public or private property, using asphalt, brick, stone, cement, wood or any composition, or who shall accept an order for or contract to excavate earth, rock, or other material for foundations or any other purpose, or who shall accept an order or contract to construct any sewer of stone, brick, terra cotta, or other material, shall be deemed a contractor. Every contractor shall, on the first day of May in each year, procure from the commissioner of the revenue for the city or district in which he has his office a license to carry on the business of a contractor; provided, that if such contractor has no office in this State, then he shall procure such license from the commissioner of the revenue for the city, county, or district where he conducts his business. Any person, firm, or corporation doing such business without a license shall pay a fine of not less than thirty dollars, nor more than one hundred dollars for each offense; provided, that no further license shall be required by the State for conducting said business in any part thereof; and, provided, further, that this section shall not apply to contractors the gross amount of whose orders accepted and executed does not exceed five thousand dollars per annum.

License to Contractors.

Sec. 91. (As amended by chapter 148, p. 253, Acts extra session 1915.) Every such contractor, for the privilege of transacting business in this State, shall pay a license, to be ascertained in the following manner:

If the gross amount of all orders or contracts accepted aggregate five thousand dollars, he shall pay the sum of five dollars; if the amount of such orders or contracts are more than five thousand dollars, and do not exceed ten thousand dollars, ten dollars; if the amount of such orders or contracts exceed ten thousand dollars, and do not exceed twenty thousand dollars, fifteen dollars; if the amount of such orders or contracts exceed twenty thousand dollars, and do not exceed fifty thousand dollars, twenty dollars; if the amount of such orders or contracts exceed fifty thousand dollars, and do not exceed one hundred thousand dollars, fifty dollars;

if the amount of such orders or contracts exceed one hundred thousand dollars, and do not exceed one hundred and fifty thousand dollars, one hundred dollars; and if the amount of such orders or contracts exceed one hundred and fifty thousand dollars, one hundred and fifty dollars; and when any such contractor shall have obtained a license for any year for which he has paid a license tax of less than the maximum above prescribed, he shall not accept any contract or contracts during such year the aggregate amount of which exceeds the maximum amount for which his license was obtained unless and until he shall have paid such additional sum as will make the total license tax paid by him for that year sufficient to cover the aggregate amount of such contract or contracts as prescribed above; and unless he pays such additional sum he shall be deemed to be acting without a license.

Architects.

Sec. 92. (As amended by chapter 148, p. 253, Acts extra session 1915.) Any person or firm who shall, for compensation, draw or furnish plans for the construction of any building or other structure, shall be deemed an architect, and shall pay a license tax of twenty-five dollars a year for the privilege of conducting such business; the said license to be procured from the commissioner of the revenue of the city or district in which said architect has his or their office, on the first day of May of each year; provided, that the tax upon an architect or architects whose income from such business has been less than five hundred dollars for the preceding year, shall be ten dollars; and, provided, further, that no further license shall be required by the State for doing business in any part thereof. Any person or firm violating the provisions of this section shall be fined not less than ten dollars nor more than thirty dollars for each offense.

License to Keep a Hotel.

Sec. 92½. (As amended by chapter 90, p. 152, Acts extra session 1919.) That any person who keeps a public inn or lodging house of more than thirty bedrooms where transient guests are fed or lodged for pay in this State, shall be deemed for the purposes of this act to be engaged in the business of keeping a hotel.

A transient guest is one who puts up for less than one week at such hotel, but such a house is no less a hotel, because some of its guests put up for longer periods than one week.

Any person conducting the business of keeping a hotel as defined in this act, shall pay an annual license tax of two dollars for each bedroom, and one dollar for each bath-

room in said hotel; provided, that hotels at summer and health resorts, keeping open not more than four months in the year, shall pay only one-half of the foregoing sums.

House of Private Entertainment, Etc.

Sec. 93. (As amended by chapter 148, p. 254, Acts extra session 1915.) No person shall, without a license authorized by law, keep a house of private entertainment or eating house.

What Constitutes a House of Private Entertainment.

Sec. 94. (As amended by chapter 148, p. 254, Acts extra session 1915.) Any person who shall furnish for compensation, lodging or diet to travelers, or sojourners in any house of thirty bedrooms or less, shall be deemed to keep a house of private entertainment. A license to keep a house of private entertainment shall not be construed to authorize the sale of wine, spirituous or malt liquors, or a mixture of them on the premises or within the curtilage of such house of private entertainment, nor shall any license be granted to sell by retail or to be drunk, where sold, any wine, spirituous or malt liquors upon the premises or within the curtilage of any licensed house of private entertainment. Any person who shall keep a house of private entertainment without a license shall pay a fine of not less than thirty dollars nor more than one hundred dollars for each day he may keep the same.

License to Keep a House of Private Entertainment.

Sec. 95. (As amended by chapter 148, p. 254, Acts extra session 1915.) Every person who keeps a house of private entertainment shall pay an annual license tax of five dollars, and if the house has more than ten bedrooms, shall pay an additional sum of one dollar per annum for each additional bedroom, over and above ten.

What Constitutes An Eating House.

Sec. 96. (As amended by chapter 148, p. 254, Acts extra session 1915.) Any person who shall cook, or otherwise furnish for compensation, diet or refreshments of any kind, for casual visitors at his house, for consumption therein, and who does not furnish lodging, and who is not the keeper of a hotel, house of private entertainment, or boarding house shall be deemed to keep an eating house, but the refreshments herein named shall not consist of wines, spirituous or malt liquors, or a mixture of any of them. Any person who shall keep an eating house without a license shall pay a fine of

not less than thirty dollars, nor more than one hundred dollars, for each day he may keep the same.

License to Keep An Eating House.

Sec. 97. (As amended by chapter 148, p. 254, Acts extra session 1915.) Every person who shall keep an eating house shall pay for the privilege twenty-five dollars, and where the annual rent or rental value of the house and furniture is more than one hundred dollars, and not more than one thousand dollars, he shall pay an additional sum equal to five per centum of such rent or rental value; and where such annual rent or rental value exceeds one thousand dollars, he shall pay an additional sum equal to four per centum of such rent or rental value. The commissioner of the revenue shall determine such rent or rental value, and may require the proprietor or tenant to state on oath what is the actual rent or what would be a fair rent for the house and furniture, and if he refuses to state the same, he shall pay a fine of five hundred dollars.

Exempting Person Conducting Temporary Eating or Lodging Houses, Horse Lots, and Confectioneries at Religious Gatherings from License Tax.

Sec. 97½. (Section added by chapter 148, p. 255, Acts extra session 1915.) That the license tax shall not be required of persons conducting temporary eating or lodging houses, horse lots, and confectioneries at camp-meetings, associations and other religious gatherings; provided, such eating or lodging houses, horse lots and confectioneries shall be only carried on for the purpose of entertaining the persons attending such religious gatherings.

What Constitutes a Bowling Saloon.

Sec. 98. (As amended by chapter 148, p. 255, Acts extra session 1915.) Any person who shall keep a saloon for the reception of company to play at bowls shall be deemed to keep a bowling saloon. Any person who shall keep a bowling saloon without a license shall pay a fine of not less than fifty dollars nor more than one hundred and fifty dollars for each day he may keep the same.

License to Keep a Bowling Saloon.

Sec. 99. (As amended by chapter 148, p. 255, Acts extra session 1915.) Every person who shall keep a bowling saloon shall pay for the privilege the sum of twenty-five dollars, and an additional sum of ten dollars for each alley exceeding one.

If the license be for a bowling saloon at a watering place and if for four months or less, the sum to be paid shall be twelve dollars and fifty cents and an additional sum of five dollars for each alley exceeding one.

What Constitutes a Billiard Room.

Sec. 100. (As amended by chapter 148, p. 255, Acts extra session 1915.) Any person who shall keep a saloon wherein there is a table at which billiards or pool are played shall be deemed to keep a billiard saloon, and if any sum is imposed upon the tables kept therein the same shall be on every table in excess of one capable of being used for the purpose, and kept therein, whether used or not. Any person who shall keep a billiard saloon without a license shall pay a fine of not less than fifty dollars nor more than one hundred dollars for each day he may continue to keep the same.

License to Billiard Saloons and Pool Rooms.

Sec. 101. (As amended by chapter 148, p. 255, Acts extra session 1915.) Every person who shall keep a billiard saloon or pool room shall pay for the privilege the sum of fifty dollars, and the sum of twenty-five dollars for each table over one kept, or to be kept therein. If the license be for a billiard saloon or pool room at a watering place, and is for four months or less, the sum to be paid shall be twenty-five dollars, and the sum of twelve dollars and fifty cents for each table over one kept, or to be kept thereat. If the license be for a billiard saloon or pool room in the country or in a town of less than one thousand inhabitants, the sum to be paid shall be twenty-five dollars, and twelve dollars and fifty cents for each table over one kept, or to be kept, therein.

What Constitutes a Bagatelle Saloon.

Sec. 102. (As amended by chapter 148, p. 255, Acts extra session 1915.) Any person who shall keep a saloon or other public room wherein is a table at which to play bagatelle, whether charge for the use thereof is made or not, shall be deemed to keep a bagatelle saloon. Any person who shall keep a bagatelle saloon without a license shall pay a fine of not less than fifty dollars nor more than one hundred dollars for each day he may continue to keep the same.

License to Keep a Bagatelle Saloon.

Sec. 103. (As amended by chapter 148, p. 256, Acts extra session 1915.) Every person who shall keep a bagatelle

telle saloon shall pay for the privilege the sum of ten dollars, and an additional sum of five dollars for each table over one kept, or to be kept, therein.

Property Used in Licensed Business Taxable.

Sec. 104. (As amended by chapter 148, p. 256, Acts extra session 1915.) Nothing herein shall be construed to exempt the furniture in houses mentioned in this schedule from being taxed as property.

Theatres, Public Performances, Exhibitions, Etc.

Sec. 105. (As amended by chapter 148, p. 256, Acts extra session 1915.) No person shall, without a license authorized by law, exhibit for compensation any theatrical performance, or any performance similar thereto, panorama, or any public performance or exhibition of any kind, lectures, literary readings, and performances, except for benevolent or charitable or educational purposes. Whenever a theatrical performance shall be licensed, the actors thereat under said license shall be exempt from a license tax, but unless the performance shall be so licensed, each person engaged therein shall be liable to the penalty for the violation of this section. Every license shall be for each performance, but a license for a theatrical performance or panorama may, if the person applying for the same desire it, be for the term of one week. For any violation of this section every person so offending shall pay a fine of not less than fifty dollars nor more than five hundred dollars for each offense.

Licenses to Theatres, Public Performances, Exhibitions, Etc.

Sec. 106. (As amended by act approved March 20, 1924.) On every theatrical performance or any performance similar thereto, panorama, or any public performance or exhibition of any kind, except for benevolent or charitable or educational purposes there shall be paid five dollars for each performance or fifteen dollars for each week of continuous performance or an annual tax of five hundred dollars; provided, that in towns or cities of less than fifteen thousand inhabitants there shall be paid two dollars for each performance, or six dollars for each week of continuous performance or an annual tax of two hundred dollars; but nothing herein shall be construed as taxing games of football, baseball, basketball, or kindred ball games.

Moving Picture Show, Etc.

Sec. 106 $\frac{1}{2}$. (As amended by act approved March 20, 1924.) That for the exhibition of any automatic moving picture machine, phonograph, graphophone, or similar musical machine except for benevolent, charitable or educational purposes, where the price of admission does not exceed the sum of fifty cents, exclusive of United States admission tax, and where the seating capacity of any such place of amusement does not exceed three hundred and fifty, there shall be paid in cities of twenty thousand inhabitants or over, a license fee of twenty-five dollars for each week or for less time than a week, or one hundred and fifty dollars for the exhibition thereof for a period of one year, and when the seating capacity of any such place of amusement exceeds three hundred and fifty, there shall be paid an additional tax of two dollars and fifty cents for every ten seats or fraction thereof in excess of three hundred and fifty seats; provided, that in towns or cities of ten thousand inhabitants or over and less than twenty thousand inhabitants there shall be paid a license fee of fifteen dollars for each week, or less time than a week or one hundred dollars for the exhibition thereof for a period of one year, and the license tax for said additional seating capacity shall be one dollar and twenty-five cents for every ten seats or fraction of ten seats in excess of three hundred and fifty seats; provided, further, that in towns or cities of four thousand or over and less than ten thousand inhabitants there shall be paid a license fee of ten dollars for each week or less time than a week or sixty dollars for the exhibition thereof for a period of one year, and the license tax for said additional seating capacity shall be one dollar for every ten seats or fraction of ten seats in excess of three hundred and fifty seats; provided, further, that in towns or cities of one thousand inhabitants or over, and less than four thousand inhabitants there shall be paid a license fee of three dollars for each week, or less time than a week or twenty-five dollars for the exhibition thereof for a period of one year, and the license tax for such additional seating capacity shall be fifty cents for every additional ten seats or fraction thereof in excess of three hundred and fifty seats; provided, further, that in towns of less than one thousand inhabitants and in the portions of the counties not included in any town there shall be paid as the only license tax to the State one dollar per day or two and one-half dollars for a full continuous week or ten dollars for the year, the license for one year to be paid annually; provided, however, that when such exhibition is given for benevolent, charitable or educational purposes, and is given for a period of more than one day in any one year, and the

exhibitor thereof receives a part of the receipts from such exhibitions as his compensation, then such exhibition after the first day shall not be exempt from the payment of the license fee herein prescribed.

Circus, Menagerie, Carnival, Shows, Etc.

Sec. 107. (As amended by chapter 322, p. 491, Acts 1920.) Every person, firm, company or corporation who exhibits performances in a side show, dog and pony (or either) show, trained animal show, carnival, circus, menagerie and circus, or any other show, exhibition or performance similar thereto shall procure a license therefor, but this section shall not be construed to prohibit a resident mechanic or artist from exhibiting any production of his own art or invention without compensation, nor shall any license be required of any agricultural fair or the shows exhibited within the grounds of such fair or fairs, during the period of such fair, whether an admission be charged or not, nor of resident persons performing in a show or exhibition for charity or other benevolent purposes. Whenever such show, exhibition or performance is given, whether exempted by the terms hereof or licensed, those engaged therein and operating under either such license or exemption, shall be exempt from a license tax for performing or acting thereat.

The provisions of this section shall not be construed to allow, without payment of the tax imposed by law, performances for charitable or benevolent purposes by a company, association of persons, or a corporation who makes it their business to give exhibitions, no matter what terms of contract may be entered into or under what auspices such exhibition is given by such company, association of persons, or corporation for benevolent or charitable purposes, it being the intent and meaning of this section that every company, association of persons, or corporation, which makes its business that of giving exhibitions for compensation, whether a part of the proceeds are for charitable or benevolent purposes or not, shall pay the license tax prescribed by law.

Sec. 108. (As amended by act approved March 20, 1924.) Every person, company or corporation who exhibits or gives a performance of any of the shows described in the next preceding section which are not exempt from license tax by the terms hereof, without the license required by law, shall be fined not less than fifty dollars nor more than five hundred dollars for each offense. The police authorities of a town, city or county shall not allow any such performance to open until the license required by law is exhibited to them.

Sec. 109. (As amended by act approved March 20,

1924.) For the purpose of this section a carnival shall mean an aggregation of shows, amusements, concessions, eating places and riding devices, or any of them operating together on one lot or street, or on contiguous lots or streets, moving from place to place, whether the same are owned and actually operated by separate persons, firms, or corporations, or not.

Unless exempt from license tax by the terms of section one hundred and seven, there shall be paid for each day's performance or exhibition of a circus, or circus and menagerie, or wild west (or like) show, or trained animal (or like) show, or dog and pony (or either or like) show, or carnival, a license tax as follows:

On such shows traveling on railroads requiring transportation of—

One and two cars—Twenty-five dollars per day.

Three to five cars, inclusive—Forty dollars per day.

Six to ten cars, inclusive—Seventy-five dollars per day.

Eleven to twenty cars, inclusive—One hundred dollars per day.

Twenty-one to thirty cars, inclusive—One hundred and fifty dollars per day.

Thirty-one to fifty cars, inclusive—Two hundred dollars per day.

Over fifty cars—Two hundred and fifty dollars per day.

On such shows traveling overland by automobile or other conveyance, the tax for each day's performance or exhibition shall be based upon the automobile or conveyance capacity, as follows:

On such shows requiring—

One and two loads—Five dollars per day.

Three to five loads, inclusive—Eight dollars per day.

Six to ten loads, inclusive—Fifteen dollars per day.

Eleven to twenty loads, inclusive—Twenty dollars per day.

Twenty-one to thirty loads, inclusive—Thirty dollars per day.

Thirty-one to fifty loads, inclusive—Forty dollars per day.

Over fifty loads—Fifty dollars per day.

On each side show, curiosity show, or similar show, exhibiting on the same or contiguous lots with a circus and owned by a person, firm or corporation other than the owner or owners of the circus, the tax shall be fifteen dollars per day.

On each game or wheel of chance where the prize consists of fruit, candy, toys, or other novelties, operated or exhibited on the same or contiguous lots with a carnival or other show taxable hereunder, whether owned or operated by the

owner or owners of such carnival or other show or not, the tax shall be fifty dollars per day, in addition to the license tax hereinbefore prescribed.

No additional license shall be required for the privilege of selling soft drinks, confections, food, souvenirs and novelties on the grounds on which such shows are exhibited.

Circuses and Carnivals Outside Agricultural Fairs, Etc.

Sec. 109 $\frac{1}{2}$. (As amended by chapter 277, p. 496, Acts 1916.) Every traveling circus, carnival or show giving performances in the open air or tents in any county or city in this State, wherein there is held an agricultural fair, for one week previous to, or during the week of, or one week after the time of holding such regular annual fair, shall pay a State license tax of one thousand (\$1,000) dollars for each performance, in addition to the license tax now required by law of a circus, carnival or like show, the State license tax provided for in this section and the State license tax now required by law, to be assessed by the commissioner of the revenue, and these license taxes to be paid to the county or city treasurer before any performance is permitted to be held.

It shall be unlawful for any such circus, carnival or show, to publish or post in any way in such county or city at any time within thirty days prior to the holding of such regular annual fair, advertising of the exhibition of any such circus, carnival or show. Any person, firm, company, or corporation violating any provisions of this section shall be fined two thousand (\$2,000) dollars for each offense by the justice of the peace or court trying the case. The provisions of this section shall not apply to circuses, carnivals or shows inside the grounds of any agricultural fair held in any county or city.

Hobby-horse Machines, Merry-go-round, and Other Like Machines.

Sec. 110. (As amended by chapter 148, p. 258, Acts extra session 1915.) No person shall, without a license authorized by law, exhibit and operate any machine known as hobby-horse machine, merry-go-round, ocean wave, ferris wheel, or other like machines, whether the same is propelled by hand, horse, steam, electric or other power.

License to Hobby-horse Machines, Merry-go-round, and Other Like Machines.

Sec. 111. (As amended by chapter 148, p. 258, Acts extra session 1915.) Every person who operates a hobby-

horse machine, merry-go-round, ocean wave, ferris wheel, or other like machines, on which persons are charged for riding, shall pay ten dollars for each county or city in which such machine is operated. Any person operating any such machine, without first having paid the specific amount therefor, shall pay a fine of not less than twenty dollars, nor more than fifty dollars for each offense.

License to Permanent Parks for Public Amusement.

Sec. 111½. (As amended by chapter 459, Acts 1922.) The owner or operator of a permanent park, open to the public for at least four months, as a permanent place of amusement, which shall be operated continuously each day, Sundays and holidays excepted, for at least four months, may operate a bowling alley, trained animal show, hobby-horse or merry-go-round, ferris wheel, penny or nickel machine for exhibiting pictures, moving picture show, theatrical performance, old mill, or similar entertainments, and at which may be kept and operated any game or wheel where the prize consists of fruit, candy, toys or other novelties, upon the payment of a license tax of four hundred dollars for a period of four months, six hundred dollars for a period of eight months, and eight hundred dollars for a period of one year, shall have the privilege of doing any or all of the things set out in this section; but the operation of a carnival or circus or show of any kind which moves from place to place shall not be allowed under the license provided for in this section.

License to Public Rooms and Skating Rinks.

Sec. 112. (As amended by chapter 148, p. 259, Acts extra session 1915.) Every proprietor or occupier of a public theatre, or other room or rooms fitted for public exhibitions for the use of which a charge is made shall pay twenty dollars for the privilege, except in a county or town of less than two thousand inhabitants; provided, that every person who shall establish, keep or exhibit for profit a skating rink shall pay for the privilege of keeping or exhibiting such skating rink as follows:

First. When such rink is kept or exhibited in a city of more than ten thousand inhabitants, he shall pay the sum of ten dollars per quarter.

Second. When such rink is kept or exhibited in a city or town of not more than ten thousand nor less than two thousand inhabitants, he shall pay the sum of seven dollars and fifty cents per quarter.

Third. When such rink is kept or exhibited anywhere else than in the towns and cities above mentioned, he shall pay the sum of five dollars per quarter.

Public Rooms.

Sec. 113. (As amended by chapter 148, p. 259, Acts extra session 1915.) No person shall, without a license authorized by law, charge for the use of any house or room therein in city or town, or in any manner receive compensation for the use of the same, while used or employed to exhibit therein any theatrical performance, lecture, concert or any other exhibition. Wherever such charge is made, or compensation, is demanded or received for the use of such house, or any public room or rooms, fitted for the purpose, a license shall be obtained; but no license shall be required of the proprietor or occupier of such house or public room or rooms in a town containing less than two thousand inhabitants. No license to use such house for such exhibition or performance shall be construed to exempt the house from taxation as property or to allow the use of such hall as a skating rink without paying an additional license. For any violation of this section the person so offending shall pay a fine of not less than fifty dollars nor more than one hundred dollars for each offense.

Soft Drinks; Manufacture and Sale of, Etc.

Sec. 113½. (As amended by chapter 90, p. 152, Acts extra session 1919.) That for the privilege of selling soft drinks from a soda fountain in cities and towns of over five thousand inhabitants there shall be paid to the State an annual license of ten dollars for each fountain, and for the privilege of selling soft drinks from soda fountains otherwise located there shall be paid an annual license tax of five dollars for each fountain, and for the privilege of manufacturing soft drinks to be sold by wholesale or for bottling soft drinks or for wholesale houses selling soft drinks by wholesale where no tax is paid in this State by the manufacturer or bottler, there shall be paid a minimum license tax annually of twenty-two dollars and fifty cents and, in addition thereto, ten cents on every hundred dollars of the gross sales not including carriers or bottlers in excess of ten thousand dollars annually.

Every manufacturer manufacturing, bottling or selling soft drinks by wholesale shall keep an accurate account of his sales in a special book which he shall provide for that purpose which book it shall be the duty of the commissioner of the revenue making assessments of their license tax to in-

spect, and upon such inspection to make the assessment of the said license tax.

If any manufacturer, wholesaler or bottler shall fail to keep such book, he shall be assessed with a minimum license tax of three hundred dollars, and the commissioner of the revenue shall report to the local board of review the failure of such manufacturer, wholesaler or bottler to keep such book, whereupon it shall be the duty of the local board of review to summon such manufacturer, wholesaler or bottler before them and ascertain the correct amount of license which he should pay, which shall be paid in addition to the three hundred dollars above mentioned.

If any manufacturer, wholesaler or bottler of soft drinks shall fail to keep such book and shall fail or refuse to give information as to his sales to the local board of review, or to the commissioner of the revenue, he shall be deemed guilty of a misdemeanor and shall be fined not exceeding five hundred dollars, and it shall be the duty of the commissioner of the revenue and the local boards of review to report such failure or refusal to the Commonwealth's attorney of the county or city wherein such manufacturer, wholesaler or bottler is located, and it shall then be the duty of the Commonwealth's attorney to present the violation of this section to the grand jury of the city or county wherein such manufacturer, wholesaler or bottler is located.

All amounts raised under this section shall go for the general purposes of government.

Attorneys, Physicians and Dentists.

Sec. 114. (As amended by chapter 148, p. 260, Acts extra session 1915.) No person shall, without a license authorized by law, practice as attorney at law, physician, surgeon, dentist, or the art of healing bodily or mental infirmities without physic or surgery; and no person who shall hereafter apply for license to practice as a physician or surgeon, or dentist, shall have such license granted to him unless at the time of such application he shall exhibit to the commissioner of the revenue to whom such application is made a certificate from the president of the State board of medical examiners, or from the president of the State board of dental examiners, that such person has passed a satisfactory examination before said board, or a special permit from the president of either of said boards, or shall file with him an affidavit that such applicant for a license to practice medicine or surgery commenced the practice of medicine or surgery in this State prior to the first day of January, eighteen hundred and eighty-five, which affidavit shall be subscribed and sworn to by such applicant. Any person who shall make a false oath in such

affidavit shall be deemed guilty of perjury and liable to all the prescribed penalties therefor; provided, that persons who held license to practice dentistry in this Commonwealth on the twenty-eighth day of January, eighteen hundred and ninety, and have complied with the requirements of section seventeen hundred and seventy-four, shall not be required to have a certificate from the president of the board of dental examiners when he applies for a license; and, provided, further, that nothing contained in this section shall prevent any authorized physician or surgeon, or other person, from extracting teeth from any one suffering from toothache.

Note—A physician or surgeon is not assessable with a State license tax.

Attorney at Law; Where He May Practice.

Sec. 115. (As amended by chapter 148, p. 260, Acts extra session 1915.) Every attorney at law, in addition to being licensed, sworn and admitted to prosecute or defend actions or other proceedings in the courts of this Commonwealth, on the retainer of clients, shall obtain a revenue license; and no person shall act as attorney at law or practice law in the courts of this Commonwealth without a separate revenue license. A revenue license to practice law in any county or corporation shall authorize such attorney to practice in all the courts of this State without additional license. Any person violating the provisions of this section shall pay a fine of not less than fifty dollars nor more than one hundred dollars for each offense.

Licenses to Attorneys at Law.

Sec. 116. (As amended by chapter 148, p. 261, Acts extra session 1915.) Every attorney at law who has been licensed for less than five years shall pay fifteen dollars; and on attorneys who have been licensed and practiced for five years and more, twenty-five dollars; provided, that no attorney at law shall be required to pay more than fifteen dollars whose receipts are less than five hundred dollars per annum.

Dentists.

Sec. 117. (As amended by chapter 148, p. 261, Acts extra session 1915.) No person shall practice as a dentist for compensation without a revenue license, but a license granted to practice dentistry in any county or corporation shall authorize such dentist to practice throughout the Commonwealth. Any person violating any of the provisions of this section, or who shall practice the profession of dentistry

without having first obtained a revenue license therefor, shall pay a fine of not less than thirty dollars nor more than one hundred dollars for each offense, and shall be debarred from recovering any compensation for such services by action, suit, motion, or warrant in any of the courts of the Commonwealth. And any commissioner of the revenue who shall grant a license to practice as a dentist to any person who shall not have complied with the provisions of this section shall be deemed guilty of a misdemeanor, and shall be subject to a fine of fifty dollars for each offense.

Licenses of Dentists.

Sec. 118. (As amended by chapter 148, p. 261, Acts extra session 1915.) Every dentist who has been licensed for less than five years shall pay ten dollars, and every dentist who has been licensed and practiced for five years and more shall pay fifteen dollars; but in cities and towns of five thousand inhabitants or more, the tax on dentists shall be twenty-five dollars; provided, that no dentist shall be required to pay more than ten dollars whose receipts are less than five hundred dollars per annum. Every dentist shall be licensed by the commissioner of the revenue for the district or city wherein such dentist has his regular and principal office.

The Practice of Poropathy and Manipulative Surgery.

AN ACT to define and regulate the practice of poropathy and manipulative surgery, to provide license of practitioners thereof, and to provide for a penalty for the violation of this act, and for other purposes. Approved March 14, 1918. Chapter 212, p. 361, Acts 1918.

1. Be it enacted by the General Assembly of Virginia, That the system and practice of poropathy and manipulative surgery is hereby defined to be a new branch of therapeutics, and is the use and employment of medical manipulation and absorption through the pores of the skin and the mucus membrane, without medicine taken through the stomach or the use of the knife, and the use and employment of healing and curative agencies and lotions.

2. That any person who shall apply to, and present and submit to a commissioner of the revenue in any city or county of this State, who is authorized to issue licenses, a certificate in writing, sustained by affidavit or affidavits showing that he is of good character and that he is versed in the practice of poropathy and manipulative surgery, and has been practicing the same for a period of two years, shall receive from the said officer a license issued by him, which shall entitle the holder thereof to practice poropathy and manipulative sur-

gery, and as above defined in this State for a period of twelve (12) months from the date of such license; provided, no person licensed under this act shall use, or advertise himself as having, the title of doctor.

3. That any violation of the provision of this act shall be a misdemeanor, and shall be punished by a fine, not less than fifty dollars (\$50.00), nor more than one hundred dollars (\$100.00), or by imprisonment of not less than thirty (30) days, nor more than six (6) months in jail, or by both fine and imprisonment.

4. That nothing in this act shall be construed to apply to duly licensed physicians, to persons authorized to practice optometry, osteopathy, or chiropractic, under the laws of the State of Virginia, nor any other practitioner of any medical science, permitted and licensed under the laws of the State of Virginia.

Veterinary Surgeons.

Sec. 118. (a) (As amended by chapter 148, p. 261, Acts extra session 1915.) No person shall practice as a veterinary surgeon for compensation without a license.

Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and shall, upon conviction, pay a fine of not less than twenty-five dollars nor more than fifty dollars for each offense.

Every veterinary surgeon shall pay a license tax of ten dollars; provided, that nothing in this act shall be construed as requiring a license tax of persons who confine their practice to castration, spaying or dishorning of live stock.

Venders of Medicines, Salves, Liniments, Etc.

Sec. 119. (As amended by chapter 148, p. 261, Acts extra session 1915.) No person shall sell any patent, proprietary or domestic medicines, salve, liniment, or compounds of a like kind, or any spices, extracts, toilet articles or other articles of like kind unless he be a licensed merchant, whether he be the manufacturer thereof or not, without a license. Any person selling any patent, proprietary or domestic medicine, salve, liniment, or any compound of like kind, or any spices, extracts, toilet articles or other articles of like kind without having first obtained a license for such privilege shall pay a fine of not less than thirty dollars nor more than one hundred dollars for each offense.

License to Venders of Medicines, Salves, Liniments, Etc.

Sec. 120. (As amended by chapter 523, p. 949, Acts 1916.) Every person who shall sell any patent, proprietary

or domestic medicine, salve, liniment or compound of the like kind, or any spices, extracts, toilet articles and other articles of like kind, except a licensed merchant at his regular place of business shall pay a license tax of one hundred and twenty-five dollars for each wagon used, which shall be the only license required of such person for such privilege; provided, that nothing in this act shall be construed to conflict with or repeal any provision of the acts passed by the General Assembly of 1916, relating to ardent spirits, as therein defined.

Daguerrean and Photograph Artists and Their Agents.

Sec. 121. (As amended by chapter 148, p. 262, Acts extra session 1915.) Any person who takes, or exposes, on plates, films or sensitized material, or who develops or prints images of objects according to the invention of the daguerreotype process, or who does any or all of these things, by whatever name it may be known or called, shall be deemed a daguerreotype artist, and any person who shall canvass for any daguerrean artist, or photographer, or shall act as the agent of such artist, or photographer in transmitting pictures, daguerreotypes, or photographs, to other points for the purpose of having them copied or enlarged, or colored, shall be deemed a daguerrean artist's agent or canvasser, and he shall be deemed a daguerrean or photograph canvasser, whether he acts for himself or for another, and every such artist or agent engaged in the business aforesaid, or as a canvasser therefor, shall obtain a license, and it shall be unlawful so to engage without a license.

For every violation of this section the person offending shall pay a fine of not less than fifty dollars, nor more than five hundred dollars.

Nothing in this act shall apply to amateur photographers who expose, develop and finish their own work, and who do not part with the same for compensation, and who do not receive any compensation for performing any of the processes herein set forth.

License of Daguerrean and Photograph Artists and Agents.

Sec. 122. (As amended by chapter 148, p. 262, Acts extra session 1915.) Every person who shall engage in the business of a daguerrean or photograph artist's agent or canvasser, shall pay for the privilege the sum of ten dollars in a county or in a town of two thousand inhabitants or under; and if in a city or town of more than two thousand, and less than ten thousand inhabitants, he shall pay thirty dollars; and if in a city of more than ten thousand and less than twenty thousand inhabitants, he shall pay forty dollars; and if in a

city of more than twenty thousand inhabitants, he shall pay fifty dollars; and he shall pay the additional sum of five dollars for each county or city in which he operates other than that in which he has his regular place of business.

Stallions and Jackasses.

Sec. 123. (As amended by chapter 148, p. 262, Acts extra session 1915.) No person shall, without a license authorized by law, let to mares other than his own, for compensation, any stallion or jackass. Every license to the owner of a stallion or jackass shall specify the name of such stallion or jackass, if any name has been given. A license to the owner of any such stallion or jackass, for any county or corporation, shall be good for twelve months from its date; and shall authorize the stallion or jackass to stand in any county or city without an additional license. Any person violating the provisions of this section shall pay a fine of not less than thirty dollars nor more than fifty dollars for each offense.

Licenses to Owners of Stallions and Jackasses.

Sec. 124. (As amended by chapter 148, p. 263, Acts extra session 1915.) For letting to mares any stallion or jackass there shall be paid ten dollars.

License on Bulls.

Sec. 125. (As amended by chapter 148, p. 263, Acts extra session 1915.) Any person owning a bull or bulls in this State may apply to the commissioner of the revenue of the district or city in which he resides, for a special license for the privilege of letting such bull or bulls to cows other than his own, which tax shall be for the sum of two dollars and fifty cents on each bull so licensed.

Any person so obtaining said license shall have a lien on the get of such bull so licensed for a period of six months from the date of the birth of such get for the price agreed upon between him and the owner of any such cow or cows served by such bulls.

Agents for Renting Houses.

Sec. 126. (As amended by chapter 148, p. 263, Acts extra session 1915.) Any person engaged in renting houses, farms, or other real estate for compensation or profit shall be deemed to be an agent for renting houses, and when licensed as such may engage not only in renting houses, but in renting any real estate; provided, that administrators, guardians, executors, and other fiduciaries shall be exempt from the

license herein required. Any person engaged as an agent for renting houses, as aforesaid, without a license shall pay a fine of not less than fifty dollars nor more than one hundred dollars for each offense.

License to Agents for Renting Houses.

Sec. 127. (As amended by chapter 148, p. 263, Acts extra session 1915.) Every person who shall act as agent for the renting of houses in cities of over five thousand inhabitants shall pay the sum of thirty dollars, and in towns of less than five thousand inhabitants, or in any one county, ten dollars for the privilege of transacting such business.

Labor Agents.

Sec. 128. (As amended by chapter 517, p. 880, Acts 1916.) Any person who solicits, hires, or contracts with, laborers, male or female, to be employed by persons other than himself, and every agent of such person except as provided in the next following section shall be deemed to be a labor agent; and no person shall engage in such business without having first obtained license therefor. Every person, who shall, without a license, conduct business as a labor agent, shall pay a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

License to Labor Agents.

Sec. 129. (As amended by act approved March 21, 1924.) Licenses to labor agents.—Every person who engages in the business of a labor agent shall pay annually, five hundred dollars for the purpose of transacting the said business, except that every person who engages in the business of an "emigrant agent" in this State shall pay annually five thousand dollars for the privilege of transacting said business in each county or city in which he operates or solicits laborers or emigrants to be employed beyond the limits of this State. The term "emigrant agent," contemplated in this act, shall be construed to mean any person engaged in hiring laborers or soliciting emigrants in this State to be employed beyond the limits of this State. Any person doing the business of an emigrant agent, without having first obtained such license, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than one hundred dollars and not more than five thousand dollars, or may be imprisoned in jail not less than one month nor more than twelve months for each and every offense, in the discretion of the court or jury before whom the case is heard. Such emigrant

agent shall also be subject to the other laws of this State referring to labor agencies except that he shall not be required to pay any other license than the license above prescribed; provided, that the provisions of this act shall not apply to Virginia contractors temporarily engaged on contracts in other States, when themselves employing labor for their own work, but before any such license shall be issued, the applicant shall produce a certificate from the corporation court of the city or the circuit court of the county in which such labor agent proposes to have his office, or of the county in which he proposes to do business, that to the personal knowledge of the judge of such court or from the information of credible witnesses under oath before such court, the court is satisfied that the applicant is a person of good character and honest demeanor. Provided, further, that the provisions of this act shall not apply to representatives of labor organizations within the State of Virginia, in cases where, because of need of employment they may direct their members to employment in other States of the Union.

Employment Agencies—Regulation of.

Code Sec. 1803. Agencies furnishing employment, etc., to keep a register; what register to contain.—Every person, firm or corporation who shall agree or promise, or who shall advertise through the press, or by letter, to furnish employment or situations to any person or persons shall keep a register in a substantial book, in the form prescribed by the Commissioner of Labor, in which shall be entered the age, sex, nativity, trade or occupation, name and address of every applicant. Such licensed agency shall also enter in a register the name and address of every person who shall make application for help or servants, and the name and nature of employment for which such help shall be wanted. Such registers shall, at all reasonable hours, be open to the inspection and examination of the Commissioner of Labor or his deputies or inspectors. Where a registration fee is charged for filing or receiving application for or obtaining employment or help, said fee shall in no case exceed the sum of three dollars, for which a receipt shall be given in which shall be stated the name of the applicant, the amount of the fee, the date, the name or character of the work or the situation to be secured. In case the said applicant shall not obtain a situation or employment through such licensed agency within thirty days after registration aforesaid, then said licensed agency shall forthwith repay and return to such applicant, upon demand being made therefor, the full amount of the fee paid or delivered by said applicant to said licensed agency. Such licensee shall not send out an applicant for any employment within the pro-

visions of this section, without having first obtained a bona fide order therefor, in writing stating the terms and conditions of employment.

Code Sec. 1804. What agency prohibited from doing.—No agency shall send, or cause to be sent, any female help or servants to any place of bad repute, house of ill-fame or assignation house, or to any house or place kept for immoral purposes, or to any person for immoral purposes. No such licensed agency shall publish or cause to be published any false information or make any false promises concerning or relating to work or employment to any one who shall register for employment, and no such licensed agency shall make any false entries in the register to be kept, as herein provided, and all entries in such register shall be made in ink. Any licensed person or agency shall not, by himself or itself, agent, or otherwise, induce or attempt to induce any employee to leave his employment with a view of obtaining other employment through such agency.

Code Sec. 1805. Unlawful for persons employed to hire or discharge employees to receive any percentage, etc., of wages agreed to be paid them.—It shall be unlawful for any person, firm or corporation, or any person employed or authorized by such person, firm or corporation to hire or discharge employees, to receive any part of any fee or any percentage of wages or any compensation of any kind whatever, that is agreed upon to be paid by any employee of said person, firm or corporation for any employment with said person, firm or corporation.

Code Sec. 1806. Duty of Commissioner of Labor to enforce the three preceding sections; punishment for their violation.—It shall be the duty of the Commissioner of Labor to enforce the three preceding sections, and when informed of any violation thereof, it shall be his duty to institute criminal proceedings for enforcement of their penalties before any court of competent jurisdiction. He may make such rules and regulations for their enforcement not inconsistent with their provisions, as he may deem proper. Any person convicted of a violation of any of the provisions of said sections shall be guilty of a misdemeanor and upon conviction in any court of competent jurisdiction shall be fined not less than ten nor more than two hundred dollars for each offense; but any such bureau or agency who shall knowingly send any female help or servants to any place of bad repute, house of ill-fame or assignation house or to any house or place kept for immoral purposes, or to any person for immoral purposes, shall be

deemed guilty of a felony, and upon conviction in any court of competent jurisdiction shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars or by imprisonment in the penitentiary not less than one year nor more than ten years, or by both such fine and imprisonment.

Persons Operating Laundries.

Sec. 130. (As amended by chapter 148, p. 263, Acts extra session 1915.) Every person who operates a laundry shall pay for the privilege of conducting such business; if it be a laundry, operated other than by hand, in the country or in towns of two thousand inhabitants or less, five dollars; and in towns and cities of over two thousand and not over five thousand inhabitants, ten dollars; and in towns and cities of over five thousand inhabitants, twenty-five dollars; and if it be a hand laundry the amount to be paid for the privilege shall be two dollars and fifty cents in the country, and in towns of two thousand inhabitants or less, and in towns and cities of over two thousand inhabitants and not over five thousand inhabitants, five dollars; and in towns and cities of over five thousand inhabitants, ten dollars. Any person who shall without a license conduct such business, shall be subject to a fine of not less than ten dollars nor more than fifty dollars. But nothing in this act shall be construed to impose a license tax upon persons who wash bed clothing, wearing apparel, and so forth, without laundry machinery, and who do not keep shops or other regular places of business for laundry purposes.

Storage and Impounding.

Sec. 131. (As amended by chapter 148, p. 264, Acts extra session 1915.) No person shall, without a license, authorized by law keep for compensation any house, yard, or lot for storage or impounding any produce, wares or merchandise, including wood, coal, lumber, guano, marl, or other commodities or any live stock, or make demand or receive in any manner, compensation for storage or impounding. Any person who shall demand or receive compensation for storage or impounding, as aforesaid, or who shall in any manner violate the provisions of this section, shall pay a fine of not less than fifty dollars nor more than five hundred dollars for each offense.

Licenses for Storage and Impounding.

Sec. 132. (As amended by chapter 148, p. 264, Acts extra session 1915.) Every person who shall keep for com-

compensation any house, yard or lot for storage or wagon yard, or other impounding, shall pay a sum for said privilege, to be graduated as follows: On every house, the sum of twenty-five dollars, except that in a city or town whose population exceeds thirty thousand the amount to be paid shall be fifty dollars, and on every yard, wagon yard or lot, ten dollars; provided, that nothing shall be charged for this privilege when the compensation to the owner is less than fifty dollars per annum.

Livery Stables.

Sec. 133. (As amended by chapter 148, p. 264, Acts extra session 1915.) Any person who keeps a stable or stall in which horses are kept at livery or fed or at which horses and vehicles are hired for compensation by the proprietor, shall be deemed to keep a livery stable; and no person shall, without a license authorized by law, keep a livery stable; but this section shall not be construed to prevent the keeper of a licensed ordinary or house of private entertainment from feeding the horses of travelers or guests stopping at such ordinary or house of private entertainment. Any person violating the provisions of this section shall pay a fine of not less than thirty dollars nor more than one hundred dollars for each offense.

Licenses to Livery Stable Keepers.

Sec. 134. (As amended by chapter 173, p. 368, Acts 1922.) Every person who shall keep a livery stable in the country, and in towns of less than two thousand inhabitants, shall pay the sum of seven dollars and fifty cents, and an additional sum of twenty-five cents for each additional stall in excess of twenty-five, and in towns of two thousand inhabitants and over, he shall pay twelve dollars and fifty cents, and an additional tax of twenty-five cents for each stall therein. And herein shall be included as stalls such space as may be necessary for a horse to stand and in which a horse may be kept. The license to keep a stable by the proprietor of public watering places and other places of summer resort, or any other person at such places, for six months or less, there shall be one-half of the sums hereinbefore specified. Every person, for the privilege of running a single hack, carriage, cab or other vehicle for carrying passengers for hire, shall pay five dollars, except that a license of one dollar and twenty-five cents only shall be imposed on persons running such conveyances solely in the country or in towns of not more than one thousand inhabitants. Every person who shall keep a feed stable for boarding horses for compensation, shall pay for such privilege two dollars and fifty cents in the country and in

a town of less than two thousand inhabitants, and in a town or city of two thousand or over two thousand inhabitants, five dollars. Every person for the privilege of running a conveyance of any kind for transfer of baggage, freight, furniture, or other articles of merchandise in cities and towns of two thousand inhabitants and over, shall pay for each one-horse conveyance the sum of one dollar and twenty-five cents, and for each conveyance of two horses or more, the sum of two dollars and fifty cents on each conveyance.

Motor Vehicles, Garage, Run for Hire, Etc.

Code Sec. 2149. Licenses for garages; fees therefor.—Every person who shall keep a garage for the storage or hire of machines, in the county and in towns of less than two thousand inhabitants, shall pay the sum of fifteen dollars, and an additional sum of fifty cents for the storage capacity in excess of five of the vehicles hereinafter defined, and in towns of two thousand inhabitants and over, he shall pay twenty-five dollars and an additional tax of fifty cents for the storage capacity over five of each of the vehicles hereinafter mentioned, and in cities of the second class, he shall pay a tax of thirty-five dollars and fifty cents additional for each vehicle for the storage capacity of each vehicle over five, and in cities of the first class he shall pay a tax of one hundred dollars, and one dollar additional for each vehicle for the storage capacity of each vehicle over five. The license to keep a garage by the proprietor of public watering places and other places of summer resort, or any person at such places, for six months or less shall be one-half of the sums hereinbefore specified.

Code Sec. 2150. Garage defined.—A garage, as used in this chapter, shall mean every place where three or more motor vehicles are stored or housed at any one time for compensation other than compensation to owner of the building, except only such places in which automobiles or motor vehicles of other kinds are kept by the owners thereof without payment for storage.

Code Sec. 2151. Fees for operation of machines for hire.—Every person, for the privilege of running a machine for hire, in the transportation of merchandise or passengers in counties or in cities or towns of less than five thousand inhabitants shall for each machine operated pay the sum of five dollars, and in cities or towns of more than five thousand shall, for each machine operated, pay the sum of ten dollars, such fees to be paid in addition to the registration and license tax hereinbefore provided for. These shall be the only State license

taxes to be paid for the privilege of running a machine for hire in the transportation of merchandise or passengers.

Notes—An automobile for carrying passengers or for hauling merchandise, freight, etc., for compensation, not operated exclusively in the limits of a city or town, must be licensed by the Motor Vehicle Commissioner upon certificate procured from the State Corporation Commission, and is not to be licensed by a commissioner of the revenue; but the license to operate an automobile for transportation of passengers, merchandise, freight, etc., for compensation, exclusively within the limits of a city or town must be issued by the commissioner of the revenue.

Code Sec. 2152. Where license tax is payable.—Any person, firm, association or corporation, licensed under this chapter, may be required to pay a license tax in the city, town or county in which such machine is, or in which such garage is located, but in no case shall any person be required to pay a license tax in more than one city or county.

Code Sec. 2153. Fines for violations of two preceding sections.—Any person violating the provisions of either of the two preceding sections shall, upon conviction, pay a fine of not less than fifty dollars nor more than one hundred dollars for each offense.

Licenses to Persons Selling or Offering to Sell Sewing Machines and Accessories.

Sec. 135. (As amended by chapter 148, p. 265, Acts extra session 1915.) First. No manufacturer or other person, whether he be licensed as a peddler, merchant or sample merchant, or not, shall canvass any county, town or city, for the purpose of selling or offering to sell, or shall actually sell or deliver, sewing machines and accessories, unless he be licensed as provided in this section.

Second. Any manufacturer desiring the privilege of selling, or offering to sell, or of selling and delivering sewing machines manufactured by him and accessories to sewing machines, throughout the Commonwealth shall apply to the Auditor of Public Accounts for a license, and it shall be the duty of the Auditor of Public Accounts, upon the payment into the State treasury of the sum of two hundred dollars for the privilege of transacting such business, to grant such license, and such payment shall be in lieu of any additional State, county, city, or town license tax or levy.

The name of the manufacturer shall be stated in the license and such license shall be a personal privilege to the manufacturer to whom it is granted, and shall not be transferable, but any one representative of such manufacturer can sell thereunder for the said manufacturer; should such manu-

facturer desire to employ more than one representative, such manufacturer so licensed may obtain from the Auditor of Public Accounts separate certificates for as many agents as he may desire to employ in selling and offering to sell, or selling and delivering sewing machines manufactured by him, and accessories to sewing machines upon the payment of five dollars into the State treasury for each certificate, and such certificate shall state the name of the manufacturer, and shall entitle such agent to sell, or offer to sell, or to sell and deliver, sewing machines manufactured by such manufacturer and accessories to sewing machines throughout the Commonwealth, without the payment of any additional State, county, city or town tax or levy.

Any licensed merchant may sell, or offer to sell, or to sell and deliver, at his regular place of business under his merchant's license, without the payment of any additional State, county, city or town license tax or levy, sewing machines purchased by him from any manufacturer of such sewing machines who has taken out a license to sell sewing machines of his manufacture, and accessories to sewing machines throughout the Commonwealth; but such merchant, if he desire to sell, or to offer to sell, or to sell and deliver, at any place other than at his regular place of business, the sewing machines purchased by him from a manufacturer who has been licensed as hereinbefore provided, shall obtain a certificate from the Auditor of Public Accounts, and shall pay into the State treasury therefor the sum of five dollars and he shall also, in like manner, pay five dollars for a certificate for each person in his employment engaged in selling or offering to sell, or in selling and delivering, elsewhere than at his regular place of business, the said sewing machines, and accessories to sewing machines, and such payment shall be in lieu of any additional State, county, city or town license tax or levy.

Any person other than a licensed merchant or manufacturer, may sell, or offer to sell, or sell and deliver, throughout the Commonwealth sewing machines purchased by him from any manufacturer of such sewing machines, who has taken out a license to sell sewing machines of his manufacture, and accessories to sewing machines, throughout the Commonwealth; provided, he obtain a certificate from the Auditor of Public Accounts and pay into the treasury of the State the sum of five dollars, and such payment shall be in lieu of any additional State, county, city, or town license tax or levy.

Third. Any person other than those licensed under the foregoing section desiring the privilege of canvassing any county or city, for the purpose of selling or offering to sell sewing machines and accessories, shall apply to one of the

commissioners of the revenue for such county or city for such license; and upon the granting of such license, and the payment of twenty dollars to the treasurer of such county or city, he shall have the privilege of selling, offering to sell, and of selling and delivering sewing machines and accessories of any manufacturer in such county or city. Any such person so licensed may obtain the like privilege in any other county or city upon the production to one of the commissioners of the revenue of such other county or city of his license to sell as aforesaid, and upon the payment of the sum of ten dollars to the treasurer of such other county or city. Such license shall be a personal privilege, and shall not be transferable; but no separate license shall be required to be obtained by any person licensed under this section in order to authorize such person to sell the said accessories of any manufacturer.

Fourth. There shall be no abatement from the said sum to be paid for the license to sell sewing machines or accessories, if the same be exercised for less than one year. All licenses issued under this section shall expire on the thirtieth day of April next after the date of their issue.

Fifth. Any manufacturer, person, or agent selling, or offering to sell, or taking orders for the sale of sewing machines or accessories, without having obtained the license or certificate hereinbefore required, shall be deemed guilty of misdemeanor, and upon conviction thereof, shall be fined not less than one hundred dollars nor more than five hundred dollars, one-half of every such fine to go to the informer.

Sixth. Nothing in this section shall prevent licensed auctioneers or officers of the law, under legal process, from selling second-hand sewing machines, nor prevent any person licensed under this section from dealing in second-hand sewing machines of any manufacturer which have become second-hand by having been sold and used in this State previous to the passage of this act, or those which may become second-hand machines after having been sold under the provisions of this section.

Agents for the Sale of Manufactured Implements or Machines by Retail Other Than Sewing Machines.

Sec. 136. (As amended by chapter 148, p. 267, Acts extra session 1915.) Any person who shall sell, or offer for sale, manufactured implements or machines by retail, or take orders therefor on commission or otherwise, other than sewing machines, unless he be the owner thereof, or a duly licensed merchant, at his regular place of business, who shall have paid a license tax amounting to as much as fifteen dollars shall be deemed to be an agent for the sale of manufac-

tured articles, and shall not act as such without taking out a license therefor. No such person shall, under his license as such, sell or offer to sell, such articles through the agency of another; but a separate license shall be required for any agent or employee who may sell, or offer to sell, such articles for another. For any violation of this section the person offending shall pay a fine of not less than fifty dollars nor more than one hundred dollars for each offense.

License to Agents for the Sale of Manufactured Implements or Machines by Retail Other Than Sewing Machines.

Sec. 137. (As amended by chapter 148, p. 267, Acts extra session 1915.) Every agent for the sale of manufactured implements or machines, other than sewing machines, shall pay for the privilege of transacting such business the sum of fifteen dollars, and this shall give to any party licensed under this section the right to sell the same within the county or city in which he shall take out his license; and if he shall sell, or offer to sell, the same in any other county or city of the State, he shall pay an additional sum of ten dollars in each county or city where he may sell, or offer to sell the same; provided, that any person who shall pay an annual tax to the Commonwealth upon capital actually employed by him, in the manufacture of the articles or machines mentioned in this section of not less than thirty dollars per annum, may, without any further sum being paid for the privilege by himself or his agent, employ agents to sell said articles or machines manufactured by him in any of the counties or cities of the State; and the certificate of the treasurer of the county or city in which said tax shall be paid by such person on the capital so employed by him in the manufacture of such articles or machines shall be evidence of the fact of such payment.

License Tax on Peddlers of Manufactured Implements and Machines Other Than Sewing Machines and on Peddlers of Cooking Stoves and Ranges and Clocks.

Sec. 138. (As amended by chapter 148, p. 267, Acts extra session 1915.) Every person engaged in peddling manufactured implements or machines, other than sewing machines, shall pay for the privilege of transacting such business the sum of two hundred dollars; and this shall give to such peddlers the right to sell the same within the county or city in which he shall take out his license, and if he shall sell, or offer to sell, the same in any other county or city in this State, he shall pay an additional sum of one hundred dollars in each county or city where he may sell or offer to sell the same.

Every peddler of cooking stoves or ranges, and every peddler of clocks, shall pay for the privilege of engaging in such business the sum of five hundred dollars, and this shall give to such peddler the right to sell the same within the county or city in which he shall take out his license; and if he shall sell, or offer to sell, in any other county or city of the State, he shall pay an additional sum of three hundred dollars in each county or city where he may sell or offer to sell the same; provided, that any person selling clocks, stoves and ranges under a merchant's license and delivering the same shall be deemed a peddler under the provisions of this act and subject to the requirements and penalties hereinbefore imposed.

Licenses on Slot Machines.

Sec. 139. (As amended by chapter 84, p. 118, Acts extra session 1915.) Any person, firm or corporation, having on a street, alley or other place in any city or town, or on any public road in any county, or in shops, stores, hotels, boarding houses, depots, public or private rooms or any other place anywhere in the State of Virginia, a slot machine of any description, into which are dropped pennies or nickles or coins of other denomination to dispose of chewing gum or other articles of merchandise or for the purpose of operating musical or other devices that operate on the nickle-in-the-slot principle, used for gain, except as a pay telephone, shall pay for every such slot machine or musical or other device, as the case may be, a State license tax of ten dollars per year for the use and benefit of the State; except such vending machines as are used solely for the sale of agricultural products or cigars, on which shall be levied a State license tax of three dollars per year for each machine; except also weighing machines and machines used solely for the purpose of selling shoestrings, on which shall be levied a State license tax of two dollars per year for each machine; and except also automatic baggage or parcel checking machines or receptacles, which are used for the storage of baggage or parcels of any character, on which there shall be levied a State license tax of twenty-five cents per year for each receptacle that is operated on the coin-in-the-slot principle; provided, however, that nothing contained in this section shall be construed as permitting any such person, firm or corporation to keep, maintain, exhibit or operate any slot machine or other device, in the operation of which cigarettes or intoxicating liquors are disposed of or in which the element of chance enters, and it shall not be lawful for any commissioner of the revenue or other officer to issue a State license under this section to any such person, firm or corporation for the keeping, maintaining,

exhibiting or operating of any slot machine or other device, in the operation of which cigarettes or intoxicating liquors are disposed of or in which the element of chance enters, the intent of this section being to license only those machines or devices, in the operation of which the element of chance does not enter, and which are not used to dispose of cigarettes or intoxicating liquors; and provided, further, that this section shall not apply to any merchant, who has paid a merchant's license tax and who uses such slot machine simply for the purpose of making sales of his goods and merchandise and to be used inside of his place of business; nor shall this section apply to slot machines that are used for the purpose of selling individual sanitary drinking cups or sanitary drinking cups and natural water at one cent.

Any person, firm or corporation, having any such machine or other device and failing to procure a State license therefor, shall be subject to a fine of not less than twenty dollars nor more than fifty dollars for each offense and such machine or other device shall become forfeited to the Commonwealth.

License on Dealers in Pistols, Dirks or Bowie Knives.

Sec. 140. (As amended by chapter 148, p. 268, Acts extra session 1915.) No person, firm or corporation, shall sell pistols, dirks, or bowie knives without having first procured a license therefor.

. Every person, firm or corporation engaged in the business of selling pistols, dirks, or bowie knives, or who may hereafter engage in said business, shall pay for the privilege of transacting said business a special license tax in the sum of twenty dollars per annum, and no such license shall be issued for any period less than one year, nor shall there be any abatement in any instance of the tax upon such license by reason of the fact that the person or persons so licensed shall have exercised such license calling for a period of less than one year. Any person selling pistols, dirks, or bowie knives contrary to the provisions hereof, or who shall in any manner violate the same, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five dollars nor more than fifty dollars for each offense.

License Tax Upon Gypsies, Etc. (Formerly Section 141.)

AN ACT to repeal section 141 of an act entitled an act to raise revenue for the support of the government and public free schools, and to pay interest on the public debt, and to provide a special tax for pensions, as authorized by section 189 of the Constitution, approved April 16, 1908, as heretofore amended and to prohibit gypsies and other strolling companies of persons pretending to tell fortunes and practice magic arts for money. Approved March 13, 1918. Chapter 144, p. 264, Acts 1918.

1. Be it enacted by the General Assembly of Virginia, That section one hundred and forty-one of an act entitled an act to raise revenue for the support of the government and public free schools, and to pay interest on the public debt, and to provide a special tax for pensions, as authorized by section one hundred and eighty-nine of the Constitution, approved April sixteenth, nineteen hundred and three, as heretofore amended and to prohibit gypsies and other strolling companies of persons pretending to tell fortunes and practice magic arts for money, be and the same is hereby repealed.

2. Be it further enacted by the General Assembly of Virginia, That it shall be unlawful for any company of gypsies or other strolling company of persons, to receive compensation or reward for pretending to tell fortunes or to practice any so-called magic art.

3. Every person violating this act shall be guilty of a misdemeanor, and fined not less than five hundred dollars, or confined in jail not less than one, nor more than six months, or by both such fine and imprisonment.

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

General Provisions.

Sec. 143. (As amended by chapter 20, p. 53, Acts 1904.) When any incorporated company, firm or person is engaged in more than one business, which is made by the provisions of this act subject to taxation, such incorporated company, firm or person shall pay the tax provided by law on each branch of its or her business.

Sec. 144. (As amended by chapter 149, p. 230, Acts 1910.) Any corporation, except as otherwise expressly provided in this act, feeling aggrieved by the assessment made by the State Corporation Commission of its property, registration fee or franchise tax under the provisions of this act may have such right of appeal as may be provided by law.

Every such company, corporation, firm or person which shall fail to make the reports required in the preceding sections within the time prescribed, shall, unless a different penalty is hereinbefore prescribed for such failure, be liable to

a fine of not less than five hundred dollars nor more than two thousand five hundred dollars. The said fine to be imposed and judgment entered therefor by the State Corporation Commission, after thirty days' notice to any such defaulting corporation to appear before said commission and show cause, if any, against the imposition of such fine, subject to appeal to the Supreme Court of Appeals of Virginia.

It shall be the duty of the State Corporation Commission to prepare and furnish to the several corporations required to make reports under this act forms for such reports, which said corporations shall use in making the reports required of them.

Any such company, corporation, firm or person required by this act to pay its registration fee or its or his taxes, or both directly into the State treasury, failing to pay said taxes or registration fee or both, into the treasury within the time prescribed shall incur a penalty thereon of five per centum, which shall be added to the amount of said taxes or registration fee, or both. The Auditor of Public Accounts shall deliver a bill for said taxes or registration fee, or both, and penalty, to the treasurer of any county or city in which the company, corporation, firm or person may have any property belonging to it or him, and said bill shall have the force and effect of an execution in favor of the Commonwealth.

The treasurer may distrain or levy upon, and sell, any real or personal property of such company, corporation, firm or person, and shall pay the amount of the bill into the treasury within ten days after he has collected the same.

The treasurer shall be responsible on his official bond for the amount of such bill; provided, however, if the amount of the bill exceed one-half of the penal sum of the official bond of such treasurer, the Auditor of Public Accounts shall require the treasurer to whom such bill is delivered to execute a bond in the penalty of double the amount of the bill placed in his hands for collection, with security, to be approved by him, conditioned for the faithful discharge of his duty in collecting and paying into the treasury the amount of such bill. The compensation of such treasurer for collecting and paying into the treasury said bill shall be five per centum of the aggregate of said bill, and shall be paid by such corporation, company, firm or person.

Sections of the Code of Virginia

RELATING TO

**Segregation of Subjects of Taxation
State Tax Commission, Examiners of Records
Assessment of Lands and Lots
Assessment of Taxes on Persons and Property
Collection of Taxes, Etc.**

SEGREGATION OF SUBJECTS OF TAXATION

Sec. 2205. Segregation of taxable real estate and tangible personal property for local taxation only, with certain exceptions.—All taxable real estate and all taxable tangible personal property and the tangible personal property of public service corporations (except rolling stock of corporations operating railroads by steam) and also the capital of merchants, is hereby segregated and made subject to local taxation only, except that there shall be a school tax of ten cents on every one hundred dollars of the assessed value of said real estate, and tangible personal property, which tax shall be applied to the support of the public free schools for the equal benefit of all the people of the State, to be apportioned on a basis of school population.

Sec. 2206. Segregation for State taxation only of insurance taxes, licenses on insurance companies, taxable intangible personal property, and rolling stock of railroad companies, with certain exceptions.—Insurance taxes, licenses on insurance companies, taxable intangible personal property, rolling stock of all corporations operating railroads by steam, and all other classes of property not hereinbefore specifically enumerated in this chapter, shall be and the same are hereby segregated and made subject to State taxation only. The capital of merchants shall not be subject to State taxation, but may be taxed locally as provided by the preceding section.

Sec. 2207. Rolling stock of railroads assessed by State Corporation Commission; rate of taxation; how taxes paid.—The value of rolling stock of all corporations operating railroads by steam and doing business in this State, so far as the same is taxable in this State, and segregated and made sub-

ject to taxation by the State only under the preceding section, shall be assessed annually by the State Corporation Commission.

The total annual rate for such segregated rolling stock shall be one and three-fifths per cent of the assessed value thereof to be applied to the support of the government of the State.

Said corporations shall pay to the State Treasurer the taxes due under the assessment of rolling stock aforesaid, at the same time and in the same manner as taxes levied on the other properties of such corporations for State purposes are required to be paid.

Sec. 2208. State Corporation Commission shall ascertain and assess value of rolling stock of electric railway corporations; how assessment to be made; situs of such rolling stock for purpose of taxation.—The rolling stock of the various electric railway corporations doing business in Virginia shall not be assessed for taxation at the principal office of said corporation, but the value of said rolling stock shall be ascertained and assessed by the State Corporation Commission for the purpose of State taxation, and for local taxation shall be divided, apportioned and distributed among the several counties, magisterial districts, cities and towns in this State in and through which any part of any such electric railway is located, in the ratio and proportion that the total assessed value of the right of way, roadbed, track and all other property (except rolling stock) of such electric railway corporations, respectively, located in any such county, magisterial district, city or town, bears to the assessed value of all such property (except rolling stock) of said electric railway corporation, respectively.

The State Corporation Commission shall annually, on or before the fifteenth day of October, divide, apportion and distribute, according to the ratio and proportion aforesaid, the assessed value of rolling stock of said electric railway corporations, respectively, among the several counties, magisterial districts, cities and towns in and through which the line, or roadway of any such electric railway corporation is located, and certify to the board of supervisors of said counties, and to the councils, or any other governing board, of said cities and towns, respectively, the proportion of the assessed value of said rolling stock for local taxation by said counties, magisterial districts, cities and towns, respectively; and the proportion of the assessed value of said rolling stock which shall be subject to taxation for local purposes by the counties, magisterial districts, cities and towns, as aforesaid, shall be that part of said assessed value of said rolling stock certified by

the State Corporation Commission to the respective boards of supervisors of the counties, and the councils or any other governing board, of the cities and towns, as hereinbefore provided.

The said valuation of said rolling stock, when so ascertained and certified and apportioned, as aforesaid, shall be held to be situated for the purpose of local taxation in said cities, towns, counties and districts and taxable therein in the same way and manner as the physical properties of said railroad are taxed for the purpose of local taxation; and said apportionment shall be treated in all respects, for the purpose of local taxation, as if said rolling stock was actually situated in said cities, town, counties or districts, and the situs, or place of taxation of such rolling stock, to the extent of said valuation and apportionment, shall be in the said cities, towns, counties and districts aforesaid and not elsewhere.

As used in this section the term "electric railway" shall be construed to mean a railroad the greater part of the mileage of which is operated by electricity.

Sec. 2209. What tax cities and boards of supervisors may levy on segregated intangible personal property.—Nothing contained in section twenty-two hundred and five and twenty-two hundred and six shall prevent any city from levying a tax upon segregated intangible personal property assessed to the residents therein at a rate not to exceed thirty cents upon the one hundred dollars of assessed valuation thereof, nor prevent the board of supervisors of any county from levying a district road tax on all segregated intangible personal property assessed to the residents in the magisterial districts proposed to be taxed for district purposes to be used exclusively for the construction and repair of roads located within the magisterial district in which said levy is laid, at a rate not to exceed thirty cents on the one hundred dollars of assessed valuation thereof, nor to prevent any incorporated town in this State which is exempt by statute or by the express provisions of its charter from the payment of district road taxes, or which maintains its own roads free of expense to the magisterial district in which it is located, from levying and collecting a tax on all of said segregated intangible property assessed to residents therein at a rate not to exceed thirty cents on the one hundred dollars of assessed valuation thereof.

But this section shall not be construed to authorize the board of supervisors of any county to levy such tax against the residents of an incorporated town, which maintains its own roads, which town is located within such magisterial district.

This section shall not apply to shares of stocks of banks, banking associations, trust or security companies.

Note—By the provisions of section 9 of the tax laws, as amended by act approved March 21, 1922, a locality can impose upon intangible property designated as class 1, bonds, notes and other evidences of debt, a rate not to exceed twenty cents on every one hundred dollars of assessed value.

Sec. 2210. Boards of supervisors of counties and councils of cities and towns, authorized to levy taxes and adopt the same classification as the State.—The boards of supervisors of counties and councils of cities and towns having authority to levy taxes may adopt the classification of the several subjects of taxation, as the same are classified for purposes of taxation by the State, and when levying taxes for their purposes may impose different rates upon one or more classes of property. But no rate shall exceed the maximum rate, if any, fixed by law; and nothing in this section shall authorize the board of supervisors of counties, or the councils of cities and towns, to levy an additional tax on property or taxable subjects wholly segregated for State taxation.

Sec. 2211. Value of real and personal properties mentioned in this chapter to be ascertained and taxes thereon extended.—The value of all of the real and personal properties mentioned in this chapter shall be ascertained and determined, and the taxes, local and State, shall be extended on the values thereof in the manner prescribed by law.

Sec. 2212. Cities and towns allowed to make additional levy.—All cities and towns of the Commonwealth are authorized, when levying taxes for their purposes, upon property which they are not prohibited from taxing by general law, and except upon property upon which a maximum rate for local purposes is fixed by general law, to impose, in addition thereto, and in excess of, the maximum rate of taxation which may now be imposed by each of them under any existing statute, or statutes, a further and additional rate of (not to exceed) twenty-five cents upon each one hundred dollars of assessed value of such property; provided, however, the council of any said city or town to which territory has heretofore been annexed is authorized and shall have the right and power to impose the said additional levy or rate hereinbefore provided for, any specific limitations prescribed in charters, annexation acts or proceedings and fixed by the vote of the people or otherwise to the contrary notwithstanding.

STATE TAX COMMISSION.

Act Creating, Approved March 20, 1924.

AN ACT to create local boards of equalization of assessments of real estate for purposes of taxation in each county and city of the Commonwealth; to define the powers and duties of such boards; to fix the compensation of their members; to create a State tax commission; to define its powers and duties; to fix the compensation of its members; to appropriate money to carry out the provisions of this act; to prescribe penalties for the violation of the provisions of this act, and to repeal sections 2213, 2214, 2215, and 2216 of the Code of Virginia. Approved March 20, 1924.

1. Be it enacted by the General Assembly of Virginia as follows:

1. **Local boards of equalization; how constituted and created; their compensation.**—On or before the first day of June of the year of the quinquennial assessment of real estate the judge of the circuit court of each county and the judge of the circuit court of each city having no other court of record, shall, either in term time or vacation, appoint three qualified voters residing in such county or city to compose a local board of equalization of assessments for said county or city: and before entering upon the duties of their office such appointees shall take the oath of office prescribed by law for county and city officers. And if it appear that any person thus appointed cannot, or for any reason will not, perform the duties required of him by law, the said judge shall, either in term time or vacation, appoint another in his place. The said local board of equalization shall organize by electing one of their number as chairman. The clerk of the circuit or corporation court shall be ex-officio clerk of said board of equalization, but in a city of over fifty thousand inhabitants the local boards of equalization may select a clerk instead of having the services of the clerk of the court, and the clerk of such board shall attend all meetings and keep the records of the proceedings thereof in a separate book to be provided for that purpose, which shall be preserved and kept on file in the office of the clerk of the circuit or corporation court, as the case may be. The said local board of equalization shall sit not more than sixty days, and shall hold its sessions at such times as the law may require or they may deem necessary, with power in the court which appointed the board, upon application of the board or of the State tax commission, or of ten

citizens of the county or city, to so extend the time as may be deemed reasonable or necessary by the court.

The compensation of each member of the local board of equalization of assessments shall be five dollars per day for each day that he shall sit as a member of said board, and of the clerk three dollars per day for each day that he shall be necessarily employed, such per diem to members and clerks to be paid one-half by the Commonwealth and one-half by the county or city wherein such member or clerk serves. The accounts for such compensation shall be made out and verified by affidavit of the member before the clerk of the circuit or corporation court, in which shall be stated that the time for which said per diem is claimed was necessarily employed; and accounts for expenses necessarily incurred by the board in the discharge of its duties shall be made out and certified by affidavit of the chairman before the said clerk; and when said accounts shall have been so made out and certified, they shall be paid out of the State and county or city treasury, in equal proportions, out of any money in such treasury not otherwise appropriated. The duties of the judge of a corporation court required by this section shall be performed for the city of Richmond by the judge of the hustings court, part one.

2. Powers and duties of local boards of equalization.—Each local board of equalization of assessments shall have power and it shall be its duty:

(a) To equalize the assessments of real estate within the county or city, and for this purpose it shall review the land books as soon as they are completed by the land assessors, and make such changes therein as it may determine. The books shall be delivered to the local board of equalization by the county land assessors not later than the first day of July and by the city land assessors not later than the first day of September; provided, that the judge of the court in which the land assessor qualified, for cause shown, shall have the right to extend the time for the delivery of such books for a period not exceeding thirty days. The said board shall complete its review and deliver the books to the commissioner of the revenue not later than the first day of February following, and the commissioner shall proceed to make his assessments, certify and deliver the books as required by law.

(b) As soon as his land assessments are completed the commissioner of the revenue shall notify the board, which shall immediately appoint a time and place at which it will meet to hear grievances and complaints with regard to the assessments. Notice of such time and place shall be published in a newspaper having a general circulation in the county or city.

(c) Any taxpayer may apply to the local board of

equalization for the correction of his assessment; and the State tax commission, or Auditor of Public Accounts, represented by the attorney for the Commonwealth, or other attorney selected for the purpose, may apply on behalf of the Commonwealth, to the local board of equalization to increase the assessment of any taxpayer, and any county or city through its appointed representative or attorney may apply to the local board of equalization to increase the assessment of any taxpayer. The board shall hear and determine any and all such petitions and may increase, decrease or affirm the assessment of which complaint is made; and it may increase or decrease any assessment upon its own motion; provided, however, that no assessment shall be increased until after the owner of the property has been notified and given an opportunity to show cause against such increase, unless such owner has already been fully heard. In all such hearings the officers who made the assessments shall, if possible, be present and testify.

The State tax commission or the Auditor of Public Accounts, on behalf of the Commonwealth, or the attorney for the county, city or town, or any taxpayer, aggrieved by any such order, may apply to the circuit court of the county or the corporation court of the city, or to the circuit court of any city which has no other court of record, for the correction of any erroneous assessment, either as to over or undervaluation, in the same manner as is provided by law for the correction of erroneous assessments of property by any person who is aggrieved thereby.

Nothing contained in this section shall prevent the Commonwealth, a county, city or town, or a taxpayer from applying directly to the court for the correction of erroneous assessments of taxes and levies without first applying to the local board of equalization.

(d) The said board shall have power to direct the commissioner of the revenue to enter upon the land books property which is found to have been omitted; and to cancel duplicate assessments of the same.

(e) Said board shall keep minutes of its meetings, and enter therein all orders made and transmit promptly copies of such orders as relate to the increase or decrease of assessments to the taxpayer, commissioner of the revenue, Auditor of Public Accounts, and attorney for the county, city or town. And if the order, or orders, of the board provide for an increase of the assessed value of the property of any taxpayer, the commissioner of the revenue shall make a supplemental assessment for the increased value or values for the year following the quinquennial assessment, and shall note the change on his land books to be carried into the land book of each

succeeding year until the next quinquennial assessment; and if the order of the board provides for a decrease of the assessed value of the property of any taxpayer, he shall note such decrease on his land book to be carried into the land book of each succeeding year until the next quinquennial assessment, and upon presentation of the copy of the order furnished the taxpayer, the treasurer shall credit the assessment made against the property for the year following the quinquennial assessment, with the amount determined to be erroneous, and if the said taxes have been paid shall refund the taxpayer the amount erroneously paid.

No order made by said board shall prevent the taxpayer, or member or members of a board of supervisors, board of supervisors, member or members of a city or town council, city or town council or any other governing board of any city or town, or the Commonwealth from applying to the proper court for correction of any erroneous assessment in the manner provided by law.

(f) To communicate to the circuit court of the county or the corporation court of the city information coming to its attention, which will aid the court in carrying out the provisions of section twenty-four hundred and seventy-three of the Code.

(g) Such board shall have authority to summon taxpayers or their agents or any person, firm, or officer of a company or corporation, to furnish information relating to the real estate of any and all taxpayers, and to summon taxpayers or their agents, or any person, firm, or officer of a company or corporation, to answer, under oath, all questions touching the ownership and value of real estate of any and all taxpayers, and to summon taxpayers or their agents, or any person, firm, or officer of a company or corporation, to bring before it their books of account or other papers and records containing information with respect to the valuation of real estate of the taxpayer or any other real estate within the county or city under review by the board. Such summons may be served in person or by registered mail.

(h) Any person refusing to answer the summons of the local board of equalization, or to furnish information, or to produce his books of account, papers and other records, as required by this act, shall be deemed guilty of a misdemeanor and shall be liable to a fine of not less than ten dollars nor more than one hundred dollars, and each day's failure to answer such summons, or to furnish such information, or to produce such books of account, papers and other records, shall constitute a separate offense.

(i) The information procured by local boards of equalization under this chapter shall be regarded as confidential,

except for the purpose of assessments, and shall not be disclosed except to the State tax commission or to some other local board of equalization or to officers charged with the assessment or collection of taxes, or to a court of record upon its order.

(j) The term of office of the members of the said local board of equalization shall expire on the thirty-first day of December of the year following the quinquennial assessment, after which date no corrections shall be made by the said boards.

State Tax Commission.

3. State tax commission; personnel.—There is hereby created a State tax commission, composed of the Auditor of Public Accounts, the Second Auditor and the State Treasurer, who shall serve without additional compensation.

4. Place of meeting; organization.—The commissioners herein named shall meet without delay at the capitol in Richmond, and shall organize by electing one of their number as chairman and another as secretary.

Quorum.—Two members shall constitute a quorum of the commission for the transaction of all business.

Assistants and clerks.—The commission shall have the power to employ and remove such clerks and other assistants as may from time to time be necessary, to prescribe their duties and to fix their compensation; provided, that the total expenditures of the said commission shall not exceed the amount appropriated by law.

5. Office; sessions; traveling expenses.—The office of the commission shall be in Richmond, where suitable rooms shall be provided for it by the Governor and the Registrar of the Land Office. But the commission may hold sessions, and one or more members may conduct investigations and hearings at any other place when necessary to the proper performance of the duties prescribed by law; and members of the commission and its employees shall receive from the State the amount of their actual necessary expenses while absent from Richmond, on the business of the commission, such expenses to be sworn to by the person incurring them, and approved by the chairman of the commission.

6. Powers and duties.—In addition to the powers and duties conferred by law on the State Tax Board, it shall be the duty of the Virginia tax commission, and it shall have the power and authority:

(1) To supervise the administration of the assessment and tax laws of this State with a view to ascertaining the best methods of reaching all property, of effecting equitable assessments, and of avoiding conflicts and duplication of taxa-

tion of the same property; and to recommend to the Governor and the General Assembly such measures as will promote uniform assessments, just rates, and harmony and co-operation among all officials connected with the revenue system of the State.

(2) To exercise general supervision over the assessors of real estate and over commissioners of the revenue, and over all other public officers so far as the duties of such officers pertain to the public revenues, and it shall be the duty of said tax commission to confer with, instruct and advise all such public officers in the performance of their duties, and to investigate at any time the assessment and collection of taxes in any county or city, and when the assessment is found unreasonable and unjust, to take steps to correct the same in the manner provided by law; and to institute proceedings by motion in writing in the proper court, or before the judge of such court in vacation, for the removal or suspension of assessors of real estate and of commissioners of the revenue for incompetency, neglect or other official misconduct.

(3) To prescribe the forms of books and schedules to be used in the assessment and collection of taxes, and to call for and prescribe the forms of such statistical reports, notices and other papers as said tax commission may deem necessary to the proper administration of the law, and to prescribe and install a uniform system of accounts to be used by revenue officials.

(4) To collect, digest and preserve information relating to the value and ownership of real and personal property with a view to instructing, aiding and checking assessors and commissioners of the revenue.

(5) To furnish to assessors and commissioners of the revenue such classification of property, both real and personal, for the purpose of uniform valuation, as will promote fairness of assessment.

(6) To investigate and supervise the enforcement of the laws with regard to rates, fees and charges for mercantile, professional and all other licenses, to the end that the burden of taxation may be fairly equalized among all classes of residents within the Commonwealth.

(7) To direct such proceedings, actions and prosecutions to be instituted as may be needful to enforce the revenue laws of the State, and to call on the Attorney General, or other proper officer, to prosecute such actions and proceedings.

(8) To intervene, by petition or otherwise, whenever deemed advisable in any action or proceeding pending in any court wherein the constitutionality or construction of any tax or revenue statute or the validity of any tax is in question;

and the court wherein such action or proceeding is pending may, by order entered therein, make the said Virginia tax commission a party thereto whenever deemed necessary.

(9) To make a report of its proceedings and recommendations to the Governor on or before the first day of November preceding a regular session of the General Assembly; and the Governor shall cause copies of said report to be printed, one of which copies he shall cause to be sent to each member of the General Assembly at least twenty days before the beginning of a regular session.

7. **Processes.**—The Virginia tax commission shall, in all matters within its jurisdiction, have the power and authority to award and issue, have served and executed and returned, any writ, notice, process, order or order of publication which may by law be awarded, issued, served, executed, or returned by or to any court of law or equity in this Commonwealth for the purpose of compelling the attendance of witnesses, the production of books and papers, and the enforcement and execution of its findings, orders and judgments.

All writs, processes and orders of the commission shall run in the name of the Commonwealth, shall be signed by the chairman of the commission and be attested by its secretary, or any clerk designated by the commission for that purpose, and shall be directed to any sergeant, sheriff or constable of any county or city wherein such writ, process or order is to be executed. All writs, notices, processes or orders of the commission may be executed and returned in like manner and upon like manner, and upon like persons or property as the processes, writs, notices or orders of the courts of record of this Commonwealth, and so served, executed and returned shall have the same legal effect. The officer serving or executing any writ, notice, process or order of the commission shall receive the same fees allowed by law for like services to sergeants and sheriffs of the counties and cities. Any officer who shall fail to execute and return any writ, process, notice or order of the commission shall be subject to the same penalties provided by law for the failure to execute and return the process of any court, which penalties, after due notice to the officer so failing, may be enforced by the judgment of the commission, which is hereby clothed with power to carry this provision into effect.

The commission shall make such allowances for fees and mileage of witnesses summoned before it as are allowed by law for witnesses summoned by the Commonwealth in felony cases, to be paid out of the fund at the disposal of the commission.

8. **Information to be confidential.**—It shall be unlawful for any member or ex-member of the Virginia tax com-

mission, or for any assessor or commissioner of the revenue or for any employee or agent of the tax commission, to divulge any information acquired by him in respect to the transactions, property, income or business of any person, firm or corporation when in the performance of his duties under this act. Any violation of the provisions of this section shall be punished by a fine not exceeding five hundred dollars or by imprisonment not exceeding six months, or by both, at the discretion of the court; provided, however, that the Governor may at any time, by written order, direct that any information herein referred to shall be made public or be laid before any court; and, provided, further, that this information does not extend to any matters required by law to be entered on any assessment roll or book.

9. **Supplies, printing, expenses, etc.**—That the commission shall have the authority to purchase all necessary furniture and supplies, and have all necessary printing and publishing done, and secure all telephone and telegraph service necessary to the efficient discharge of its duties, and the same shall be paid out of the fund hereinafter appropriated; provided, however, that all printing necessary for the commission shall be done by the public printer, on its order, to be paid out of the general printing fund.

10. **Repeal of other acts.**—That sections 2213, 2214, 2215 and 2216 of the Code of Virginia, and all other acts and parts of acts inconsistent with this act be, and the same are hereby, repealed, but said repeal shall not revive any laws heretofore repealed, nor affect any suits or proceedings that have been instituted under any of said acts.

State tax commission successor to State Tax Board.—All provisions of the law, relating to the State Tax Board, not repealed by this act, shall apply to the State tax commission.

Sec. 2217. Clerk of board of each county to send State Tax Board copy of order fixing county levies; duty of State Tax Board on receiving such copies.—The clerk of the board of supervisors of each county shall send to the State Tax Board a certified copy of the order fixing and ordering county levies and levying school taxes authorized by sections twenty-seven hundred and twenty and twenty-seven hundred and twenty-one within fifteen days after the entry of said order. The State Tax Board, as soon as such copies have been received, shall from said orders compile and cause to be printed a table, showing the levy for each county, and the school tax levy for each district in each county. Said board shall furnish to any firm, corporation, or individual, residing or doing business in this State, upon application in writing, a copy or copies of said table.

Sec. 2218. Examiners of records; how appointed.—On or before the first day of May, nineteen hundred and twenty, and every four years thereafter, the State Tax Board shall appoint an examiner of records for each judicial circuit of this State, for a term of four years, who shall be a resident in the circuit for which he is appointed and who shall be removable by said board at pleasure and his successor appointed for the unexpired term. The examiners of record in office when this Code takes effect shall remain in office until May first, nineteen hundred and twenty, unless sooner removed by the State Tax Board.

Sec. 2219. Examiner to qualify and give bond.—The examiner of records, before entering upon the discharge of his duties, shall qualify before some court of record in his circuit, or the judge thereof in vacation, and enter into and acknowledge a bond in the penalty of five thousand dollars, conditioned for the faithful discharge of his duties, and for the making good to the Commonwealth of all over-payments of commissions to said examiner, as provided in section twenty-two hundred and twenty-four, payable to the Commonwealth of Virginia, the surety to be approved by the court or judge taking such bond.

Sec. 2220. Duties of examiner; report to commissioner of revenue; duties of commissioner.—He shall annually examine all causes pending in the courts of his circuit and the records thereof and ascertain and report all money, bonds, notes, stocks, shares of stocks, capital, capital stock, choses in action, other evidences of debt, and all and every other species of personal property and income subject to taxation under the control of the courts in his circuit or held by any person, bank, or corporation subject to the order of such courts or in the hands of or under the control of receivers, commissioners, and fiduciaries appointed by such courts or appointed by any deed or will, and shall perform such other duties as may be required of him by law. He shall also annually examine the records, State and Federal, within his circuit, and ascertain the value of all ships, tugboats, barges, boats, and other water craft over five tons burden, with their tackle, rigging and furniture, and all else that pertains to them, and other like boating property over five tons burden, owned by other than express, steamship and steamboat companies, or shall ascertain the value of such property from any other source accessible to him. As soon as such examination and valuation is made he shall forthwith make a report thereof to the commissioner of the revenue of the county or city for which such examination is made or in which said property is taxable as provided by law, in

such forms as shall be prescribed by the Auditor of Public Accounts; and thereupon such commissioner of the revenue shall enter upon his personal property books in the names of the persons mentioned in said report the aggregate amount of property chargeable to each of them as stated in said report, and extend the taxes on such property as in the case of other persons and property entered on said books.

Sec. 2225. When executors, administrators, etc., liable for taxes.—All executors, administrators, trustees, and all other representatives distributing estates, within twelve months of their qualification, shall be liable for the taxes on the full amount of the taxable estates for the year commencing February first following their qualification, and they shall retain the same out of the estates, and the estates so distributed shall be exempt from taxation in the names of the parties beneficially interested therein.

Sec. 2221. Power of examiners to summon and examine, under oath, fiduciaries and owners of ships, etc.; penalty for failure to give information.—The examiner shall have power to summon before him fiduciaries and the owners of such ships, tugboats, barges, boats, and water craft, or their agents, and require them to answer, under oath, any question touching the ownership or valuation of such property, and if they refuse to furnish the information requested, they shall be liable to a fine of not less than ten dollars nor more than one hundred, to be recovered as other fines due the Commonwealth.

Sec. 2222. Correction of erroneous assessments made by examiner; how made; commissioner of revenue and examiner to be examined as witnesses.—If any person, firm or corporation consider himself aggrieved by said report or extension of taxes, he may apply for a correction of such taxes under the provisions of sections twenty-three hundred and eighty-five and twenty-three hundred and eighty-six of this Code, providing for the correction of erroneous assessment of taxes. No order made in favor of the applicant shall have any validity unless it is stated therein that the attorney for the Commonwealth defended the application for such correction and that the commissioner of the revenue and the examiner of records were examined as witnesses touching the application and the facts proved be certified in the order.

Sec. 2223. Banks, corporations, and persons to furnish list; penalty for failure or refusal.—Any bank, corporation, or person holding money or evidences of debt or personal prop-

erty of any kind under the control of any court, or to the credit of any cause pending in said court, or to the credit of any receiver, commissioner, trustee, or other fiduciary, shall, upon application, furnish the examiner of records with a statement or list thereof; and any bank, corporation, or person refusing to furnish such statement, or failing to furnish the same, shall be liable to a fine of not less than ten dollars nor more than twenty-five dollars for each day's failure to furnish the same after five days' notice to do so.

Sec. 6310. (As amended by chapter 340, p. 510, Acts 1920.) **How money under control of court deposited; record kept; list furnished auditor and examiner of records; how taxes collected; when condition of bond of fiduciary deemed to be fulfilled.**—Whenever any court shall order any money under its control or in its custody to be deposited in any bank or banking institution the officer or person making such deposit shall take a certificate of deposit therefor and deliver the same to the clerk of the court in which such order was entered. Such clerk shall file such certificate in the papers of the suit or proceedings in which such order was made, and shall in a book kept for that purpose keep a record of such money, showing the style of such suit or other proceedings, the date of the order of such deposit, the amount of such deposit, the place of such deposit, and the court in which such order was entered; and he shall from time to time as decrees are drawn on said fund charge the same against said deposits. He shall also furnish the Auditor of Public Accounts on February first of each year with a copy of such record thus made by him showing the balance on hand February first; and the said auditor shall keep a record of same in a book kept by him for that purpose. The said clerk shall also furnish a like list of such balances to the examiner of records who shall examine the same, and if found correct he shall report same to the commissioner of revenue of his county or city, who, if they be not otherwise taxed, shall enter the same upon his property book and assess the proper tax thereon, which shall be paid by such bank or banking institution to the treasurer of such county or city upon the presentation of the proper tax bill therefor, and the amount so paid shall be credited against such deposit, and the date and amount of such credit shall be endorsed on the certificate by the clerk.

In every case where any fiduciary or commissioner has, in pursuance of an order of a court of competent jurisdiction, deposited all funds and securities in such matter in any bank or banking institution to the credit of the court, and all prior acts of the fiduciary or commissioner has been approved by the court, the condition of the bond of such fiduciary or com-

missioner shall be deemed to be fulfilled, and no further premiums shall be charged or collected thereon.

Sec. 2224. (As amended by chapter 501, p. 836, Acts 1920.) **Compensation of examiner; refund on property erroneously assessed.**—The examiner shall be entitled to receive as compensation for his services under the six preceding sections to be paid in the same manner as the compensation now paid to the commissioners of the revenue, one-tenth of one per centum for the first one million dollars of the aggregate amount of property assessed under said sections, and one twenty-fifth of one per centum on all in excess of one million dollars; provided, that the commission on money shall be one-fiftieth of one per centum; but the examiner shall refund and pay into the treasury the compensation paid to him on all property reported by him that shall be relieved of taxes because erroneously assessed.

Sec. 2230. (As amended by chapter 501, p. 836, Acts 1920.) **Compensation of examiners of records upon valuations reported and assessed as a result of investigations of returns of intangible property and income.**—The examiner of records shall receive commissions upon the values reported and assessed as a result of his investigations and examinations as to the returns of intangible personal property and income at the rate of one-tenth of one per centum on the first one million dollars of the aggregate amount of property and income so reported and assessed, and one twenty-fifth of one per centum on all in excess of one million dollars. Upon valuations of money so reported and assessed he shall receive commissions at the rate of one-fiftieth of one per centum; and upon reports of purchase by merchants he shall receive commissions at the rate of five per centum of the license tax upon the amount of purchases so reported and assessed. But he shall refund and pay into the treasury the compensation paid him on all taxable values reported by him that shall be relieved of taxes erroneously assessed thereon, and he shall be liable therefor under the bond required by law to be executed.

Sec. 2228. (As amended by chapter 304, p. 513, Acts 1922.) **Duties of examiners of records in addition to other duties imposed by law upon them.**—In addition to other duties imposed by law on the examiners of records, it shall be their duty:

(a) To review the reports of purchases made by merchants and to report for assessment additional license tax when their investigations disclose that such merchants have reported less than the law requires.

(b) To review the interrogatories of taxpayers in regard to intangible personal property, money and income and to report for assessment such additional intangible personal property, money and income when their review or investigation discloses that such property, money or income has not been reported for taxation or has been reported at less than the law requires.

(c) To call upon and require taxpayers or their agents or any person, firm, or officer of a company or corporation to furnish information relating to intangible personal property, money or income, and merchants' license tax of any and all taxpayers; and to require taxpayers to furnish to them access to their books of account or other papers and records for the purpose of verifying the tax returns of such taxpayer and procuring the information necessary to make a complete report for assessment of any taxpayer's intangible personal property, money and income and merchants license tax.

(d) To perform such duties in connection with the ascertainment and report of the value of intangible personal property, money and income and of the correctness of the reports of purchases by merchants as are required of them by the State Tax Board.

(e) To make such reports to the State Tax Board as may be required by law, or as the rules and regulations adopted by the said board may require.

Sec. 2229. (As amended by chapter 304, p. 514, Acts 1922.) **Penalty for refusal of taxpayer to furnish information and access to records to examiners of records touching ownership and value of intangible personal property, money and income and reports of purchases of merchants.**—Should any taxpayer required to furnish to the examiner of records access to books of account or other papers and records, or should any taxpayer or his agent, or the officer of any company or corporation, or any other person required to furnish information to the examiner of records, or to answer under oath such questions touching the ownership and value of such intangible personal property, money and income, and reports of purchases of merchants, refuse to furnish such information, such taxpayer, agent, officers, or other persons shall be deemed guilty of a misdemeanor and shall be liable to a fine of not less than ten dollars nor more than one hundred dollars, and each day's refusal to furnish such access or information shall constitute a separate offense.

Sec. 2230. (As amended by chapter 501, p. 836, Acts 1920.) **Compensation of examiners of records upon valuations reported and assessed as a result of investigations of re-**

turns of intangible property and income.—The examiner of records shall receive commissions upon the values reported and assessed as a result of his investigations and examinations as to the returns of intangible personal property and income at the rate of one-tenth of one per centum on the first one million dollars of the aggregate amount of property and income so reported and assessed, and one twenty-fifth of one per centum on all in excess of one million dollars. Upon valuations of money so reported and assessed he shall receive commissions at the rate of one-fiftieth of one per centum; and upon reports of purchase by merchants he shall receive commissions at the rate of five per centum of the license tax upon the amount of purchases so reported and assessed. But he shall refund and pay into the treasury the compensation paid him on all taxable values reported by him that shall be relieved of taxes erroneously assessed thereon, and he shall be liable therefor under the bond required by law to be executed.

Sec. 2232. Nothing in this chapter to change or abridge powers and duties conferred by law on the Auditor of Public Accounts relating to assessment and collection of the revenue of the State.—Nothing in this chapter shall in any way abridge or change the duties and powers now conferred by law upon the Auditor of Public Accounts relating to the assessment and collection of the revenue of the State, and he shall continue to exercise all the powers now conferred upon him by law relative to the assessment and collection of the State revenue; and his instructions to officers, so far as the same are authorized by law, shall be carried out subject to the penalty prescribed by law for failure to carry out his instructions.

FIVE-YEAR OR QUINQUENNIAL ASSESSMENT OF LAND AND LOTS.

(Except Mineral Lands and Minerals), Improvements Thereon; and Standing Timber Trees; by Assessors of Lands.

Sec. 2233. (As amended by chapter 291, Acts 1924.) **When and how assessors appointed to assess lands and lots.**—It shall be the duty of the circuit courts of the counties and cities of the second class having no corporation court, and of the corporation or hustings courts of the cities, or of the judges of said courts in vacation, on or before the first day of January in the year nineteen hundred and twenty, and every fifth year thereafter, to appoint proper persons to assess the value of all lands and lots, together with the improvements thereon, within their respective jurisdictions; provided, that

there shall be but one assessor for each corporation, except the cities of Richmond and Norfolk, where there shall be at least three, and such additional number more than three as the councils of either or both of said cities may deem necessary, not exceeding six, which necessity shall be set forth by proper ordinance or resolution of the said councils or either of them, as the case may be, and certified to the corporation court or the judge thereof in vacation of the city desiring the appointment of such additional assessors, upon the receipt of which certified copy of such ordinance or resolution the said court or judge thereof in vacation shall proceed to make such additional appointment as the said council may request; and except, further, that all cities having a population of fifteen thousand may have two assessors, and for each county there shall be as many assessors as there are commissioners of the revenue. Every person appointed an assessor shall be a resident of the county or corporation and district for which he is appointed. In those counties in which two or more assessors are to be appointed, the court or the judge thereof in vacation, shall appoint one for each district in which there is a commissioner of the revenue, and if at any time the court, or the judge in vacation, shall be satisfied that any assessor appointed under this act will not, or that from any cause he cannot, perform the duties devolved on him within the time prescribed, the court, or the judge in vacation, may wholly supersede him and appoint another in his place, or may appoint one or more assistants to aid him in his duties, as shall be deemed most expedient; but before any person thus appointed shall enter upon the duties of his office he shall take the oath prescribed by the Constitution and execute the bond prescribed by section four hundred and thirty-eight. But this section shall not apply to the assessment of railway or canal corporations, or of coal or other mineral lands, the assessment of which is otherwise provided for by law.

Any action taken under the provisions of this act by a judge in vacation shall be certified by the judge to the clerk of the court, who shall enter the certificate of the judge in the book of his office in which Commonwealth's orders are entered.

Sec. 2241. Bond and oath of assessor.—Each assessor, before entering upon the duties of his office shall, before the circuit or corporation court of his county or corporation, or judge thereof in vacation, execute a bond, with surety, in the penalty of five thousand dollars, with condition for the faithful discharge of the duties of his office according to law; and if such qualification be in vacation, the certificate thereof and the oath shall be returned to the clerk of the circuit or

corporation court, who shall record such certificate and the fact of taking the oath in the minutes of the next term.

Sec. 2242. Register of Land Office to forward list of grants to clerks, to be delivered to assessors along with the land book and list of conveyances; compensation to clerks.—The Register of the Land Office shall, before the fifteenth day of January of the year in which assessment is to be made, forward to the clerk of each circuit and corporation court a list of all grants of lands within his county and corporation issued during the year next preceding such assessment and it shall be the duty of the clerk, without necessary delay, to deliver to the assessor of such county or corporation the said lists of grants, with a copy of the land book for his county or corporation last returned, and a list of the conveyances recorded since the said book was made out. In any county or corporation in which there shall be more assessors than one, the clerk shall furnish to each of them a copy of the lists of grants and of the land book, and also a list of conveyances as aforesaid for the district for which he is appointed. For the services aforesaid the clerk shall receive such compensation as the circuit court of his county or corporation court of his city may think proper to allow, which shall be embraced in and paid out of the first county or corporation levy made after the services shall have been rendered. And any clerk who shall fail to perform any duty hereby enjoined upon him shall be fined not exceeding one hundred dollars.

Sec. 2243. Auditor to prepare forms and instructions to assessors.—It shall be the duty of the Auditor of Public Accounts, before the first day of January, nineteen hundred and twenty, and every fifth year thereafter, to prepare proper forms of returns, so arranged as to show the lands and lots assessable by them in the district of each commissioner of the revenue separately, with blank to be filled up by the assessors, and cause the same, with the proper instructions, to be printed, and forward a sufficient number of copies for the use of the assessors to the clerks of the circuit and corporation courts.

Sec. 2244. (As amended by chapter 278, Acts 1924.) Duties of assessors; duties of commissioners of revenue.—The assessors shall, immediately after their appointment, proceed to examine all lands and lots assessable by them, with the improvements thereon, within their respective counties, districts and corporations, and shall, upon examination, ascertain and assess the fair market value thereof, and at the

same time shall note whether the owner is white or colored; they shall include in their assessment all buildings, and in manufacturing, mining or similar establishments, the machinery and fixtures attached thereto shall be assessed and shown separately on the assessor's books. When the surface of the land is owned by one person and the standing timber trees thereon are owned by another, the assessors shall determine the relative value of each, and assess the several owners with the value of their respective interests. When the surface and standing timber trees are owned by the same person, the assessors shall ascertain the value of the land, inclusive of the standing timber trees, and assess the same at such ascertained value.

Whenever a tract of land has been subdivided into lots under the provisions of sections fifty-two hundred and seventeen and fifty-two hundred and eighteen of the Code or under any other provision of general law, and plats thereof have been recorded, each lot in such subdivision shall be assessed and shown separately upon the assessor's books. If any such plat shall be recorded in any year after one quinquennial assessment of lands and before another such assessment, it shall be the duty of the commissioner of the revenue of the county, district or corporation in which such land is situated to list each lot contained in such division separately upon his books.

Sec. 2298. How machinery in mining and manufacturing establishments assessed.—The commissioner, in assessing the value of machinery and other fixtures to real estate, in mining, manufacturing, or similar establishments, shall ascertain the value of all such machinery and fixtures attached thereto, and include the aggregate value thereof as improvement on real estate in the same manner and to the same effect as in the case of buildings and enclosures added to real estate, under the provisions of this chapter; but, if the machinery and other fixtures aforesaid shall be the property of one person, and the real estate in or upon which the said machinery and fixtures shall be used be the property of another, the said machinery and fixtures shall be assessed and taxed against the owner thereof as personal property, and so listed by the commissioner. For any failure on the part of the commissioner to comply with this or any of the four preceding sections he shall forfeit fifty dollars for each failure.

Sec. 2245. Taxation of ground rents.—All ground rents and rent charges shall be listed and assessed for the purpose of taxation in like manner as lands and lots.

The value of such ground rent or other like charge shall be estimated and charged at a sum equal to a principal sum, the interest of which, at the legal rate of interest (six per centum), will produce a sum equal to such annual rent or charge, and if payable in any other thing except money, the value of the rent or charge to be ascertained by the assessor; and if the name of the person entitled to receive such rent or charge cannot be ascertained by the assessor, it shall be assessed against the tenant in possession of the real estate upon which it is charged.

Sec. 2451. Owner of real estate to cause it to be entered on land books.—Any person owning or claiming real estate in this State, shall, if the same be not already there, cause it to be entered on the land books of the county or city in which such real estate is situated. Where the land lies partly in one county and partly in another, or in more counties than one, the owner or claimant in making such entry in the land book shall be governed by the provisions of sections twenty-two hundred and eighty-nine and twenty-two hundred and ninety.

Sec. 2452. If not entered after notice, how forfeited to State.—If such owner or claimant shall neglect to enter his real estate as provided in the preceding section for a period of one year, after notice in writing by a commissioner authorized to assess the same, the circuit court of a county, or of a city having no corporation court, or the corporation court of a city having a corporation court, in which such real estate or any part thereof is situated, may, on ten days' notice to such owner or claimant, enter an order declaring said real estate to be absolutely forfeited to the Commonwealth, and liable to entry and survey as waste and unappropriated lands, unless such owner or claimant appear and show good cause against such forfeiture. In such a proceeding the Commonwealth's attorney for the county or city, as the case may be, shall represent the Commonwealth.

Sec. 2246. Assessors to meet for consultation.—In any county or city in which there is more than one assessor, such assessors, prior to the completion of their labors, shall assemble at least once in each district, for the purpose of consultation, with a view of equalizing, as far as practicable, the assessment of lands in their respective counties, districts, and corporations.

Sec. 2247. To make copies of assessment; disposition of copies.—As soon as the assessors shall have completed the

assessment in their respective counties, districts and corporations, they shall make three copies thereof, in the form in which the land books are now made out, and shall certify on oath that no lots or lands, assessable by them, are omitted, and that there are no errors on its face; and one copy shall be preserved and filed in the clerk's office of the circuit court of the county or the corporation court of the city wherein the lots or lands are located, another copy transmitted to the Auditor of Public Accounts, another copy shall be delivered to the commissioner of the revenue of the county, district or corporation, on or before the first day of June of the year in which the assessment is made, but for good cause shown the judges of the circuit or corporation courts, respectively, may extend the time of making the returns of such assessments to such time as he may deem expedient not beyond the first day of October next succeeding, and the judges of corporation courts of cities having a population of over forty-six thousand by the last United States census may, in their discretion, extend the time for making the returns of such assessments to the first day of December next succeeding. Any assessor who shall fail to comply with any requirement of this section shall forfeit all right to compensation for his services.

Sec. 2248. (As amended by act approved March 20, 1924.) **How and when erroneous assessment of lands corrected and how and when assessments of lands increased on application of owner thereof.**—Any person feeling himself aggrieved by the assessment of his lands or lots, may, upon giving five days' notice to the assessor and to the attorney for the Commonwealth, apply to the circuit court of the county or to the corporation court of the city or to the circuit court of the city which has no other court of record, wherein such lands or lots may be situated, at any time prior to the first day of February of the second year after such assessment and not thereafter, to have the assessment of his lands and lots corrected, which said notice shall be in writing and shall have appended thereto an affidavit of the owner or his duly authorized agent that, in the opinion of the affiant, the assessment of his lands or lots is above the fair market value thereof. The attorney for the Commonwealth shall defend the application and, if the court shall be satisfied that the assessment is too high, it shall reduce the same to what, in its opinion, is the fair market value of such lands or lots; but, if it shall be the opinion that the assessment is too low it shall increase such assessment in like manner and such application shall have precedence over all other causes pending in the said court; but no costs shall be taxed against the applicant or against the Commonwealth.

Any owner of lands or lots, unless the same shall have been leased under an instrument requiring the lessee to pay the taxes thereon, may, at any time, either in term time or in vacation, apply to the circuit court of the county or to the corporation court of the city or to the circuit court of the city which has no other court of record, wherein such lands or lots may be situated, to have the assessment thereof increased. Such application shall be made by petition in writing, setting forth the lands or lots, the assessment whereof it is desired to have increased the then existing assessment thereof, the proposed increased assessment and the date at which it is proposed that the said increased assessment shall go into effect, which date shall not be later than the date on which the said petition is presented. And thereupon the court may order the said assessment to be increased in the manner and from the date set out in the said petition. And the commissioner of the revenue, in extending the taxes upon lands and lots, the assessment whereof has been increased under this section, shall extend the taxes upon the increased assessment only from and after the date set out in the order of the court.

The remedy herein granted shall be in addition to the right of any taxpayer to apply to the local board of equalization for the correction of any assessment of his lands or lots, as provided by law, and may be exercised by any taxpayer, irrespective of whether he has or has not theretofore made application to the local board of equalization for the correction of such assessment.

The local boards of equalization may, on behalf of the Commonwealth, apply to the circuit court of the county or to the corporation court of the city or to the circuit court of the city which has no other court of record for which it was appointed, for the correction of any erroneous assessment of lands or lots, as to either over or under valuation for assessment, in the same manner as is provided by this section for the correction of any such assessment on the application of any person who is aggrieved thereby. In all such cases, the attorney for the Commonwealth shall represent the said local boards of equalization. As to lands in the city of Richmond, the hustings courts, parts one and two, shall have jurisdiction under this section.

Sec. 2249. (As amended by act approved March 20, 1924.) **Clerks to certify to Auditor and assessors, or commissioners of the revenue, all changes made by courts and local boards in assessments.**—It shall be the duty of the clerk of each circuit or corporation court to certify to the Auditor of Public Accounts all changes made by said circuit or corpora-

tion court or by the local board of equalization of his county or corporation, in order that the books of assessment on file in the office of the auditor may be made to conform to the changes directed by the court or by the local board of equalization; and it shall be the duty of the clerks aforesaid to certify in like manner to the proper assessor, or to the proper commissioner of the revenue, the changes made by the court or by said local board of equalization that he may correct the books on file with the clerk so as to conform to the said orders.

Sec. 2250. (As amended by chapter 80, p. 68, Acts 1920.) **Compensation of assessors.**—Each assessor shall receive not less than the sum of six dollars for each day he shall be necessarily employed in the execution of the duties of his office. The accounts shall be made out and verified by affidavit before the clerk of the circuit or corporation court, in which it shall be stated that the time for which such per diem is claimed was necessarily employed, and the same shall be approved by the boards of supervisors of the counties or councils or other governing bodies of the cities, and said court or the judge thereof in vacation shall inspect such affidavit and hear any other evidence and certify the correctness of such affidavit. When said accounts shall be made out, verified and approved, three dollars per day of the same shall be paid out of any money in the treasury of Virginia not otherwise appropriated, and the residue of the same shall be paid out of the treasuries of the cities and counties for which the said assessors and assistant assessors were appointed; provided, however, that the councils of the several cities and the board of supervisors of the several counties shall have the right further to increase the per diem salary to the assessors and assistant assessors of the said several cities and said several counties to be paid out of the funds of said city and said county.

Sec. 2251. **Taxes to be extended on basis of assessment.**—Taxes on lands for each year shall be extended on the basis of the last assessment made prior to such year under the provisions of section twenty-two hundred and thirty-three; except that taxes on mineral lands and mineral interests shall be extended on the basis of assessment provided for in sections twenty-two hundred and thirty-four to twenty-two hundred and forty, inclusive.

Sec. 19. **Real estate not to be assessed by assessors.**—The tracts, pieces or parcels of land acquired by the United States or otherwise acquired for the purposes of the United

States government, shall be exempt from all State, county and municipal taxation, so long as the United States shall be and remain the owner thereof.

Sec. 2272. (As amended by chapter 289, Acts 1924.)
What real estate exempt from taxation.—The following real estate, and no other, shall be exempt from taxation, State and local:

(a) Real estate directly or indirectly owned by the State, however held, and real estate lawfully owned and held by counties, cities, towns, or school districts used wholly and exclusively for county, city, town, or public school purposes.

(b) Buildings with land they actually occupy, lawfully owned and held by churches or religious bodies and wholly and exclusively used for religious worship, or for the residence of the minister of any such church or religious body, together with the additional adjacent land reasonably necessary for the convenient use of any such building.

(c) Private family burying-grounds not exceeding one acre in area, reserved as such by will or deed, or shown by other sufficient evidence to be reserved as such and so exclusively used, and public burying-grounds, and lots therein exclusively used for burial purposes and not conducted for profit, whether owned or managed by local authorities or by private corporations.

(d) Buildings with the land they actually occupy, wholly devoted to educational purposes, belonging to and actually and exclusively occupied and used by churches, public libraries, incorporated colleges, academies, industrial schools, seminaries, or other incorporated institutions of learning, including the Virginia Historical Society, which are not corporations, having shares of stock or otherwise owned by individuals or other corporations, together with such additional adjacent land owned by said churches, libraries, and educational institutions as may be reasonably necessary for the convenient use of such buildings, respectively; and also the buildings thereon used as residences by the officers or instructors of such educational institutions; provided, that such libraries and educational institutions are not conducted for profit of any person or persons, natural or corporate, directly or under any guise or pretense whatsoever. But the exemptions mentioned in this subsection shall not apply to any industrial school, individual or corporate, not the property of the State, which does work for compensation or manufactures and sells articles in the community in which such school is located; provided, that nothing herein contained shall restrict any such school from doing work for or selling its own

products or any other articles to any of its students or employees.

(e) Real estate belonging to, actually and exclusively occupied and used by Young Men's Christian Associations and other similar religious associations, orphan or other asylums, reformatories, hospitals, and nunneries, which are not conducted for profit, but purely and completely as charities.

(f) Buildings, with the land they actually occupy, belonging to any benevolent or charitable associations and used exclusively for lodge purposes or meeting rooms by such association, together with such additional adjacent land as may be necessary for the convenient use of the buildings for such purposes; The Thomas Jefferson Memorial Foundation, Incorporated, and the American Legion, shall be deemed benevolent and charitable associations; and

(g) Real estate belonging to the Association for the Preservation of Virginia Antiquities, the Confederate Memorial Literary Society, and the Mount Vernon Ladies' Association of the Union, and the Manassas Battlefield Confederate Park, Incorporated.

(h) Public wharves, docks and terminals of any city.

No inheritance tax shall be charged, directly or indirectly, against any legacy or devise made according to law for the benefit of any institution or other body or any natural or corporate person whose property is exempt from taxation, as mentioned in this chapter.

Nothing contained in this chapter shall be construed to exempt from taxation the property of any person, firm, association, or corporation who shall, expressly or impliedly, directly or indirectly, contract or promise to pay any sum of money or other benefit on account of death, sickness, or accident to any of its members or any other persons; and whenever any building or land, or part thereof, mentioned in this section and not belonging to the State, shall be leased or shall be a source of revenue or profit, all of such buildings and land shall be liable to taxation as other land and buildings in the same county, city, or town; and nothing herein contained shall be construed as authorizing or requiring any county, city, or town to tax for county, city, or town purposes, in violation of the rights of the lessees thereof existing under any lawful contract heretofore made, any real estate owned by such county, city, or town, and heretofore leased by it.

Minerals and Mineral Lands to be Assessed Annually by the Commissioner of the Revenue, Therefore Not Assessable by the Assessor of Lands.

Sec. 2234. Mineral lands to be assessed separately; what land books to show.—The several commissioners of the revenue of this State shall, on or before the fifteenth day of May of each year, specially and separately assess at the fair market value all mineral lands and the improvements, fixtures and machinery thereon, and shall enter the same on the land books of their respective districts separately from other lands charged thereon, and shall extend the taxes upon said lands, improvements, fixtures and machinery, at the rate fixed by law upon tangible property.

The commissioner, in assessing mineral lands, shall set forth upon the land book the area and the fair market value thereof, first, of such portion of each tract as is improved and under development; second, the fair market value of the improvements, fixtures and machinery upon each tract; and third, the area and the fair market value of such portion of each tract as shall not be under development.

Sec. 2235. Mineral value to be ascertained separately whether surface and minerals are held by separate persons or not.—If the surface of the land is held by one person, and the coal, iron and other minerals, mineral waters, gas or oil under the surface be held by another person, the estate therein of each, and the relative fair market value of their respective interest, shall be ascertained by the commissioner or assessor. If the surface of the land and the coal, iron and other minerals, mineral water, gas or oil under the surface be owned by the same person, the commissioner shall ascertain the fair market value of the land, exclusive of said coal, iron, other minerals, mineral waters, gas or oils; and also ascertain in addition the fair market value of the said coal, iron, other minerals, mineral waters, gas and oils, and shall assess each at such ascertained values, stating separately, however, in every case the value of the surface of the land and the value of the said coal, iron, other minerals, mineral waters, gas and oils under the surface.

The annual assessment of the surface under this section shall not in any case, however, exceed the amount assessed thereon at the last preceding general assessment of lands in the Commonwealth.

Sec. 2236. Commissioners to certify copy of assessments to State Corporation Commission; what Corporation Commis-

sion to do.—The several commissioners shall, on or before the fifteenth day of May in every year, certify a copy of such assessments made in their respective districts of mineral lands and mineral rights as aforesaid to the State Corporation Commission with the name and postoffice address of each person, firm, or corporation, in whose name any such lands or interest therein shall have been assessed upon the land book of his district with the amount of tax extended thereon. Upon receiving the copy aforesaid, the State Corporation Commission shall examine into the justice of any such assessments, and if it shall appear to the Commission that any tract of land, or any part thereof, or the improvements, fixtures or machinery thereon, or any right or interest in the same, or any part thereof, has not been assessed at its fair market value, the said Commission shall direct the attorney for the Commonwealth for the county or corporation wherein such land or interest therein so assessed is situated, or any other special attorney it may designate, to apply in the name of the Commonwealth to the circuit court of the county or corporation court of a city to have said assessment corrected, which court shall have jurisdiction for the purpose.

Sec. 2237. Remedy of any person aggrieved by assessment; Commonwealth may move for raising of assessment; who to be made defendants; proceedings upon application; appeal.—Any person feeling himself aggrieved by the assessment of his lands or interest therein hereunder may, at any time prior to the first day of February next succeeding, apply to the circuit court of the county or corporation court of the city in which the land lies to have said assessment corrected. Said application may be made by filing a petition in the clerk's office of said court, setting forth the lands or mineral rights on which the assessment complained of is made, praying that said assessment may be corrected; and the said court, at its next term, after filing of said petition, shall hear the said cause and enter such judgment as to it shall seem proper, according to the provisions of sections twenty-three hundred and eighty-six and twenty-three hundred and eighty-nine.

At the hearing of any such motion the Commonwealth may move the assessment be raised, either on the items embraced in the motion or on any other item not embraced in the motion, either on the land embraced in the motion or any other mineral lands in the name of the complainant in the county or city in which the motion is made. The Commonwealth's attorney and the commissioner of the revenue, who made the assessment, shall be made defendants to such petition or motion, and written notice shall be served upon them at least ten days prior to the day fixed for the hearing of

such motion or petition. Continuances of the hearing of said motions or petitions may be granted for good cause. The proceedings upon any such application shall conform to section twenty-two hundred and forty-eight, except so far as in conflict herewith; provided, that the Commonwealth and the person whose property is assessed shall have the right to appeal from the decision of said circuit or corporation court to the Supreme Court of Appeals.

Sec. 2238. State Corporation Commission authorized to employ mineral assessors; joint duties of special mineral assessors and commissioners of revenue; reference to court in case of disagreement; procedure.—The State Corporation Commission is authorized to employ, at the time in each year when assessments of lands are being made, such person, or persons, as may be necessary to make, with the commissioner of the revenue, such inquiry into the value, and such examination of the property and interests required to be separately assessed, and of the improvements, fixtures and machinery thereon, as it may deem necessary. Such person or persons, after being duly sworn to faithfully and honestly perform their duties, and the respective commissioners of the revenue, shall confer together about such assessment and co-operate in procuring all information necessary or proper to a just assessment of such property, improvements, fixtures and machinery, and shall carefully examine all sales of mineral lands and mining rights recorded in the clerk's office of the several counties and municipalities in their respective assessment districts, and shall report the information obtained to the State Corporation Commission. The assessment shall be made jointly by the commissioner and the special assessor employed by the State Corporation Commission; and in case of disagreement between the two, the question at issue shall be referred to the circuit or corporation court, or the judge thereof, wherein the land is situate, either in term time or vacation, after not less than ten days' notice from the mineral assessor to the commissioner of the revenue or from the commissioner of the revenue to the mineral assessor, and the clerk of the court shall summon such witnesses as may be required by the commissioner of the revenue, the mineral land assessor, attorney for the Commonwealth or the owner of the property in question, and the State Corporation Commission shall direct the Commonwealth's attorney, or any special attorney they may employ, to represent the interests of the Commonwealth at any such hearing. After hearing the evidence the court shall enter such order as it deems proper, but nothing contained herein shall prevent the State Corporation Commission or the owner from making a motion to correct the assess-

ment after the land books are made up, or from appealing to the Supreme Court of Appeals as herein provided.

Sec. 2239. Special mineral assessors may be required to give aid in prosecuting or defending applications for correction of assessments; Corporation Commission may summon and compel attendance of witnesses, etc.—The person, or persons, employed by the State Corporation Commission, under the preceding section may be required to give aid to the Commonwealth's attorney, or any special attorney that may be employed by the said commission, in prosecuting or defending any application for a correction of any assessment under section twenty-two hundred and thirty-seven by obtaining and giving information of facts, names of witnesses or otherwise. Power is given the State Corporation Commission to summon and compel the attendance and testimony of witnesses and the giving of information and the production of such maps, books and papers as it may deem necessary, either before it or before the assessor or commissioner of the revenue, and the person or persons employed by it when considering the assessment of any property hereunder.

Sec. 2240. Appeal by aggrieved person; when not to be heard.—In case any person be aggrieved at the assessment made by the commissioner and the special assessor, and take an appeal in the manner hereinbefore authorized, such appeal shall not be heard until thirty days' notice thereof be served by the clerk of the court in which the appeal shall be heard, on the State Corporation Commission.

ASSESSMENT OF TAXES ON PERSONS, PROPERTY AND INCOMES.

Sec. 2252. (As amended by chapter 90, Acts extra session 1923.) Number of the commissioners of revenue; when and how districts changed; voters in a city not to vote for commissioners of a county.—There shall be four commissioners of the revenue for each of the counties of Bedford, Franklin and Pittsylvania; three for each of the counties of Carroll, Grayson, Halifax, Hanover, Louisa, Patrick, Tazewell, Campbell, Smyth and Buchanan; two for each of the counties of Accomac, Albemarle, Amherst, Bath, Botetourt, Brunswick, Buckingham, Charlotte, Chesterfield, Dickenson, Dinwiddie, Floyd, Henry, Henrico, Lunenburg, Madison, Mecklenburg, Montgomery, Nansemond, Nelson, Norfolk, Nottoway, Orange, Prince William, Russell, Roanoke, Scott, Southampton, Sussex, Stafford, Washington and Wythe; one for each magisterial district in the counties of Augusta, Fau-

quier, Lee, Loudoun, Rockbridge, Rockingham, Alleghany, Spotsylvania, Caroline and Wise; one for every other county now existing, or which may hereafter be created, and one for each city; but the voters residing within any city shall not vote for the commissioner of the revenue for the county within the limits of which the city lies.

In those counties in which there may be more than one commissioner, each shall be for a certain district or districts, the bounds of which shall be as laid off and established when this act takes effect; but the circuit court of any of said counties may, prior to May first in any year, make any change in said districts which to it shall seem proper. The provisions of this act giving to the county of Buchanan three commissioners instead of two, and giving to the county of Shenandoah one commissioner instead of one for each magisterial district, as at present, and giving Culpeper county one commissioner instead of two, and Frederick county one commissioner instead of two, and Cumberland county one commissioner instead of two, and Fluvanna county one commissioner instead of two, shall not become effective until the next election of commissioners for the said counties.

Sec. 2701. Appointment of deputies; their powers; how removed.—The treasurer of any county or city, the sheriff of any county, the sheriff or sergeant of any city, any commissioner of the revenue, and any county surveyor, with the consent of the circuit court of his county or corporation court of his city, any county clerk, the clerk of any circuit or city court, with the consent of the court of which he is clerk, or in any case with the consent in writing of the judge of said court, may appoint one or more deputies, who may discharge any of the official duties of their principal during his continuance in office, unless it be some duty the performance of which by a deputy is expressly forbidden by law. The order of appointment shall be entered on the minute book of such court, whether made in term time or in vacation. Any such deputy, before entering upon the duties of his office, shall take and subscribe the oath now provided for county officers, which oath shall be filed with the clerk of the court by whose assent he has been appointed, and such clerk shall properly label and file all such oaths in his office for preservation. Any such deputy may be removed from office either by his principal or by the court, or by the judge in vacation.

Sec. 2253. Jurisdiction of commissioners.—The jurisdiction, powers, and duties of commissioners shall not extend beyond the bounds of their respective counties, districts, or cities, except to grant a license to exercise a privilege which

is not local, and which may be lawfully exercised in or out of such districts or cities.

Sec. 2254. (As amended by act approved March 20, 1924.) **Auditor to furnish printed forms to commissioners of the revenue and local boards of review (equalization); Taxpayer to be sworn.**—It shall be the duty of the Auditor of Public Accounts to prepare and forward to the commissioners of the revenue the requisite number of printed forms of land and personal property books or other tax books required by law; also, the blank forms of interrogatories upon which the taxpayers are required to make returns for the assessment of capitations, tangible personal property, intangible personal property, money and incomes, et cetera. Upon the blank forms of interrogatories there shall be the oath prescribed by law or by the Auditor of Public Accounts and every taxpayer must sign and make oath or affirmation to the interrogatories, the oath or affirmation to be administered by the commissioner of the revenue or his duly qualified deputy. It shall be the duty of the commissioner and deputy to carry a copy of the Holy Bible or New Testament upon which the taxpayer shall be sworn, and any taxpayer who objects to making oath shall be allowed to make affirmation and the commissioner of the revenue or his deputy shall sign a certificate upon the interrogatories stating oath or affirmation required by this section was made by the taxpayer. When the interrogatories are delivered to the commissioner or commissioners of the revenue, it shall be the duty of the commissioner to call in person upon each taxpayer in his district to view and list at its fair market value the property to be assessed and to procure full and complete answers to the interrogatories sworn to as required by this section. In making the return required by the interrogatories the taxpayer shall list, at fair market value, all property, money and income, opposite appropriate items, writing the word "none," opposite those items of property, money or income which he does not own, but the failure of the commissioner to call upon each taxpayer in his district shall not excuse the taxpayer from making a return to the commissioner on or before June first, each year, showing in detail the fair market value of all his tangible and intangible personal property, money and income.

Sec. 2255. (As amended by act approved March 20, 1924.) **Interrogatories to be returned by each commissioner of the revenue to the examiner of records.**—It shall be the duty of each commissioner of the revenue on June first of each year to submit to the examiner of records of his circuit all interrogatories of taxpayers received by him. It shall be the duty of the examiner of records thereupon to examine and

review such interrogatories with particular reference to the returns of intangible personal property, money and income, and it shall be the further duty of the examiner of records to call upon every taxpayer who may not have properly returned to the commissioner all of his intangible personal property, money and income, and to require such taxpayer to make return of the same, and for this end the examiner of records may summon before him, by registered letter or otherwise, the taxpayer or any other person to answer, under oath, questions touching the ownership and value of all intangible personal property, money and income of any and all taxpayers.

Sec. 2256. (As amended by act approved March 20, 1924.) **Examiner of records to make report showing result of his investigations.**—On or before the first day of August of each year the examiner of records shall return to the commissioner of the revenue all interrogatories retained by him for investigation, and also all returns made to him by persons who failed to file a return with the commissioner of the revenue on or before June first, together with a report upon forms to be prescribed by the Auditor of Public Accounts showing separately the amount of increase in value of intangible personal property, money and income to be assessed against taxpayers who filed answers to interrogatories with the commissioner of the revenue on or before June first, and the amount of the value of intangible personal property, money and income to be assessed against taxpayers who did not file answers to interrogatories with the commissioner of the revenue on or before June first.

Sec. 2257. (As amended by act approved March 20, 1924.) **Commissioner to assess taxes upon examiner's report.** It shall be the duty of the commissioner of the revenue to assess taxes at the rates prescribed by law upon the values ascertained by the examiner of records and reported to the commissioner of revenue.

Sec. 2258. (As amended by act approved March 20, 1924.) **Where interrogatories and answers to be filed.**—The commissioner or commissioners of the revenue in a county shall file the interrogatories and answers with the clerk of the circuit court of the county; in a city with the clerk of the corporation or hustings court of the city, but if the city have no such court then the interrogatories and answers shall be filed with the clerk of the circuit court, which interrogatories and answers shall be carefully preserved on a permanent file by the clerk, and it shall be a misdemeanor to abstract, mutilate or destroy such interrogatories.

Sec. 2264. Auditor to instruct commissioners of revenue; how the expense of books, etc., paid.—The Auditor of Public Accounts shall, by letter, or printed circular, or otherwise, give such instructions to the commissioners of the revenue in respect to their duties as to him shall seem judicious. The expense of such books and circulars shall be paid out of the treasury.

Sec. 2265. (As amended by act approved March 20, 1924.) Auditor to report misconduct or incapacity of commissioner.—The Auditor shall communicate any instances of the misconduct or neglect of any commissioner or examiner of records, or any evidence of his incapacity, furnished by anything in his office or otherwise in a letter to the clerk of the court of the county or city wherein such commissioner was elected, which letter the clerk shall lay before the court at the first term after it is received.

Sec. 2266. Commissioner entitled to books and papers of predecessor.—The commissioner shall apply for the official books and papers which his predecessor had, to the person in possession thereof, who shall deliver the same on such application, and take the proper receipt. Such person failing or refusing to deliver such books and papers when application shall be made for them, as aforesaid, shall forfeit one hundred dollars.

Sec. 2267. When they cannot be obtained, Auditor may authorize substitutes to be procured.—The Auditor, upon being informed that any such official books or papers cannot be obtained, may authorize the commissioner to procure substitutes therefor. Any clerk furnishing same, shall be paid therefor such fees out of the treasury as he might by law charge an individual for similar services.

Sec. 2268. Duties, compensation, and liabilities of commissioners for cities.—The duties, compensation, and liabilities of commissioners of the revenue for cities, shall be the same as are defined and prescribed by this chapter for commissioners of the revenue for counties, so far as the same may be applicable to said cities, and not inconsistent with the Constitution of this State and the laws thereof.

Sec. 2269. Cities authorized to make additional allowances to commissioners of the revenue.—The councils of the various cities of this State are authorized to pay to the commissioner or commissioners of the revenue, such salary or compensation, in addition to the fees and other emoluments

of office authorized by law, as to such councils may seem reasonable and proper.

Sec. 2270. When commissioners to commence assessments.—The commissioner for each district in the several counties, and the commissioner for each city shall commence, annually, on the first day of February, or at such time as the Auditor shall designate, and proceed without delay to ascertain all the real estate in his county, district, or city, as the case may be, and the person to whom the same is chargeable with taxes on that day. The beginning of the tax year for the assessment of taxes on real estate shall be February the first, and the owner of real estate on that day shall be assessed for the taxes for the year next ensuing.

Sec. 2271. (As amended by act approved March 20, 1924.) What real estate to be taxed; lien for taxes and levies enforceable in equity; value of lands fixed by assessors not to be changed, except, et cetera.—All real estate, except such as is exempted by the following section, shall be subject to such annual taxation as may be prescribed by law, and there shall be a lien on such real estate for the payment of taxes and levies imposed thereon, hereafter assessed, prior to any other lien or encumbrance thereon; which lien, in addition to existing remedies for the collection of taxes and levies, shall be enforceable by suit in equity; and there shall be a further lien upon the rent of said real estate whether the same be in money or in kind, for taxes of the current year. The value of lands and lots, as ascertained in pursuance of the provisions of chapter ninety-five, and the ascertained value of the new grants which may hereafter be entered and assessed, shall only be changed to allow the addition of the value of improvements, or a total or partial deduction of the value of such improvements, except so far as the same are directed to be corrected by the local board of equalization during the year of a quinquennial assessment of real estate and in the year immediately following such assessment.

Note—Read act March 20, 1923, which follows Sec. 19, page 286.

Commonwealth and Political Subdivisions Given Preferred Claim for Taxes, Levies, Penalty and Interest.

AN ACT to give preference to claims of the Commonwealth of Virginia and her political subdivisions for taxes, levies and fees, together with penalties and interest thereon. Approved February 13, 1924. (Chapter 11, Acts 1924.)

1. Be it enacted by the General Assembly of Virginia, as follows:

2. In any distribution of the assets of any person or corporation assessed with taxes, levies or fees, together with penalties and interest thereon, due to the Commonwealth of Virginia or any of her political subdivisions, whether heretofore or hereafter imposed, the claims of the Commonwealth and her political subdivisions for such taxes, levies and fees, penalties and interest thereon, shall be paramount and prior to any other claim, lien or encumbrance, except claims given higher dignity by Federal law.

3. Nothing in this act shall be construed in derogation of any lien of the Commonwealth or any of her political subdivisions now existing or hereafter created by law; nor shall anything herein be construed to affect the laws now in force with regard to the marshalling of a decedent's estate and in regard to the exemption of a poor debtor.

4. The collection of the public revenue being affected, an emergency is hereby declared to exist, and this act shall take effect from its passage.

Sec. 2454. Lien on real estate for taxes and levies; Auditor to keep record of land returned "delinquent."— There shall be a lien upon all real estate for the taxes assessed, and county, city, and town levies assessed thereon, and interest upon such taxes and levies, at the rate of six per centum per annum, from the fifteenth day of June, in the year after which the same may have been assessed, for the period of five years, unless sooner paid. The Auditor of Public Accounts shall keep a record of all real estate, which since the tenth day of March, eighteen hundred and seventy-five, shall have been, or hereafter shall be, returned delinquent for non-payment of taxes or county levies.

Act to Release All Liens Upon Real Estate for Taxes and Levies Due and Payable to the Commonwealth or Any Political Subdivision Thereof Prior to July 10, 1902, Etc.

AN ACT to release all liens upon real estate for taxes and levies due and payable to the Commonwealth or any political subdivision thereof prior to July 10, 1902; to provide that the right, title and interest of the Commonwealth in and to all real estate sold for taxes and levies assessed prior to July 10, 1902, which real estate has been purchased by the Commonwealth and not resold is released unto and vested by operation of law in the person or persons who owned the real estate at the time the Commonwealth so acquired title, or persons claiming, or to claim, by, through or under them; and to provide that on and after July 1, 1926, no clerk shall make a tax deed conveying any real estate sold for delinquent taxes or levies assessed prior to July 10, 1902. Approved March 20, 1924. (Chapter 341, Acts 1924.)

1. Be it enacted by the General Assembly of Virginia, That all liens upon real estate for taxes and levies due

and payable to the Commonwealth or any political subdivision thereof prior to the tenth day of July, nineteen hundred and two, be, and the same are hereby, released.

2. The right, title and interest of the Commonwealth of Virginia in and to all real estate sold for taxes and levies assessed prior to the tenth day of July, nineteen hundred and two, which real estate has been purchased by the Commonwealth and not resold, is hereby unconditionally released unto and vested by operation of law in the person or persons who owned the real estate at the time the Commonwealth so acquired title, or persons claiming, or to claim, by, through, or under them.

3. On and after July first, nineteen hundred and twenty-six, no clerk of any court in Virginia shall make a tax deed conveying to any person any real estate sold for delinquent taxes or levies assessed prior to July tenth, nineteen hundred and two.

Sec. 2272. (As amended by chapter 289, Acts 1924.)
What real estate exempt from taxation.—The following real estate, and no other, shall be exempt from taxation, State and local:

(a) Real estate directly or indirectly owned by the State, however held, and real estate lawfully owned and held by counties, cities, towns, or school districts used wholly and exclusively for county, city, town, or public school purposes.

(b) Buildings with land they actually occupy, lawfully owned and held by churches or religious bodies and wholly and exclusively used for religious worship, or for the residence of the minister of any such church or religious body, together with the additional adjacent land reasonably necessary for the convenient use of any such building.

(c) Private family burying-grounds not exceeding one acre in area, reserved as such by will or deed, or shown by other sufficient evidence to be reserved as such and so exclusively used and public burying-grounds, and lots therein exclusively used for burial purposes and not conducted for profit whether owned or managed by local authorities or by private corporations.

(d) Buildings with the land they actually occupy, wholly devoted to educational purposes, belonging to and actually and exclusively occupied and used by churches, public libraries, incorporated colleges, academies, industrial schools, seminaries, or other incorporated institutions of learning, including the Virginia Historical Society, which are not corporations, having shares of stock or otherwise owned by individuals or other corporations, together with such additional adjacent land owned by said churches, libraries, and educa-

tional institutions as may be reasonably necessary for the convenient use of such buildings, respectively; and also the buildings thereon used as residences by the officers or instructors of such educational institutions; provided, that such libraries and educational institutions are not conducted for profit of any person or persons, natural or corporate, directly or under any guise or pretense whatsoever. But the exemptions mentioned in this subsection shall not apply to any industrial school, individual or corporate, not the property of the State, which does work for compensation or manufactures and sells articles in the community in which such school is located; provided, that nothing herein contained shall restrict any such school from doing work for or selling its own products or any other articles to any of its students or employees.

(e) Real estate belonging to, actually and exclusively occupied and used by Young Men's Christian Associations and other similar religious associations, orphan or other asylums, reformatories, hospitals, and nunneries, which are not conducted for profit, but purely and completely as charities.

(f) Buildings, with the land they actually occupy, belonging to any benevolent or charitable associations and used exclusively for lodge purposes or meeting rooms by such association, together with such additional adjacent land as may be necessary for the convenient use of the buildings for such purposes; the Thomas Jefferson Memorial Foundation, Incorporated, and the American Legion, shall be deemed benevolent and charitable associations; and,

(g) Real estate belonging to the Association for the Preservation of Virginia Antiquities, the Confederate Memorial Literary Society, and the Mount Vernon Ladies' Association of the Union, and the Manassas Battlefield Confederate Park, Incorporated.

(h) Public wharves, docks and terminals of any city.

No inheritance tax shall be charged, directly or indirectly against any legacy or devise made according to law for the benefit of any institution or other body or any natural or corporate person whose property is exempt from taxation, as mentioned in this chapter.

Nothing contained in this chapter shall be construed to exempt from taxation the property of any person, firm, association, or corporation who shall, expressly or impliedly, directly or indirectly, contract or promise to pay any sum of money or other benefit on account of death, sickness, or accident to any of its members or any other persons; and whenever any building or land, or part thereof, mentioned in this section and not belonging to the State, shall be leased or shall be a source of revenue or profit, all of such buildings

and land shall be liable to taxation as other land and buildings in the same county, city, or town; and nothing herein contained shall be construed as authorizing or requiring any county, city, or town to tax for county, city, or town purposes, in violation of the rights of the lessees thereof existing under any lawful contract heretofore made, any real estate owned by such county, city, or town, and heretofore leased by it.

Sec. 19. Real estate owned by United States exempt from State, county and municipal taxation.—The tracts, pieces or parcels of land acquired by the United States, for the purposes of the United States government, shall be exempt from all State, county and municipal taxation, so long as the United States shall be and remain the owners thereof.

Lands Conveyed by United States Pursuant to Contract Prior to February First of Year in Which Deed is Recorded Assessable Whether Deed Delivered Before or After February First of Such Year.

AN ACT to make assessable for taxes and levies lands conveyed to persons or corporations by the United States or its agencies pursuant to contracts held therefor prior to February of the year in which such deed is recorded, whether such deed be delivered before or after February 1st of such year. Approved March 20, 1923. (Chapter 39.)

1. Be it enacted by the General Assembly of Virginia, That all persons or corporations who receive deeds from the United States or its agencies for lands in the State of Virginia by virtue of contracts therefor by which the beneficial ownership was held prior to February first of that year, shall be assessable by the commissioners of the revenue for taxes and levies on such lands for the then current year, as if the deed for the said lands had been recorded on or before February first of that year.

2. Inasmuch as the United States or its agencies, pursuant to contract therefor, is conveying lands to persons and corporations, which lands would not otherwise be subject to taxation for the current year, an emergency is declared to exist and this act shall be in force from its passage.

Sec. 2451. Owner of real estate to cause it to be entered on land books.—Any person owning, or claiming real estate in this State, shall, if the same be not already there, cause it to be entered on the land books of the county or city in which such real estate is situated. Where the land lies partly in one county and partly in another, or in more counties than one, the owner or claimant in making such entry in the land book

shall be governed by the provisions of sections twenty-two hundred and eighty-nine and twenty-two hundred and ninety.

Sec. 2452. If not entered after notice, how forfeited to State.—If such owner or claimant shall neglect to enter his real estate as provided in the preceding section, for a period of one year, after notice in writing by a commissioner authorized to assess the same, the circuit court of a county, or of a city having no corporation court, or the corporation court of a city having a corporation court, in which such real estate or any part thereof is situated may, on ten days' notice to such owner or claimant, enter an order declaring said real estate to be absolutely forfeited to the Commonwealth, and liable to entry and survey as waste and unappropriated lands, unless such owner or claimant appear and show good cause against such forfeiture. In such a proceeding the Commonwealth's attorney for the county or city, as the case may be, shall represent the Commonwealth.

Sec. 2245. Taxation of Ground Rents and Rent Charges.—All ground rents and rent charges shall be listed and assessed for the purpose of taxation in like manner as lands and lots.

The value of such ground rent or other like charge shall be estimated and charged at a sum equal to a principal sum, the interest of which, at the legal rate of interest (six per centum) will produce a sum equal to such annual rent or charge, and if payable in any other thing except money, the value of the rent or charge to be ascertained by the assessor; and if the name of the person entitled to receive such rent or charge cannot be ascertained by the assessor, it shall be assessed against the tenant in possession of the real estate upon which it is charged.

Minerals and Mineral Lands to be Assessed Annually by the Commissioner of the Revenue.

Sec. 2234. Mineral lands to be assessed separately; what land books to show.—The several commissioners of the revenue of this State shall, on or before the fifteenth day of May of each year, specially and separately assess at the fair market value all mineral lands, and the improvements, fixtures and machinery thereon, and shall enter the same on the land books of their respective districts separately from other lands charged thereon, and shall extend the taxes upon said lands, improvements, fixtures and machinery, at the rate fixed by law upon tangible property.

The commissioner, in assessing mineral lands, shall set forth upon the land book the area and the fair market value

thereof, first, of such portion of each tract as is improved and under development; second, the fair market value of the improvements, fixtures and machinery upon each tract; and third, the area and the fair market value of such portion of each tract as shall not be under development.

Sec. 2235. Mineral value to be ascertained separately whether surface and minerals are held by separate persons or not.—If the surface of the land is held by one person, and the coal, iron and other minerals, mineral waters, gas or oils under the surface be held by another person, the estate therein of each, and the relative fair market value of their respective interest, shall be ascertained by the commissioner or assessor. If the surface of the land and the coal, iron and other minerals, mineral water, gas or oil under the surface be owned by the same person, the commissioner shall ascertain the fair market value of the land, exclusive of said coal, iron, other minerals, mineral waters, gas or oils; and also ascertain in addition the fair market value of the said coal, iron, other minerals, mineral waters, gas, and oils, and shall assess each at such ascertained values; stating separately, however, in every case the value of the surface of the land and the value of the said coal, iron, other minerals, mineral waters, gas and oils under the surface.

The annual assessment of the surface under this section shall not in any case, however, exceed the amount assessed thereon at the last preceding general assessment of lands in the Commonwealth.

Sec. 2236. Commissioners to certify copy of assessments to State Corporation Commission; What Corporation Commission to do.—The several commissioners shall, on or before the fifteenth day of May in every year, certify a copy of such assessments made in their respective districts of mineral lands and mineral rights, as aforesaid, to the State Corporation Commission with the name and postoffice address of each person, firm, or corporation, in whose name any such lands or interest therein shall have been assessed upon the land book of his district with the amount of tax extended thereon. Upon receiving the copy aforesaid, the State Corporation Commission shall examine into the justice of any such assessments, and if it shall appear to the Commission that any tract of land, or any part thereof, or the improvements, fixtures or machinery thereon, or any right or interest in the same, or any part thereof, has not been assessed at its fair market value, the said Commission shall direct the attorney for the Commonwealth for the county or corporation wherein such land or interest therein so assessed is situated, or any other special

attorney it may designate, to apply in the name of the Commonwealth to the circuit court of the county or corporation court of a city to have said assessment corrected, which court shall have jurisdiction for the purpose.

Sec. 2237. Remedy of any person aggrieved by assessment; Commonwealth may move for raising of assessment; who to be made defendants; proceedings upon application; appeal.—Any person feeling himself aggrieved by the assessment of his lands or interest therein hereunder may, at any time prior to the first day of February next succeeding, apply to the circuit court of the county or corporation court of the city in which the land lies to have said assessment corrected. Said application may be made, by filing a petition in the clerk's office of said court, setting forth the lands or mineral rights on which the assessment complained of is made, praying that said assessment may be corrected; and the said court, at its next term after filing of said petition, shall hear the said cause and enter such judgment as to it shall seem proper, according to the provisions of sections twenty-three hundred and eighty-six and twenty-three hundred and eighty-nine.

At the hearing of any such motion the Commonwealth may move the assessment be raised, either on the items embraced in the motion or on any other item not embraced in the motion, either on the land embraced in the motion or any other mineral lands in the name of the complainant in the county or city in which the motion is made. The Commonwealth's attorney and the commissioner of the revenue, who made the assessment, shall be made defendants to such petition or motion, and written notice shall be served upon them at least ten days prior to the day fixed for the hearing of such motion or petition. Continuances of the hearing of said motions or petitions may be granted for good cause. The proceedings upon any such application shall conform to section twenty-two hundred and forty-eight, except so far as in conflict herewith; provided, that the Commonwealth and the person whose property is assessed shall have the right to appeal from the decision of said circuit or corporation court to the Supreme Court of Appeals.

Sec. 2238. State Corporation Commission authorized to employ mineral assessors; joint duties of special mineral assessors and commissioners of revenue; reference to court in case of disagreement; procedure.—The State Corporation Commission is authorized to employ, at the time in each year when assessments of lands are being made, such person, or persons, as may be necessary to make, with the commissioner of the revenue, such inquiry into the value, and such examina-

tion of the property and interests required to be separately assessed, and of the improvements, fixtures and machinery thereon, as it may deem necessary. Such person, or persons, after being duly sworn to faithfully and honestly perform their duties, and the respective commissioners of the revenue, shall confer together about such assessments and co-operate in procuring all information necessary or proper to a just assessment of such property, improvement, fixtures and machinery, and shall carefully examine all sales of mineral lands and mining rights recorded in the clerk's office of the several counties, and municipalities in their respective assessment districts, and shall report the information obtained to the State Corporation Commission. The assessment shall be made jointly by the commissioner and the special assessor employed by the State Corporation Commission; and in case of disagreement between the two, the question at issue shall be referred to the circuit or corporation court, or the judge thereof, wherein the land is situated, either in term time or vacation, after not less than ten days' notice from the mineral assessor to the commissioner of the revenue or from the commissioner of the revenue to the mineral assessor, and the clerk of the court shall summon such witnesses as may be required by the commissioner of the revenue, the mineral land assessor, attorney for the Commonwealth or the owner of the property if question, and the State Corporation Commission shall direct the Commonwealth's attorney, or any special attorney they may employ, to represent the interests of the Commonwealth at any such hearing. After hearing the evidence the court shall enter such order as it deems proper, but nothing contained herein shall prevent the State Corporation Commission or the owner from making a motion to correct the assessment after the land books are made up, or from appealing to the Supreme Court of Appeals, as herein provided.

Sec. 2239. Special mineral assessors may be required to give aid in prosecuting or defending applications for correction of assessments; Corporation Commission may summon and compel attendance of witnesses, etc.—The person, or persons, employed by the State Corporation Commission under the preceding section may be required to give aid to the Commonwealth's attorney, or any special attorney that may be employed by the said Commission in prosecuting or defending any application for a correction of any assessment under section twenty-two hundred and thirty-seven by obtaining and giving information of facts, names of witnesses or otherwise. Power is given the State Corporation Commission to summon and compel the attendance and testimony of witnesses and the giving of information and the production of such maps,

books and papers as it may deem necessary, either before it or before the assessor or commissioner of the revenue, and the person or persons employed by it when considering the assessment of any property hereunder.

Sec. 2240. Appeal by aggrieved person; when not to be heard.—In case any person be aggrieved at the assessment made by the commissioner and the special assessor, and take an appeal in the manner hereinbefore authorized, such appeal shall not be heard until thirty days' notice thereof be served, by the clerk of the court in which the appeal shall be heard, on the State Corporation Commission.

Sec. 2273. Commissioner to show land books to owner or agent and swear him as to correctness of entry of his land; to verify entries and make proper corrections.—Each commissioner before making out his land book, when he takes the list of taxable personal property, shall carry with him the last land book, that may be had, and the entry of lands charged to any person resident, or having an agent, within his county, district or city, shall be shown to such person, or his agent, who shall be required to state, on oath, whether the same be correctly entered; whether any part thereof ought to be transferred to any other person, and if so, to whom, and the nature of the evidence to authorize such transfer; also to state whether any other land within the county, district, or city ought to be charged to such resident or non-resident, describe the same, as well as any of the lands charged to such resident or nonresident, which may not be correctly entered. And the commissioner, upon obtaining such information, shall verify the same by the records of his county or city, and if it be found correct he shall change the entries in his land book accordingly. Any such resident, or agent, refusing to comply with such requirement shall forfeit fifty dollars. Any commissioner failing to comply with this section shall forfeit one hundred dollars.

Sec. 2274. (As amended by chapter 109, p. 89, Acts 1920.) Clerks to make out annual lists of deeds; what lists to contain.—The clerk of every court in which deeds are admitted to record, shall annually, before the fifteenth of February, make out a list of all deeds for the partition and conveyance of land, other than deeds of trust and mortgages, made to secure the payment of debts, which have been admitted to record in the clerk's office of such court within the year ending on the thirty-first day of January next preceding, which list shall state the date of the deed, when admitted to record, the name of grantor and grantee, whether the grantee

is white or colored, if known, the quantity of land conveyed, the specified value thereof, and a description of the same. This list shall, on or before the fifteenth day of February, be delivered by the clerk to the commissioner for his county or city; or, if there be more commissioners than one, the clerk shall deliver to each a copy, or at least so much thereof as relates to lands within his district, and the clerk shall also forward a copy of said list to the Auditor of Public Accounts; and the said clerk shall also make out, on a separate sheet, a list of all deeds of trust and mortgages on land, as well as deeds of trust on personal property made to secure the payment of debts, which have been admitted to record in the clerk's office of such court within the year ending on the thirty-first day of January next preceding, and such list shall state the date of the deed of trust or mortgage, when admitted to record, the name of the grantor, the name of the creditors, where the name of such creditors are disclosed, and set forth in the deed of trust or mortgage, and the amount of the debt to each creditor secured by the deed of trust or to the mortgagee in the mortgage, and the amount of debt secured thereby and the property conveyed in such deed of trust or mortgage. Copies of this last mentioned list shall be furnished by said clerk on or before the fifteenth day of February to commissioners of the revenue for his county or city; and to the Auditor of Public Accounts.

Sec. 2275. Clerks to make out lists of judgments for partition or recovery of lands, and of lands devised.—The clerk of every court in which judgments are required to be docketed shall make out a list of all judgments and decrees for the partition or recovery of lands which have been rendered, and of all lands devised by will, which have been recorded in such court within the year ending on the thirty-first of January next preceding, which list shall state the date of the decree, the land which is the subject of the partition, and between whom and in what proportion it is divided, and the date of the will containing the devise, when admitted to record, the names of the devisor and devisee, and the description of the land devised and such clerk shall deliver said list to the commissioner for his county or city on or before the fifteenth day of February in each year.

Sec. 2276. Lists to be delivered by clerks to commissioners.—If any clerk fail to perform the duties required of him in either of the two preceding sections he shall forfeit to the Commonwealth the sum of one hundred dollars, and it shall be the duty of the judge of each circuit and corporation court wherein or before whose clerk deeds are admitted to

record or wills are probated, to ascertain at the term of his court next succeeding the fifteenth of February of each year whether the clerk of such court has performed the said duties, and if it shall appear that the said clerk has failed to perform the said duties, in the manner and within the time prescribed, the judge shall issue a rule against said clerk, returnable within five days, to show cause, if any, why judgment shall not be entered against him for the penalty herein imposed.

Sec. 2277. Register of Land Office to furnish the Auditor of Public Accounts, State Tax Board (Commission) the local boards of review (equalization) and commissioners of the revenue, abstracts of grants.—An abstract shall be made out by the Register of the Land Office on or before the fifteenth day of January of each year, or as soon thereafter as practicable, for the Auditor of Public Accounts, the State Tax Board, the local board of review for each county and city, and commissioners of the revenue of each county or city, of all grants issued for lands therein from his office within the year ending the thirty-first day of December next preceding. The Register shall transmit every such abstract, other than that for the Auditor, the State Tax Board and the local board of review for each county and city, to the commissioner of the revenue for the proper county or city, and where, in any county, there are more commissioners than one, the Register shall transmit a copy of the abstract for such county to the clerk of the circuit court for each commissioner therein. The same shall be directed to the proper courthouse and mailed within one month after the expiration of the said year; and the Register shall pay the postage and receive credit therefor in his settlement with the Auditor.

Note—Local boards of equalization were provided by act approved March 20, 1924, which act created those boards and defined their duties; consequently the provisions in this section apply to that board.

Sec. 2278. Persons interested may procure and deliver abstracts of grants, etc.—Any person interested may also procure, at his cost, a statement of any such grant, judgment, decree, or devise, and deliver the same to the proper commissioner.

Sec. 2279. Form of land book.—The Auditor of Public Accounts shall prescribe the form of the land book to be used by the commissioner of the revenue and the Auditor of Public Accounts shall furnish each commissioner of the revenue with

four copies of blank land books prepared in the form prescribed by him.

The Auditor of Public Accounts shall so arrange the land books that real estate owned by white persons shall be assessed with taxes and levies in one part of the book, and the real estate owned by colored persons shall be assessed with taxes and levies in another part of the book.

Tracts of land in counties shall be entered by magisterial or school districts, and town lots shall be entered upon sheets provided in the land book for that purpose.

The land book on which taxes and levies are to be assessed on city lots shall be prepared so that lots owned by white persons and lots owned by colored persons will be assessed separately.

The commissioner of the revenue shall, in making out the original land book and the three copies thereof, follow strictly the form prescribed by the Auditor of Public Accounts, unless authorized by that officer to make changes therein.

Sec. 2280. What the table of town or city lots to contain.—In the table of town or city lots he shall enter separately each lot, and shall set forth in as many separate columns as may be necessary the name of the person, his residence and estate, as in the table of tracts of land. The commissioner shall set forth in other columns the number of each lot in the town or city, with the name of the town or city, if not previously placed in the caption or heading of the table, a description where the person does not own the whole lot, of the part which he owns, the value of the buildings on the lot, the value of the lot, including buildings, the amount of tax at the legal rate, and like notice of the source of title and explanation of alteration as in the table of tracts of land; provided, however, that the commissioner of revenue of Pulaski county, when assessing or listing for taxation the town lots in the town of Pulaski, in said county, shall in addition set forth in other columns the number of each lot in the town and the number of the section or block in which it is located.

Sec. 2281. Changes to be noted in land book by commissioner.—Such changes as may happen within the county, district, or city of any commissioner, shall be noted by him in his land books, and for each failure to make explanatory notes of such changes, and showing why and upon what authority such change was made, the commissioner shall forfeit not less than twenty nor more than one hundred dollars, and in addition thereto may have his pay suspended until such notes are so made.

Sec. 2282. Commissioner to enter lands appearing on Register's abstracts and assess their value.—He shall enter in the said books and assess the fair market value of all lands in his county, district or city appearing by the Register's abstract to have been granted. If he fail to enter any grant (mentioned in the Register's abstract) on the first land book made out after the abstract shall have been received by him, he shall, for such failure, forfeit twenty dollars to the Commonwealth, and a like sum to the grantee, which shall be recoverable in a separate proceeding.

Sec. 2283. Real estate sold for taxes to be noted on land book; when owner may redeem.—When real estate is sold to individuals for taxes, or is purchased for the Commonwealth for taxes, the commissioner shall note on his land book the number of acres sold, and to whom, but shall continue the whole tract of land upon his land book in the name of the former owner, until the purchaser obtain a deed therefor, or until the owner shall redeem the same from the Commonwealth. The owner shall not be permitted to redeem the same until he shall produce evidence to the Auditor that he has paid all the taxes due upon said land, which have accrued subsequent to said sale.

What Real Estate Purchased by Commonwealth to be Dropped from Regular Land Book.

(This act continued in force by Code section 2497.)

AN ACT to amend and re-enact an act entitled an act to authorize the sale of lots purchased by the Commonwealth for delinquent taxes and not redeemed within four years or more, approved February 23, 1906. Approved March 22, 1916. Chapter 456, p. 771, Acts 1916.

1. Be it enacted by the General Assembly of Virginia, That an act entitled an act to authorize the sale of lots purchased by the Commonwealth for delinquent taxes and not redeemed within four years, approved February twenty-third, nineteen hundred and six, be amended and re-enacted so as to read as follows:

Sec. 5. Within thirty days after the sales have been completed, or at the next term of the circuit or corporation court thereafter, the treasurer shall report said sales, and shall state in his report in separate columns the name of the said person charged with taxes on each lot, at the time of its sale to the Commonwealth, the amount required to redeem each lot, giving the amount due the State, county (including district or town) or city separately, the proportionate part of the costs of sale charged against each lot, the name of the purchaser, and the amount of his bid. In all cases where no bid

is received for a lot, it shall be reported not sold for want of bidders. Said report shall have attached thereto the affidavit of the treasurer to the correctness thereof, and that he and his deputies are in no way interested in the purchase of any lot sold by him.

A list of all lots which are reported not sold for want of bidders shall be recorded by the clerk in a book known as the "permanent delinquent tax book," which said book shall contain the same facts as the regular books of recorded delinquent land sold to the Commonwealth, and the said lots shall be designated on said book as lots purchased by the Commonwealth, and offered for sale under an act approved February twenty-third, nineteen hundred and six, and the lots contained in said list shall be dropped from the regular land books, and not again offered for sale at public auction; but shall remain on said permanent delinquent land book, and subject to purchase by application to the clerk, in accordance with the provisions of section six hundred and sixty-six of the Code of Virginia. But this act shall not apply to lots in cities of sixty thousand inhabitants or more, nor to any tract or parcel of land containing over five acres. (Sec. 666 is sec. 2495 in Code of Virginia, 1919.)

Sec. 2284. Lands on list to be transferred and charged.—The lands and standing timber appearing on the lists or statements mentioned in sections twenty-two hundred and seventy-four, twenty-two hundred and seventy-five and twenty-two hundred and seventy-seven, shall be transferred accordingly on the land book and charged to the person to whom the transfer is made or the grant has issued; and when standing timber is so transferred it shall be the duty of the commissioner to apportion the assessed value of the land on which said timber is standing between the owner of the soil and the owner of the timber, and such apportionment shall remain the basis of taxation of such land and timber until the said land and timber shall be separately assessed by the assessors in the next reassessment of real estate thereafter; provided, however, that the owner of such land or timber shall be entitled to all of the remedies for the correction of any errors in such apportionment of the assessed value by the commissioner, which are provided by law for the correction of erroneous assessments by assessors.

Sec. 2285. (As amended by act approved March 20, 1924.) **How land divided among several owners to be assessed; how assessment corrected if owner dissatisfied.**—When a tract or lot becomes the property of different owners in several parcels, the value at which the whole had been as-

essed shall be divided by the commissioners among the several parcels, having regard to the value of each parcel compared with that of the whole tract or lot, and the tax upon the whole shall be apportioned accordingly among the owners of the different parcels. If any person interested shall be dissatisfied with such apportionment he may apply to the commissioner to make a reassessment, and the commissioner shall make the same according to the best of his skill and judgment. Any person feeling himself aggrieved by any such reassessment may apply to the circuit or corporation court of the county or city to review the commissioners' decision, which board may affirm the same or order it to be corrected.

Ten days' notice, in writing, shall be given to the parties in interest, or to such of them as may be in the county or corporation, before the commissioner shall proceed to make such reassessment, or before such application shall be made to the local board of review. But from the decision of such local board of review an appeal shall lie to the circuit court of the county or to the corporation court of the city, or the circuit court of the city having no corporation court.

Sec. 2286. Commissioners to correct mistakes in their books.—Every commissioner, in making out his land book, shall correct any mistake made in any entry therein. But land which has been correctly charged to one person shall not afterwards be charged to another without evidence of record that such charge is proper.

Sec. 2287. When owner dies, how lands to be charged; while charged to the estate, personalty liable for tax.—When the owner dies intestate, the commissioner may ascertain who are the heirs of the intestate, and charge the land to said heirs. When the owner has devised the land, the commissioner may charge the same to such persons as may be beneficially entitled thereto under the will. If, under the will, the land is to be sold, it shall continue charged to the decedent's estate until a transfer thereof. While it continues charged to the estate, the personal property shall be liable for the tax on all so charged, and subject to distress or other lawful process for the recovery of the same. Any assets in the hands of the personal representatives of the decedent shall be likewise liable therefor.

List of Heirs.

Sec. 5379. (As amended by act approved March 15, 1924.) Personal representatives to furnish the ages and addresses of heirs; affidavit; clerk to record list; cost of recording; list as evidence; commissions of personal representatives.

—Every personal representative of a decedent, whether such decedent died testate or intestate, shall, at the time of his qualification, furnish the court or clerk before which or before whom he qualifies, a list of the names, and as far as possible the ages and addresses, of the heirs of his decedent, if intestate; and, if testate, a list of those persons who would have been the decedent's heirs had he died intestate, and the degree of kinship of each, to the decedent, accompanied by affidavit that he has made diligent inquiry as to such names, ages and addresses, and that he believes such list to be true and correct; which list it shall be the duty of the clerk to record in the will book and index in the name of the decedent as grantor and the heirs as grantees. Such list so made and recorded shall be prima facie evidence of facts therein stated. The cost of recording such list shall be deemed a part of the cost of administration, and be paid out of the estate of the decedent. Such personal representative shall not receive any compensation for his services until such list is filed and recorded, unless he files an affidavit before the commissioner of accounts that said heirs are unknown to him, and that after diligent inquiry he has been unable to ascertain their names, ages, or addresses, as the case may be.

Sec. 2288. When lands in one place are assessed in another; how error corrected.—If land lying in one district or city be erroneously assessed in another, the commissioner on whose book it is erroneously assessed shall certify the owner's name, and the quantity, description, and value of the land, to the proper commissioner, who shall enter the same on his book and charge the tax thereon, and the commissioner on whose book it was erroneously entered shall strike the same therefrom upon being informed of the entry thereof by the proper commissioner.

Sec. 2289. Lands lying in different districts of different counties; how assessed.—Where a tract of land, containing more than two thousand acres, lies partly in one county and partly in another, the quantity in the respective counties shall be estimated and entered by the commissioner of the county, or if there be more than one, by the commissioners of the districts, respectively, in which it lies; and where a tract containing two thousand acres or less, lies partly in one county and partly in another, it shall be entered by the commissioner of the county, or if there be more than one, by the commissioner of the district in which the greater part thereof lies; but the entry and payment of taxes in the county where any part thereof is situated, shall for such time, be a discharge of so much of the taxes as may be so charged and paid. When

new buildings and enclosures, other than farm fences, are erected, of the value of one hundred dollars or more, upon that part of the land lying in the county in which it is not assessed, the commissioner on whose book it is entered shall assess and add the value of such buildings and enclosures as in other cases.

Sec. 2290. (As amended by chapter 197, Acts 1924.) **When lying in different districts of the same county; how assessed.**—Land lying partly in one district, and partly in one or more districts of the same county, shall be entered by the commissioner of the district in which the greater part lies. Provided, however, that when the tract contains five hundred acres or more and as much as ten per cent of it lies in any one district, then the tract shall be entered by the commissioners in the districts, according to the actual acreage in the respective districts. When new buildings and enclosures, other than farm fences, are erected, of the value of one hundred dollars or more, upon that part of the land lying in the district or districts in which it is not assessed, the commissioner on whose book it is entered shall assess and add the value of such buildings and enclosures as in other cases.

Sec. 2291. **When lying in different counties, and a part is sold; how assessed.**—Where land which lies partly in one county and partly in another is assessed in the county in which the greater part lies, if the owner thereof shall convey that portion (or any part thereof) lying in the county wherein the same is not assessed, the commissioner of the latter county shall enter upon his land book what is so conveyed, and certify the owner's name, and the quantity, description, and valuation thereof, to the commissioner of the county or district wherein the whole was before assessed, who shall strike the part so conveyed from his land book.

Sec. 2292. **Omitted lands; how re-entered and assessed.**—When the commissioner ascertains that there is any patented land in his district which has not before been entered on his land book, or, after being entered, has from any cause been omitted for one or more years, he shall make an entry thereof in the name of the owner. Any person owning or claiming any tract or part of a tract of land which has not been entered on the land book, or which, if so entered, has for any cause been omitted therefrom, may have the part he owns entered on the land book of the commissioner of the revenue in whose district the land is situated, specifying the part of the said land so entered by having the same surveyed and laid off, and a plat and description thereof returned

to and recorded by the clerk of the county in which said land is situated, and such entry of the part of the tract entered shall be as valid as if the whole tract of which it is a part had been entered, but such entry shall not prevent a sale or forfeiture of the residue of the tract for failure to cause the same to be entered, and it shall be the duty of the commissioner of revenue to ascertain the name or names of the owners of said residue, and enter against each owner's name the quantity and the fair market value thereof owned by each. The commissioner of the revenue in whose district the land authorized and required by this section to be entered is situated, shall proceed to the best of his judgment, having reference to the assessed value of contiguous lands similarly situated, to assess the fair market value of such land, and shall place such land on the land book and assess taxes at the rate imposed by law for each year the land was not before entered in the land book, from the year nineteen hundred, inclusive; if, however, the patent emanated after nineteen hundred, then from the date of the patent, together with lawful interest on each year's tax. Any commissioner failing to make such entry and assessment shall forfeit twenty dollars.

Sec. 2293. Purchaser to be charged with tax only from date of title, as to forfeited lands west of Alleghany mountains.—The preceding section shall not, however, be construed to subject a bona fide purchaser of such land to the arrears of said tax, except from the date of his title thereto. Neither shall it be construed to release any lands west of the Alleghany mountains, which have been forfeited, or which may be liable to forfeiture for not having been entered on the land book, and charged with taxes prior to the said year nineteen hundred.

Sec. 2294. Commissioner to assess value of any building not already assessed.—The commissioner, before making out his land book, shall assess the value of any building and enclosure not theretofore assessed, whether old or new, found to be of the value of one hundred dollars and upwards. The value thereof shall be added to the value at which the land was before charged.

Sec. 2295. How new buildings assessed.—New buildings shall be assessed, whether entirely finished or not, at their actual value at the time of assessment.

Sec. 2296. Repairs and additions.—Any building and enclosure, as aforesaid, which may have been increased in value to one hundred dollars or upwards, by repairs or addi-

tions thereto, shall be assessed in the same manner as if they were new.

Sec. 2297. Buildings, etc., when injured or destroyed, their value to be reduced; when value of timber lands reduced.—When from natural decay or other causes any building and enclosure, as aforesaid, which have been assessed, shall be either wholly destroyed or reduced in value below one hundred dollars, the commissioners shall deduct from the charge against the owner the value at which such building and enclosure may have been assessed; and if the value of the building has been impaired by violence to the extent of one hundred dollars and upwards, the commissioner shall assess the said building in its present condition and reduce the charge for the same to the amount so assessed; and when any timber lands heretofore assessed, and the owner of the land is the owner of the timber, is reduced in value to the extent of two hundred dollars and upwards by the removal of the timber therefrom, the commissioner shall assess the said land in its present condition and reduce the charge for the same to the amount so assessed.

Sec. 2298. How machinery in mining and manufacturing establishments assessed.—The commissioner, in assessing the value of machinery and other fixtures to real estate, in mining, manufacturing, or similar establishments, shall ascertain the value of all such machinery and fixtures attached thereto, and include the aggregate value thereof as improvement on real estate in the same manner and to the same effect as in the case of buildings and enclosures added to real estate, under the provisions of this chapter; but if the machinery and other fixtures aforesaid shall be the property of one person, and the real estate, in or upon which the said machinery and fixtures shall be used, be the property of another, the said machinery and fixtures shall be assessed and taxed against the owner thereof as personal property, and so listed by the commissioner. For any failure on the part of the commissioner to comply with this or any of the four preceding sections, he shall forfeit fifty dollars for each failure.

Sec. 2300. Personal property book, form of and what to be entered therein.—The Auditor of Public Accounts shall prescribe the form of the personal property book to be used by the commissioner of the revenue, and the Auditor of Public Accounts shall furnish each commissioner of the revenue with four copies of blank personal property books prepared in the form prescribed by him.

The Auditor of Public Accounts shall so arrange the personal property book that personal property owned by white persons shall be assessed with taxes and levies in one part of the book, and personal property owned by colored persons shall be assessed with taxes and levies in another part of the book.

In making out these books, the commissioner of the revenue shall arrange them alphabetically to show the persons chargeable with taxes with reference to the first letter of each name, giving in full the first given name of each taxpayer, and where there are two or more persons of the same family name, he shall use some distinguishing sign by which the taxpayer may be identified.

The commissioner of the revenue shall, in making out the original personal property book and the three copies thereof, follow strictly the form prescribed by the Auditor of Public Accounts, unless authorized by that officer to make changes therein.

Upon the personal property book shall be entered the name of each male person, twenty-one years of age, or over, not pensioned by this State for military services, and a State poll tax of one dollar and fifty cents shall be assessed thereon against each such male person; all taxable tangible and intangible personal property, all taxable money which the law requires the commissioner of the revenue of each district, county or city to assess. There shall also be entered on the personal property book State taxes and local levies imposed by law on tangible and intangible personal property, and State taxes on money. Any property not assessable on the personal property book with State taxes, because the State has provided otherwise for its assessment, shall not be entered on the personal property book, notwithstanding localities have the right to assess any such property with local levies.

Sec. 2301. What personal property is exempt from taxation.—The following personal property and no other shall be exempt from taxation, State and local:

(a) Property directly or indirectly owned by the State, however held, and property lawfully owned and held by counties, cities, towns, or school districts, used wholly and exclusively for county, city, town, or public school purposes, and obligations issued by the State since the fourteenth day of February, eighteen hundred and eighty-two, or hereafter exempted by law.

(b) The furniture and furnishings of buildings, lawfully owned and held by church or religious bodies, and wholly and exclusively used for religious worship or for the residence of the ministers of any such church or religious body.

(c) The furniture, furnishings, books and instruments contained in buildings wholly devoted to educational purposes, belonging to, and actually and exclusively used by churches, public libraries, incorporated colleges, academies, industrial schools, seminaries, or other incorporated institutions of learning, including the Virginia Historical Society, which are not corporations having shares of stock or otherwise owned by individuals or other corporations; and also the permanent endowment funds held by such libraries and educational institutions, directly or in trust and not invested in real estate; provided, that such libraries and educational institutions are not conducted for profit of any person or persons, natural or corporate, directly or under any guise or pretense whatsoever. But the exemption mentioned in this subsection shall not apply to any industrial school, individual or corporate, not the property of the State, which does work for compensation or manufactures and sells articles in the community in which such school is located; provided, that nothing herein contained shall restrict any such school from doing work for or selling its own products or any other articles to any of its students or employees.

(d) Personal property, including endowment funds, not invested in real estate, belonging to Young Men's Christian Associations and other similar religious associations, orphan or other asylums, reformatories, hospitals, and nunneries, which are not conducted for profit, but purely and completely as charities.

(e) The furniture and furnishings of buildings belonging to any benevolent or charitable association and used exclusively for lodge purposes or meeting rooms by such association.

(f) Personal property belonging to the Association for the Preservation of Virginia Antiquities, the Confederate Memorial Literary Society, and the Mount Vernon Ladies' Association of the Union.

Sec. 2304. Construction of the revenue laws.—In addition to the rules of construction prescribed by chapter two of this Code, the following rules of construction shall apply to the law for the assessment and collection of taxes, unless such construction would be inconsistent with the manifest intent of the General Assembly.

The word "money" shall be construed to mean bullion, and gold, silver, copper, or other coins, and all notes made currency by the United States government; also a deposit or deposits with any bank or other corporation, firm, or person doing a banking business in the possession or under the control of the owner, whether such money be actually in or out of

this State, and belonging to a citizen of this State, but shall not include money loaned on demand or on time to other corporations or persons, and to bear interest.

The word "credits" shall be construed to mean all solvent debts, claims or demands owing or coming to any person, whether the evidence of such debts, claims or demands, be in writing or not, and shall be construed to embrace all moneys and credits constituting capital employed in business in or out of this State by himself, his agent, or other person for him, to his credit with a bank, firm or person.

The word "capital" shall be construed to mean moneys and credits actively used and employed in carrying on any trade or business; materials, goods, wares and merchandise on hand, and all solvent bonds, demands or claims made or contracted in the course of business during the preceding year (but not including any moneys on hand received from loans made for a period of not more than four months, which shall be owing and shall have been actually contracted for the necessary conduct of such business) shall be held to be capital in such trade or business, and shall not be taxed otherwise than as capital; but real estate shall not be listed as such capital, but shall be assessed and taxed as real estate.

Note—The above definition of capital is superseded by the provisions of an act of the General Assembly of Virginia, approved March 21, 1922 (the latest act on the subject), entitled an act to amend and re-enact sections 8 and 9 of an act entitled an act to raise revenue, etc., etc., by which act capital as used in the tax laws is defined. Section 8 of the tax laws is printed in this book, see page 64.

Sec. 2305. When commissioners begin to take lists of persons and property.—Each commissioner shall begin annually, on the first day of February, unless otherwise directed by the Auditor, to discharge the duties prescribed by the following section.

Sec. 2306. What persons and property to be listed for taxation; how beginners in business assessed; taxpayers to give in lists and make oaths thereto; how assessment made when a person refuses to furnish lists.—The commissioner shall ascertain and assess all the personal property not exempt from taxation, and all subjects of taxation in his county, district or city on the said first day of February in each year, except as otherwise provided by law, and also all male persons of full age and of sound mind residing therein, except those pensioned by this State for military service; and herein shall be included all persons and property removed from one county, district, or city, to another between the first day of February and the day on which the commissioner may deliver

his books to the office charged with the collection of taxes; but persons or property assessed in one county, district or city shall not be assessed in any other for that year; but any person beginning any trade or business after the first day of February of any year shall be assessed from the date of beginning upon the capital used or intended to be used by him in carrying on such trade or business, the same to be ascertained as hereinafter provided, and the tax thereon shall bear such proportion to the whole annual tax as the space of time between the assessment of the same and the first day of February bears to a full year; and money invested in said business shall not be twice taxed as capital for the same year in the same county or city. It shall be his duty to call on every person in his county, district or city to furnish a list of such property, money, credits or other subjects of taxation as required by law, and the value thereof. Upon neglect or refusal to give such list, the commissioner, in order to obtain the same, may apply to any officer of this State, or to any officer or agent or a company or firm, or to any person having knowledge thereof or interested therein, to furnish any information such person may have relating thereto. It shall be the duty of the commissioner, in all cases, to administer an oath to any such person to make true answers to such questions as he may ask in relation to any matter about which he is authorized to inquire; and if the same be the person assessed with taxes on the property, the oath shall be as prescribed in section twenty-three hundred and ten. A commissioner failing to administer the oath required shall forfeit fifty dollars.

Sec. 2307. (As amended by chapter 104, Acts extra session 1923.) **By whom property is to be listed; to whom taxed.**—If property be owned by a person sui juris, it shall be listed by and taxed to him. If property be owned by a minor, it shall be listed by and taxed to his guardian or trustee, if any he has; if he has no guardian or trustee, it shall be listed by and taxed to his father, if any he has; if he has no father, then it shall be listed by and taxed to his mother, if any he has; and if he has no guardian, nor trustee, father nor mother, it shall be listed by and taxed to the person in possession. If the property is the separate property of a person over twenty-one years of age or a married woman, it shall be listed by and taxed to the trustee, if any they have in this State; and if they have no trustee in this State, it shall be listed by and taxed to themselves. In either case, it shall be listed and taxed in the county or city where they reside; but if they be nonresidents of Virginia, the property shall be listed and taxed in the county or city wherein such trustee resides. If the property be the estate of a deceased

person, it shall be listed by the personal representative or person in possession, and taxed to the estate of such deceased person. If the property be owned by an idiot or lunatic, it shall be listed by and taxed to his committee, if any; if none has been appointed, then such property shall be listed by and taxed to the person in possession. If the property is held in trust for the benefit of another, it shall be listed by and taxed to the trustee in the county or city of his residence (except as hereinbefore provided); provided, that all farming implements, live stock and other personal property on a farm shall be listed and taxed in the county where such farm is located, and not elsewhere. If the property belong to a company or firm, it shall be listed by and taxed to the company or firm. If the property belong to a domestic corporation, which property is not otherwise taxed, it shall be listed and taxed to the corporation by the principal accounting officer and at the principal place of business of such corporation; if the property belong to a foreign corporation, which property is not otherwise taxed, it shall be listed to the corporation by the principal officer and at the place designated by the corporation as the office at which all claims against the corporation may be audited, settled and paid; provided, that, in the assessment of capital under schedule "C," section eight, subdivision two, of the revenue act, the stock on hand, raw materials for use in business, whether at the place of business, in storage, or elsewhere, and machinery and tools not taxed as real estate, shall be listed to the corporation (domestic or foreign) by the principal officer of such corporation and shall be taxed in the county or incorporated community in which such property is physically located, as provided by law; but if any property is not listed as herein provided it may be listed by the proper assessing officer and taxed to the owner or to the person in possession in the county or city in which the property is physically located or in which it has its legal situs for taxation.

If the property consists of money, bonds or other evidences of debts under the control or in the possession of a receiver or commissioner, it shall be listed by and taxed to such receiver or commissioner, and the clerk of each court shall furnish the commissioner of the revenue with a list of all bonds and funds held by the commissioners or receivers under the authority of the court. If the property consists of money or other thing deposited to the credit of any suit, and not in the hands of a receiver, it shall be listed by and taxed to the clerk of the court in which the suit is, and such clerk shall, upon the order of his court, made in term or vacation, withdraw from such deposit the amount of such tax; provided, that funds, credits or estate, however evidenced, in the hands of a receiver or commissioner of a court, or deposited to the credit of a suit, and held for distribution or disbursement upon debts reported in any suit or

proceeding pending in such court, shall not be listed for taxation against the commissioner, receiver or clerk unless such funds, credits or estate exceed the total amount of the debts to be so paid, in which event the excess shall be listed for taxation against the commissioner, receiver or clerk, as the case may be; but such reported debts shall be taxed to the respective creditors, and no order or decree for the distribution of such funds shall be effective unless it directs the payment of such tax as may be due, or recites that all such taxes so due have been paid.

If the property consists of money, bonds, stocks, or other evidences of public or private debts in any county or city other than that of his residence, or State other than Virginia, it shall be listed by and taxed to the owner thereof; and it shall be the duty of the respective examiners of records of the several judicial circuits where the respective fiduciaries are appointed or qualified, to report to the respective commissioners of the revenues of the counties or cities in which said property is liable for taxation, all property held by said fiduciaries, to be taxed as provided by law. If the property be listed by and taxed to any person other than the owner, it shall not be delivered to the owner until the taxes thereon are paid or indemnity given to the person in possession, for the payment thereof.

All money, bonds, estates, credits and other evidences of debt, listed by and taxed to clerks, receivers and commissioners of courts, as hereinabove provided for, whether the same be for and purchase price of real estate or personal property, shall be exempt from taxation in the name of the parties beneficially interested therein.

Sec. 2225. When executors, administrators, etc., liable for taxes.—All executors, administrators, trustees, and all other representatives distributing estates, within twelve months of their qualification, shall be liable for the taxes on the full amount of the taxable estates for the year commencing February first following their qualification, and they shall retain the same out of the estates, and the estates so distributed shall be exempt from taxation in the names of the parties beneficially interested therein.

Who is a Resident for Purposes of Taxation.

AN ACT to amend and re-enact an act entitled "An act to define the status of persons having their actual or habitual places of abode in this State for the larger portion of the twelve months preceding the first day of February in each year, for purposes of taxation," approved March 16, 1918, and acts amendatory thereof. Approved March 9, 1922. Chapter 144, p. 228, Acts 1922.

Be it enacted by the General Assembly of Virginia, That an act entitled an act to define the status of persons having

their actual or habitual places of abode in this State for the longer portion of the twelve months preceding the first day of February in each year, for purposes of taxation, approved March sixteenth, one thousand, nine hundred and eighteen, and acts amendatory thereof, be amended and re-enacted so as to read as follows:

A person who has had his actual or habitual place of abode in this State for the longer portion of the twelve months next preceding the first day of February in each year shall be deemed a resident of this State for the purpose of taxation, and the personal property, money and income which he is required by law to list shall be taxable in this State, unless on or before that day he has changed his place of abode to a place without this State with the bona fide intention of continuing actually to abide permanently without this State. The fact that a person who has so changed his actual place of abode, within six months from so doing, again abides within this State, shall be prima facie evidence that he did not intend permanently to have his actual place of abode without this State. Such person so changing his actual place of abode and not intending permanently to continue it without this State, and not having listed his property for taxation as a resident of this State, for the purpose of having his personal property, money and income listed for taxation within this State, shall be deemed to have resided on the day when such property should have been listed, at his last actual or habitual place of abode within this State. The fact that a person whose actual or habitual place of abode during the greater portion of such twelve months has been within this State, does not claim or exercise the right to vote at public elections within this State, shall not, of itself, constitute him a nonresident of this State within the meaning of this act. A person or property subject to taxation within the State shall not be relieved therefrom by the provisions of this act, nor shall any provision of this act repeal any statute now in force as to the taxation of personal property.

Sec. 2308. (As re-enacted by act approved March 14, 1924.) **Tax situs of property held in trust in certain cases.**—Property held in trust by a trustee who is a resident of this State shall not be deemed to have a situs in this State for purposes of taxation, and shall not be assessed for taxation in this State if the creator of the trust was at the time of the creation thereof a nonresident of this State, and if all of the beneficiaries under the trust are also nonresidents. If, however, one or more of the beneficiaries is a resident of this State, the property shall be assessable for taxation as if the trustee were a nonresident.

Sec. 2309. Collection of taxes and levies, funds, securities, moneys, and other property under the control of fiduciaries and courts.—No decree or order shall be entered by any court of the Commonwealth directing the payment, or other distribution of any funds, securities, moneys or other property under its control or under the control or in the hands of any receiver, commissioner or other officer of the court or any executor, administrator, trustee or other fiduciary unless it be made to appear to such court that all taxes and levies upon such funds, securities, moneys or other property have been paid, or unless the payment thereof be provided for in such decree or order; and no commissioner, executor, administrator, trustee or other fiduciary, receiver, trustee or bank, or other person or corporation shall pay out any funds in hand under the order of any court unless a receipt for the taxes is produced showing said taxes have been paid, or unless such order shall so state. And no commissioner of accounts or assistant commissioner of accounts shall, under section fifty-four hundred and twenty-seven, file any report of an account of the transactions of any executor, administrator, trustee, receiver or other fiduciary until it shall be made to appear to said commissioner that all taxes, whether State, municipal or county, assessed and chargeable upon property in the hands of the person for whom such account is settled belonging to the estate concerned in such settlement, have been paid, or unless such account shall show that there remains in the hands of such person sufficient sum, over and above the charges of administration, to pay all taxes charged against such person in his capacity as executor, administrator, trustee, receiver or other fiduciary.

Sec. 2310. Commissioners to apply to taxpayers to answer interrogatories; oaths thereto.—The commissioner, or his duly qualified deputy, shall, on personal application to each person, firm or corporation, residing, doing business or having an office in his district, obtain answers to interrogatories prepared by the Auditor of Public Accounts respecting tangible and intangible property, money or income, and the Auditor of Public Accounts is authorized to prepare separate forms of interrogatories with respect to each of these subjects of taxation, if, in his judgment, he think proper so to do, and it shall be the duty of each person, firm or corporation in person or by a duly authorized agent to make and subscribe, under oath, true, full, perfect and correct answers to each and all of said interrogatories, and the oath to each of said interrogatories shall be in the form prescribed by the Auditor of Public Accounts, or as provided by law.

The commissioner of the revenue, or his duly qualified

deputy, shall apply in person at least once to such person, firm or corporation, and if such answers are not obtained it shall thereafter be the duty of the taxpayer to seek the commissioner, and, upon failure to render such answers for a period of thirty days, the commissioner, or his duly qualified deputy, shall, upon the best information obtainable, assess the fair market value upon all the property, money and income of each and every taxpayer who has failed to answer the interrogatories.

The oath shall be taken before the commissioner of the revenue or his duly qualified deputy, or some other person authorized to administer oaths, and it shall be signed by the taxpayer, or by his duly authorized agent, and where a person answers the interrogatories as such agent, he shall make and sign the oath as if he were acting for himself.

In case of a firm, the oath shall be taken and interrogatories answered by some one or more members of the firm, and in case of a corporation, the oath shall be taken and interrogatories answered by some officer or agent of the corporation. The interrogatories shall be, by the commissioner, or one of his duly qualified deputies, laid before the local board of review for examination, investigation, review and correction, as provided by law.

Note—Local boards of review were abolished by act approved March 20, 1922, which repealed Code sections 2226 and 2227, which sections created those boards and defined their duties; consequently the provisions in this section as to that board no longer apply.

Sec. 2311. With whom form left in absence of taxpayer; to whom returned; if not returned, how list made out.—If any person be absent from his residence at the time the commissioner calls (and there be no one on the premises authorized to act for such person), the commissioner may leave, or cause to be left for such person, at his residence, with some member of his family over the age of sixteen years, or if there be no such person on the premises, may otherwise cause to be delivered to such person proper forms, to enable him to make out the answers to the interrogatories aforesaid, verified by affidavit as hereinbefore required, and deliver the same to the commissioner.

Sec. 2312. Commissioner to assess valuation of property, income and money.—The commissioner, or any one of his duly qualified deputies, shall, upon his own view, or upon such information as he may obtain or possess, assess the fair market value of all property, money and income shown by the answers to the interrogatories to be owned by the taxpayer, and in the event the taxpayer has not answered the

interrogatory, the commissioner, or his duly qualified deputy, shall, from the best information he can obtain, enter upon the interrogatory the fair market value of the property, money and income owned by the taxpayer, and make assessments thereof after the values have been ascertained and certified to him in the manner provided for in section twenty-two hundred and fifty-nine.

Sec. 2314. Penalty of taxpayer for refusing to answer interrogatories and swear thereto.—If any person subject to taxation on personal property, money or income, and who is required to furnish answers to interrogatories, fail or refuse, upon application, to make such answers and to take an oath to the truth and fairness thereof, he shall forfeit not less than thirty nor more than one thousand dollars for each failure.

Sec. 2315. Taxpayer fined if he refuses to exhibit property; commissioner, if he takes answers not sworn to.—If any person refuse to exhibit to the commissioner or to his duly qualified deputies any property mentioned in the answers to the interrogatories or required by this chapter to be taxed in order that a fair market valuation thereof may be assessed, he shall pay a fine of not less than twenty nor more than one hundred dollars. No commissioner or any one of his deputies shall receive any answers as a sufficient return of personal property unless the same be sworn to according to law, under a penalty of five hundred dollars.

And upon complaint to the judge of the circuit court of a county or corporation court of a city, or if there be no corporation court, then to the judge of the circuit court of the city, supported by the sworn affidavit of two or more reputable taxpayers, or upon complaint in writing by the local board of review, should it appear to the satisfaction of the court that the commissioner of the revenue of such county or city, or any of his deputies, has not complied with the requirements of this and sections twenty-three hundred and six, twenty-three hundred and ten, twenty-three hundred and twelve, and twenty-three hundred and fourteen, or any of them, the judge shall forthwith remove such delinquent commissioner or deputy, and appoint his successor.

Note—Local boards of review were abolished by act approved March 20, 1922, which repealed Code sections 2226 and 2227, which sections created these boards and defined their duties; consequently the provisions in this section as to that board no longer apply.

Sec. 2327. How property of commissioner assessed.—The commissioner shall make a particular report on oath to the local board of review of his county or city of all of his

property subject to taxes, stating the whole amount chargeable to him therefor. He shall enter the same on his books, with taxes charged thereon, in like manner as to any other person. For failing to perform any duty required by this section, he shall forfeit one hundred dollars.

Note—Local boards of review were abolished by act approved March 20, 1922, which repealed Code sections 2226 and 2227, which sections created those boards and defined their duties; consequently the provisions in this section as to that board no longer apply.

Sec. 2328. Proceedings against person rendering false lists.—If any person knowingly render a false list of personal property, choses in action; moneys, credits, capital, income, salary, or other subject of taxation, and swear to such list, it shall be the duty of the attorney for the Commonwealth upon his own knowledge, or upon information furnished him by any revenue officer of the State, or by any local board of review, examiner of records, or other person under oath, to file a petition in the circuit court of the county or corporation court of the city wherein the list was taken, setting forth the total or partial omissions in his list of subjects of taxation, or the false values annexed to any of said subjects, and asking the court to summon the person or persons giving the list to answer the petition. Upon the summons being duly executed, the court shall impanel a jury to try the allegations of the petition; and if a verdict be rendered establishing a false list, the court shall render judgment against the accused for double the amount of taxes imposed upon the property so omitted, together with the costs of the proceedings, including a fee of five dollars to the Commonwealth's attorney; and the court shall, moreover, direct the treasurer of the county or city, upon ten days' notice, to sell for cash the said property, or so much thereof as may be necessary to satisfy the judgment aforesaid, with a commission to said treasurer of five per centum upon the amount thereof; and it shall be the duty of said treasurer to make report of the sale to the court, and within twenty days from such sale to pay the taxes so collected into the treasury of the State and to pay the costs to the persons respectively entitled thereto; and any Commonwealth's attorney failing to perform the duties required of him by this section shall be fined not exceeding one hundred dollars. The clerk shall transmit a copy of the report to the Auditor of Public Accounts, who shall charge the treasurer with the amount shown thereby to be due the Commonwealth.

Note—Local boards of review were abolished by act approved March 20, 1922, which repealed Code sections 2226 and 2227, which sections created those boards and defined their duties; consequently the provisions in this section as to that board no longer apply.

Sec. 492. Report of commissioner of revenue to escheator.—Each commissioner of the revenue shall, annually,

in May, furnish to the escheator of his county or city a list of all lands within his district of which any person shall have died seized of an estate of inheritance intestate, and without any known heir, or to which no person is known by him to be entitled; but no land shall be liable to escheat which for twenty years has been in the actual possession of the person claiming the same, or those under whom he holds, and upon which taxes have been paid within that time.

Sec. 2329. Commissioners to add up columns of both land and property books.—The commissioner shall add up the columns of figures on each page, so as to show at the bottom of each the total aggregate of each column, and the number of persons and articles subject to taxation, with the amount of the taxes and levies due on everything contained in such page; and at the end of each book he shall enter the sums from the bottoms of the respective pages, by reference thereto, so as to present at one view the various species and total number of the subjects of taxation within his county, district, or city, and the entire amount of revenue arising therefrom.

Sec. 2330. Deduction from compensation for extending less than proper tax.—If the commissioner shall, either in his land book or book of personal property, charge or extend in any case a less tax than the law requires, the Auditor of Public Accounts shall deduct the amount omitted to be charged or extended from the compensation of the commissioner.

Sec. 2331. If books for preceding year not made out, how supplied.—If in consequence of there being no commissioner of the revenue for the next preceding year, or from any other cause, no book was made out of the land tax, or the tax on personal property for that year, the commissioner of the revenue for such county, district, or city, shall proceed to make out books for the year, according to the rate of tax which then existed, as well as books for the current year. The like proceedings shall be had with and under the books of the year next preceding as with those of the current year, and the sums therein charged shall be collected and accounted for in like manner.

Sec. 116. Omitted capitation taxes and capitation taxes of persons becoming of age after February first.—Any person assessable with capitation taxes for any year or years, who has not been assessed therewith, and any person who will be assessable with such taxes for the ensuing year by reason of his becoming of age after the first of February in any year,

may apply to the commissioner of the revenue for the district of the county or for the city in which he resides and have himself assessed with such omitted capitation taxes or with such capitation taxes as shall become assessable against him for the ensuing year by reason of his becoming of age after the first of February in any year, and it shall be the duty of the commissioner of the revenue to assess such person with such omitted capitation taxes or with such capitation taxes as will become assessable against him for the ensuing year by reason of his becoming of age after the first of February in any year, and to give to such person a certificate of such assessment, and thereupon the treasurer of the county or city in which the person so assessed resides shall receive from such person the capitation taxes set out in such certificate.

Sec. 2420. Assessment and payment of omitted capitation taxes of persons who become of age after the first day of February in any year.—Any person assessable with capitation taxes for any year or years, who has not been assessed therewith, and any person who will be assessable with such taxes for the ensuing year by reason of his becoming of age after the first of February in any year, may apply to the commissioner of the revenue for the district of the county or for the city in which he resides and have himself assessed with such omitted capitation taxes or with such capitation taxes as shall become assessable against him for the ensuing year by reason of his becoming of age after the first of February in any year, and it shall be the duty of the commissioner of the revenue to assess such person with such omitted capitation taxes or with such capitation taxes as will become assessable against him for the ensuing year by reason of his becoming of age after the first of February in any year, and to give to such person a certificate of such assessment, and thereupon the treasurer of the county or city in which the person so assessed resides shall receive from such person the capitation taxes set out in such certificate. The commissioner of the revenue making the assessments provided for in this section shall keep a record thereof and report to the Auditor of Public Accounts on the first day of January and July of each year a list of such assessments made by him during the preceding six months. The county and city treasurers receiving the taxes assessed under this section shall pay the same into the treasury on or before the tenth of January and July of each year and shall furnish the Auditor of Public Accounts with a list of the taxes received by them under this section. The Auditor shall charge the treasurer with the amount of the assessments reported by the commissioners of the revenue and shall require the treasurer to account for the amount of such assess-

ments received by him and shall credit him with so much of said assessments as he shall state under oath in his report were not received by him.

Sec. 2332. (As amended by chapter 115, p. 95, Acts 1920.) **Omitted taxes, levies, etc., how assessed.**—If the commissioner of the revenue, examiner of records or other assessing officer, commission or board designated by law to assess persons, property (real, personal and mixed), taxes, levies, et cetera, ascertain that any person, or any real or personal property, or income, or salary, or license tax, or inheritance tax has not been assessed, for any year of the three years next preceding that in which such ascertainment is made, by the State, county, district, city or town, or that the same has been assessed at less than the law required for any one or more of such years, or that the taxes, levies, et cetera, thereon, for any cause, have not been realized, it shall be the duty of the commissioner of the revenue, examiner of records, or other assessing officer, to list the same and assess persons, property (real, personal and mixed), with taxes and levies at the rate prescribed for that year, adding thereto a penalty of five per centum and interest at the rate of six per centum per annum, which shall be computed upon the taxes, levies and penalty from the first day of December of the year in which such taxes should have been paid, and any treasurer collecting such taxes, levies, penalties and interest shall add thereto interest at the rate of six per centum, which shall be computed upon the total amount due from the day on which the assessment is certified to him for collection unless the same is paid within thirty days following such certification.

Sec. 2333. (As amended by chapter 115, p. 96, Acts 1920.) **Forms for assessment of, to be prescribed by the Auditor of Public Accounts.**—It shall be the duty of the Auditor of Public Accounts to prescribe and furnish to commissioners of the revenue, forms upon which to assess omitted taxes on persons, tangible and intangible personal property, money, income and real estate, which form shall be used by the commissioners of the revenue in making the assessments required by law, and the assessment of omitted taxes shall not be made upon the land, personal property and income books for the current year's assessment, but shall be made upon the forms prescribed by the Auditor of Public Accounts, which he is, by this section, required to prepare and furnish.

Sec. 2334. (As amended by chapter 115, p. 96, Acts 1920.) **Assessment and collection; methods of ascertaining and reporting.**—Within the period prescribed in section twenty-three hundred and thirty-two, the examiner of records

and the county and city treasurers are hereby authorized, unless the assessment on intangible personal property, money, inheritance and income for omitted taxes have already been made, to use the same methods of ascertaining and reporting property for assessment and for the assessment and collection of all omitted taxes on intangible personal property, money, incomes and inheritances as are authorized to be used for the assessment and collection of current taxes and shall receive the commissions allowed by law.

Sec. 2335. (As amended by chapter 115, p. 96, Acts 1920.) **Appropriation of taxes collected under sections twenty-three hundred and thirty-two and twenty-three hundred and thirty-four.**—All State taxes hereafter assessed and collected under sections twenty-three hundred and thirty-two and twenty-three hundred and thirty-four are appropriated to the public free schools of the primary and grammar grades, except the State taxes hereafter assessed and collected for pensions.

Sec. 2336. (As amended by chapter 115, p. 96, Acts 1920.) **Assessments of and suits or actions for the collection of, not invalidated.**—Nothing contained in the four preceding sections shall operate to invalidate or defeat any assessment of property or income or inheritance or any suit or action for the collection of any taxes, made or commenced prior to the date on which such sections, as amended, shall become effective; provided, also, that nothing therein contained shall apply to the assessment of any taxes or levies by action, suit or otherwise, based upon valuations to establish which any petition shall have been filed with the State Corporation Commission prior to the date on which such sections, as amended, shall become effective.

Sec. 2337. (As amended by chapter 171, Acts 1924.) **Commissioner to extend levies and taxes; compensation therefor.**—The commissioner shall extend in his land book and book of personal property the total of the county and district levies, as the case may be, including the road and school levies, so as to show the aggregate amount of all such levies assessed against each person assessed with State taxes on said books. The commissioner of the revenue shall recapitulate the levies in such form as the Auditor shall prescribe, and for this service he shall receive such compensation as the board of supervisors or council, as the case may be, may deem reasonable, but the same shall not be less than five per centum of the amount of taxes lawfully assessed for county, district and school purposes, or for city purposes, as the case may be,

when the taxes assessed for such purposes shall not exceed ten thousand dollars, and when the amount exceeds ten thousand dollars the commission allowed on excess shall be three and one-half per centum up to fifteen thousand dollars, and two and one-half per centum upon the amount in excess of fifteen thousand dollars, and up to twenty thousand dollars, and one and one-half per centum upon the amount in excess of twenty thousand dollars and up to sixty thousand dollars, and one and one-fourth per centum upon the amount in excess of sixty thousand dollars and up to two hundred thousand dollars, and one per centum upon the amount in excess of two hundred thousand dollars, except in cities the commissions in excess of thirty thousand dollars shall be one per centum. Provided, that in the counties of Rockingham and Spotsylvania the commissions allowed in this section for extending the taxes and levies on the land books, as prescribed, shall not apply, but the several commissioners of the revenue of said counties for performing this service in the manner prescribed by law shall be allowed and paid such compensation as the board of supervisors of said counties may deem reasonable.

Sec. 2338. Omitted license, privilege and occupation taxes.—No license, privilege or occupation tax shall be levied or collected for any year prior to nineteen hundred and twelve, whether previously omitted or not.

Sec. 2339. Penalty for false entry in books.—If any commissioner, knowingly, make a false entry on any of his books, he shall, for every such offense, forfeit two hundred dollars.

Sec. 2341. Commissioner to keep original of each book.—The original of each book shall be retained by the commissioner, so long as he continues in office, and then be delivered to his successor. If he fail herein, or if he fail to make the copies required by law, he shall forfeit fifty dollars.

Sec. 2342. How commissioner of the revenue to dispose of copies of land and personal property books.—The commissioner of the revenue shall retain in his office the original land book and the original personal property book, and he shall dispose of the copies of the original books in the following manner:

One copy of the land book and one copy of the personal property book or books, if he be the commissioner of the revenue of a county or a district in a county, shall be delivered to the clerk of the circuit court of said county; if he be the commissioner of revenue of a city; the copy or copies shall

be delivered to the clerk of the corporation court of said city, but if said city has no such court then the copy shall be delivered to the clerk of the circuit court of said city. The commissioner of revenue of the city of Richmond, shall deliver such copy to the clerks of Parts I and II of the hustings court. One copy of the land book and one copy of the personal property book or books shall be delivered to the treasurer of the county, if he be the commissioner of a county or a district in a county, and if he be the commissioner of revenue for a city; said copy or copies shall be delivered to the treasurer of said city; the other copy of the land book and personal property book or books, the commissioner of the revenue shall forward to the Auditor of Public Accounts. For failure to deliver said copies in the manner herein provided by the first day of October of each year, the commissioner of revenue shall be fined not less than fifty nor more than two hundred dollars, and the Auditor of Public Accounts shall not pay him any compensation which may be due him, payable out of the State treasury, for making out said books, but the Auditor of Public Accounts may, for good cause, extend the time of delivery of said books not exceeding thirty-one days from the said first day of October in any year.

Sec. 2345. Auditor to compare copies with books of preceding year; the copies to be his guide in settling with treasurers.—The Auditor shall examine and compare the copies received by him from the commissioner, with the books of the next preceding year, and with the transcripts, abstracts, or statements from the records required to be furnished. He shall note all errors and omissions, and transmit a statement to the proper commissioner for the succeeding year. Said copies shall be a guide for the Auditor in settlement with the officer charged with the collection of taxes; and shall be admitted as evidence in any proceeding against such officer on account of the taxes with which he is chargeable.

Sec. 2346. Commissioner may require receipt for copies.—The commissioner may require from the clerk, treasurer, and Auditor, a receipt of the delivery of the said books to them respectively.

Sec. 2347. Fees of commissioners.—Each commissioner shall be entitled to the following fees: For making an entry or assessment under section twenty-two hundred and eighty-two of any parcel of land, one dollar for every such parcel, to be paid by the owner; for making an assessment when required by any owner of any part of the land under section twenty-two hundred and eighty-five, one dollar and seventy-

five cents; the parties among whom the land is divided shall be jointly and severally liable, except where the commissioner's proceedings are confirmed by the court, in which case the party complaining shall pay the commissioner's fee, in addition to the cost incurred in consequence of the application to the court; for making an entry transferring to one person lands before charged to another, one dollar, which shall be charged to the person to whom the transfer is made, and be a compensation for all tracts in the commissioner's county, district, or city conveyed by the same deed; for an entry of land according to sections twenty-two hundred and eighty-eight and twenty-two hundred and ninety-one, one dollar, which shall be charged to the person for whom the entry is made.

The said fees shall be in full for said services, whether the same be for the benefit of the State or for the cities, counties, or towns of the State, and no city, town, or county shall pass any resolution or ordinance authorizing any commissioner to charge any other or additional compensation for these or similar services under any by-law or ordinance of such city or town, or resolution or order of such county.

Sec. 2348. How made out and collected.—The transfer fees allowed by law to the commissioners of the revenue of the several counties and cities of the State shall be collected by the clerk of the court of record of said counties and cities at the time of recording the deed or will; but in no case shall more than one fee be charged for all the transfers made during the fiscal year terminating on the thirty-first day of December of each year, which fee shall be paid by the first vendee. The clerk at the time the commissioners of the revenue return to the clerk's office the land books, according to law, shall account to them for the fees so collected, deducting therefrom a commission of ten per centum for his services.

Sec. 2349. (As amended by chapter 355, p. 530, Acts 1920.) Commissioners' compensation other than fees.—Every commissioner shall be entitled to receive in consideration of his services to be paid out of the treasury, upon the warrant of the Auditor of Public Accounts, a commission of five per centum on the amount of taxes lawfully assessed for the current year and for any and all prior years by him on persons, on real and personal property, income and salaries within the preceding twelve months, but when the taxes assessed in any district exceed ten thousand dollars the commissions allowed on excess shall be three and one-half per centum up to twenty thousand dollars, and two and one-half per centum upon the amount in excess of twenty thousand dollars and up to thirty

thousand dollars, and one and one-half per centum upon the amount in excess of thirty thousand dollars up to sixty thousand dollars, and one and one-fourth per centum upon the amount in excess of sixty thousand dollars up to three hundred thousand dollars, and one per centum upon the amount in excess of three hundred thousand dollars.

Commissions for Assessing Omitted State Taxes, When Payable.

AN ACT to authorize and require the Auditor of Public Accounts to withhold the commissions of a commissioner of revenue for assessing omitted State taxes where the legality of the assessment is contested. Approved March 15, 1922. Chapter 230, p. 417, Acts 1922.

1. Be it enacted by the General Assembly of Virginia, That the Auditor of Public Accounts be, and he is hereby required, not to pay out of the State treasury the commissions allowed by law for the assessment of omitted State taxes, the assessment of which he knows, or has reason to believe, will be contested, and the Auditor of Public Accounts be, and he is required, to pay the commissions to the commissioner of revenue on omitted State taxes, the legality of the assessment of which is contested, on and after the legality of the assessment has been finally determined.

2. To prevent payment out of the State treasury of commissions to commissioners of revenue for assessing omitted taxes, the legality of which is or may be contested, an emergency exists and this act is declared to be in force from its passage.

Sec. 2350. Expense of express and postage by commissioner of the revenue or clerk of court, how paid.—The Auditor of Public Accounts shall pay each commissioner of the revenue all expense for postage or express charges incurred by him in sending reports and the land and personal property books to the Auditor of Public Accounts, and postage on correspondence with him touching the duties of his office, upon a sworn and itemized statement, out of any money in the treasury not otherwise appropriated.

The Auditor of Public Accounts shall pay the clerk of each court of record all postage charges incurred in mailing reports, papers, etc., to the said Auditor and on correspondence with the Auditor touching the duties of his office, upon a sworn and itemized statement, out of any money in the treasury not otherwise appropriated.

Sec. 2351. When compensation withheld.—The compensation allowed to a commissioner shall not be paid unless he

has punctually performed his duties in reference to the assessment of property and licenses, and has made all reports required within the time prescribed by law, or can show to the satisfaction of the Auditor a sufficient reason for his delay. In every such case the Auditor may settle with such commissioner for his services upon equitable principles.

Sec. 2352. Compensation for making books for preceding year.—Where, however, any commissioner lists the property and makes out books for a former year, such compensation may be allowed him in addition to what he is entitled to for his services during the current year, as he would have received in a former year had he then been appointed and performed the duties of commissioner.

Sec. 2353. Compensation apportioned on death or removal of commissioner.—When one commissioner begins in any year, and dies, or is removed, before the services to be rendered by him in that year are fully performed, in consequence whereof another succeeds him, who completes the same, the sum to be paid for the whole services of the commissioners in that year shall be apportioned between them according to the services by them respectively performed. If, however, in consequence of any failure to deliver up books or papers which the former had, the latter has to proceed to take the list of taxable property, and do all that he would have to do in case there had been no previous commissioner for that year, he shall receive the whole compensation for the said year.

Sec. 2354. Books not to be altered after delivery to treasurer.—After the commissioner of the revenue shall have delivered a copy of his land book or personal property book to the county or city treasurer, no alteration shall be made in either by him affecting the taxes or levies of that year.

Sec. 2355. Commissioner to furnish lists of violations of revenue laws for inquiry by grand juries; if no violation, to make sworn statement of the fact; pay withheld until these duties performed.—It shall be the duty of every commissioner and deputy commissioner to file with the clerk of the circuit court of the county, or corporation court of the city, ten days prior to the impaneling of a regular grand jury for such county or city, a list of all violations of the revenue laws committed by persons other than himself, showing the nature and character of each violation, together with a list of the witnesses by whom it is expected to prove the offense. And it shall be the duty of the clerk forthwith, upon receipt of such

list, to summon to appear before the next grand jury to testify on behalf of the Commonwealth the witnesses named in such list, and to deliver to the attorney for the Commonwealth for such court a copy of such list, and he shall also, on the first day of the term of the court, deliver such list to the judge of the court, whose duty it shall be to give specially in charge to the grand jury all the violations of the revenue laws mentioned in such lists. In case no violation shall have been discovered by said commissioner, or otherwise come to his knowledge, it shall be the duty of the commissioner to furnish a statement of the fact, verified by affidavit, to the court of the county or city at which a regular grand jury is to be impaneled. And the Auditor of Public Accounts shall not issue his warrant for the compensation due any commissioner until such commissioner shall furnish a certificate from the court of his county or city that he has complied with the requirements of this section.

Sec. 2356. To whom lists to be furnished in city of Richmond.—In the city of Richmond the list mentioned in the preceding section shall be furnished to the clerk of the hustings court, part II, of all offenses committed in such city south of James river and to the clerk of the hustings court, part I, of all offenses committed elsewhere in said city, including the islands in said river.

Sec. 2357. Duty of courts to charge grand juries as to violations of revenue laws.—It shall be the duty of the circuit court of each county and corporation court of each city specially to charge the grand juries to inquire into all violations of the revenue laws of this State by the commissioners of the revenue thereof.

LICENSES.

License, permit or authorization not to be issued or granted until applicant files with the officer authorized to issue the license, permit or authorization a certificate which shows that the State capitation tax assessed or assessable against the applicant for the tax year immediately preceding the last preceding tax year has been paid. In force on and after July 1, 1924.

AN ACT to prohibit the issuance of licenses, other than marriage licenses, required by the laws of this State or by any political subdivision thereof unless and until the persons applying therefor shall exhibit tax receipts or certificates showing that the State capitation taxes assessed or assessable against such persons for the last preceding tax year have been paid. Approved March 15, 1924. (Chapter 276, Acts 1924.)

1. Be it enacted by the General Assembly of Virginia, That on and after July first, nineteen hundred and twenty-four, no officer authorized to issue any license, permit or authorization required by the laws of this State or by any political subdivision thereof, shall issue any license, permit or authority to any person unless and until such person shall file with such officer his certificate in writing setting forth that the capitation tax assessed or assessable against such person for the tax year immediately preceding the last preceding tax year, has been paid.

2. The requirements of this act shall be in addition to the requirements of existing law, but shall not be applicable to any person who, under the laws of this State, was not legally assessable with a State capitation tax for the preceding tax year, as aforesaid.

3. Any officer authorized to issue a license or permit who shall issue the same in violation of this act shall be guilty of a misdemeanor, and on conviction thereof shall be fined not exceeding five hundred dollars.

4. Any person falsely certifying to any fact required to be certified to by this act shall be guilty of a misdemeanor.

Any person violating the provisions of this section shall be deemed guilty of a misdemeanor; provided, however, that nothing in this act shall apply to marriage licenses.

Sec. 2358. Licenses, to whom granted.—A license may be granted to any citizen of this State; to any person entitled to the privileges and immunities of a citizen thereof; to any person residing in the State; to any firm or company having a place of business in the State, and doing business thereat; to any corporation created by this State, or any of the United

States, and to any other person on whom a license tax shall be specially imposed.

Sec. 2359. When a license is required; may be granted whenever tax imposed; prepayment of tax a condition precedent to issue of license.—Whenever a license is specially required by law, and whenever the General Assembly shall levy a license tax on any business, employment, or profession, it shall be unlawful to engage in such business, employment, or profession, either with or without compensation, upon any agreement, expressed or implied. In all cases where such tax is imposed, it shall be lawful to grant a license for the business, employment or profession so taxed; and if the manner of granting a license shall not be prescribed by law, the license may be granted according to the law which governs in similar cases, and subject to such restrictions as pertain thereto; but no person shall be allowed the privilege of selling throughout the State under one license, except by special provision of law; and in all cases the payment of the tax required shall be a condition precedent to the issue of such license.

Sec. 2360. How license applied for and granted; what constitutes a license.—Every person, corporation, company, firm, partnership, or association desiring to obtain a license to prosecute any business, employment, or profession, shall make application therefor in writing to a commissioner of the revenue of the county or city wherein such business, employment, or profession is proposed to be conducted, in which shall be stated the residence of the applicant, the nature of the business, employment, or profession, the place where it is proposed to be prosecuted, and the amount of tax prescribed by law, accompanied with the certificate of the treasurer of such county or city that the amount of the tax in gold or silver coin, United States treasury notes, or national bank notes has been deposited with him by the applicant. Upon the receipt of such application, the commissioner, if satisfied of its correctness, shall make and sign the following endorsement thereon: "I find the within application in due form, and accompanied with the certificate of the treasurer of the county (or city) that the sum of dollars, in gold or silver coin, United States treasury notes, or national bank notes has been deposited with him." The application so endorsed shall be filed by the commissioner in his office, and a duplicate thereof delivered to the applicant. Such duplicate shall constitute a license to prosecute the business, employment, or profession therein named, unless it be a business for which a license can be granted only on the certificate of a court, in which case the

applicant upon obtaining such certificate shall be entitled to the license.

Sec. 2361. Mode of applying for and obtaining certain licenses for three months or less.—A license (other than a license for which the certificate of a court is required by law before it can be granted), the tax on which, but for this section would be fifty dollars or more were it issued for the period of one year, may be issued for the period of one year or less, and shall expire on the thirty-first day of July, the thirty-first day of October, or thirty-first day of January, or the thirtieth day of April, whichever shall happen first after it is issued, and the tax on such license shall be one-fourth of the tax required were the license issued for a year; provided, if the time between the date of the issuance of the license to the end of the quarter is less than three months, the tax thereon shall be abated proportionately to the amount chargeable for three months, unless the license is of such character that no abatement thereon is allowable.

For issuing a license under the provisions of this section the commissioner of the revenue shall be entitled to a fee of fifty cents.

Under this section licenses shall be granted and the tax paid as follows: Application for such licenses shall be made in writing to the commissioner of the revenue of the county or city wherein the business is to be conducted, in which shall be stated the name and residence of the applicant, the nature of the business, employment, or profession for the pursuit of which the license is required, the place where such business, employment or profession is to be prosecuted, and the amount which, but for this section, would be the tax for such license were it issued for the period of one year, accompanied by the certificate of the treasurer of such county or city that said amount has been deposited with him by the applicant in gold or silver coin, United States treasury notes or national bank notes.

Upon receipt of such application, the commissioner of the revenue if satisfied of its correctness, shall make and sign the following endorsement thereon:

"I find the within application in due form, and accompanied by the certificate of the treasurer (of the county or city) that the amount of dollars in gold or silver coin, United States treasury notes, or national bank notes has been deposited with him."

The application, so endorsed, shall be filed by the commissioner of the revenue in his office, and a duplicate thereof delivered to the applicant shall constitute a license to prosecute the business, employment or profession therein named.

Sec. 2362. When and how Auditor may grant a license.
—Whenever the Auditor of Public Accounts is authorized to grant a license, the application may be to him, and in it all the matters shall be stated required to be stated in the application mentioned in section twenty-three hundred and sixty. The amount of tax in gold or silver coin, United States treasury notes, or national bank notes shall be paid into the treasury, and the Auditor shall thereupon make and sign the following endorsement: "I find the within application in due form, and that the sum of dollars, in gold or silver coin, United States treasury notes, or national bank notes, has been paid into the treasury." The application so endorsed shall be filed by the Auditor in his office and a duplicate thereof delivered to the applicant, which shall constitute a license to prosecute the business.

Sec. 2363. How a commissioner may obtain license.—Where a commissioner of the revenue desires to obtain license, which, in the case of another person applying therefor, would be granted by himself, the tax may be paid without the certificate otherwise required, but the receipt for the tax shall be produced to and the license shall be granted by the circuit court of the county or the corporation court of the city.

Sec. 2364. Individual and corporate names to be stated in license, but not of silent partners.—Where a license is granted to a company, firm or corporation, such license shall specify the individual names of the persons composing the company or firm or the name of the corporation, and if a corporation, whether domestic or foreign; and any person, firm or corporation exercising any of the privileges of the license not so named, identified or designated, shall be held to be transacting the business, employment, or profession without a license; but this section shall not apply to any silent partner whom it might be lawful to include, nor any person who may be added to the firm after the granting of such license.

Sec. 2365. Effect of change in partners or name of firm.
—No change in the name of the firm, nor the taking in of a new partner, nor the withdrawal of one or more of the firm, shall be considered as commencing business; but if any one or more of the partners remain in the firm, the business shall be regarded as continuing; and if they dissolve, and one or more of the partners continue business, any tax on the purchases, sales, or profits of the business, which might otherwise be chargeable to the firm, may be apportioned among them according to the justice of the case.

Sec. 2366. Commissioner shall propound interrogatories on oath to applicant for license; merchants' licenses.—As one of the means of ascertaining the amount of any license tax the commissioner of the revenue shall propound interrogatories, in the form prescribed and furnished the commissioner of the revenue by the Auditor of Public Accounts, to each applicant and use such other evidence as he may procure. Such interrogatories shall be answered, under oath, and any applicant refusing to answer such interrogatories, under oath, shall be fined not less than fifty nor more than one hundred dollars for each offense.

It shall thereupon be the duty of the commissioner of the revenue to ascertain and certify to the treasurer of the county or city upon the application for a license the amount of State license tax to be paid and when said tax has been paid to the treasurer of the county or city, which fact shall be stated upon the application for a license, the commissioner of the revenue shall issue the license. The license issued a merchant shall be final unless it is afterwards ascertained, in the manner hereinafter provided, that the purchases reported by the merchant and upon which the commissioner ascertained the State license tax should be increased or decreased. For the purpose of ascertaining the full, complete and correct purchases of a merchant it shall be the duty of the commissioner of the revenue on the first day of January and the first day of July of each year after he has made out and returned the license reports in accordance with the requirements of section twenty-three hundred and seventy-four, to lay before the local board of review the interrogatories of all merchants which he is required by this section to procure, together with a list showing the names and places of business of all merchants in his district (including those who have not applied for a license as well as those who have applied), which list, with respect to merchants who have applied for licenses, shall also show when the license begins, when the license ends, amount of purchases on which the State license tax was ascertained, and the amount of such tax which has been paid to the treasurer of the county or city, as shown upon the license. It shall thereupon immediately be the duty of the local board of review, having present the commissioner or commissioners of the revenue and the examiner of records for the county or city for which the board is appointed, to review the interrogatories and to make such investigation and examination of the books, invoices, accounts, et cetera, of the merchants, or to cause the examiner of records to make such investigation and examination thereof as is deemed necessary to ascertain the full, complete and correct purchases of any merchant, and it is further made the duty of the examiner of records upon his

own account to make such investigation and examination for that purpose as he may deem proper; and the local board of review may summon, or the examiner of records may summon the merchant and any person whom it, or he, believes, or has reason to believe, can furnish information relative to the purchases of any merchant, and any merchant or person so summoned failing to appear and give testimony under oath shall be liable to a fine of not less than ten dollars and not more than one hundred dollars, and each day's refusal or failure to furnish the information or to testify shall constitute a separate offense and such fine may be recovered by presentment, indictment or information to be prosecuted by the attorney for the Commonwealth in the circuit court of a county or in the corporation court of a city, or in a circuit court of a city not having a corporation court.

When the full, complete and correct purchase of the merchants have been ascertained in the manner herein provided it shall be the duty of the local board of review to make a report upon forms prescribed and furnished by the Auditor of Public Accounts to the commissioner of the revenue, the county or city treasurer, and the Auditor of Public Accounts.

The commissioner of the revenue shall notify the merchants whose purchases have been increased, and the commissioner shall upon the blank form prescribed and furnished by the Auditor of Public Accounts assess the State license tax prescribed by law upon such increase of purchases and he shall deliver the assessment to the county or city treasurer, retaining in his office a copy. It shall thereupon be the duty of the merchant to pay, and the duty of the treasurer to collect, the State license tax so assessed, the treasurer receipting upon the assessment for said tax, and he shall deliver the assessment so receipted to the merchant, which receipted assessment together with the license already issued the merchant by the commissioner of the revenue, shall constitute the merchant's license. A merchant who fails or refuses to pay the State license tax assessed on increased purchases within fifteen days from the receipt of the notice required to be furnished him shall pay, in addition to the State license tax, a penalty of twenty per centum thereon, and it shall be the duty of the treasurer to immediately levy and distrain upon any property of the merchant to collect the tax and penalty. The commissioner of the revenue, within thirty days after the merchants have been notified of the increase, shall file report, upon forms furnished by the Auditor of Public Accounts, with the said Auditor and with the clerk of the circuit court of the county if he be the commissioner of the revenue for a county or for a district in a county, or with the clerk of the corporation court if he be the commis-

sioner of a city having such a court, or with the clerk of the circuit court of a city if the city for which he is commissioner has no corporation court, and it shall be the duty of the Auditor of Public Accounts to charge the treasurer of the county or city with the license taxes so reported.

When the purchases of a merchant are decreased the local board of review shall deliver or mail a copy of its written order, which order shall show the reason for the board's decision, the amount of decrease in purchases and the amount of State license tax to be refunded, to the merchant and to the Auditor of Public Accounts, and it shall thereupon be the duty of the said Auditor to refund to the merchant out of any money in the treasury not otherwise appropriated the amount so ordered to be refunded when the merchant shall have forwarded to him, properly indorsed, the order issued the merchant by the board, unless the Auditor is of the opinion the local board of review has erred in its decision in which event he shall notify the merchant and the board his reasons for the opinion that the board erred, and he shall request the board to re-hear the matter, and if the board refuse to re-hear, or upon the re-hearing, its decision is adverse to the Commonwealth, he may direct the attorney for the Commonwealth to appeal the matter to the circuit court of the county or corporation court of a city or to the circuit court of a city which has no corporation court, and if the court's decision of the matter is adverse to the Commonwealth, then the Auditor of Public Accounts may appeal the matter to the Supreme Court of Appeals.

Note—Local boards of review were abolished by act approved March 20, 1922, which repealed Code sections 2226 and 2227, which sections created these boards and defined their duties; consequently the provisions in this section as to that board no longer apply.

Sec. 2367.—Every license shall designate place of business, and if a corporation, whether domestic or foreign.—Every license granting authority to engage in or exercise any business, employment or profession, unless expressly authorized elsewhere or otherwise, shall designate the place of such business, employment or profession at some specified house or other definite place within the district of the commissioner granting it, and also, if granted to a corporation, whether such corporation be domestic or foreign, and if foreign, the date of the authority to transact business in this State issued by the State Corporation Commission. Engaging in or exercising any such license, business, employment, or profession elsewhere than at such house or definite place, unless expressly authorized elsewhere or otherwise by law, shall be held to be without license. A license which does not specify such house or

definite place where business, employment or profession is limited thereto by law, or if granted to a foreign corporation, which fails to specify the date of the authority to transact business in this State, issued by the State Corporation Commission, shall be void.

Sec. 2368. To the members of what firms a separate license granted; persons engaged in more than one business to pay tax on each.—A separate license shall be granted to each member of a firm or company of attorneys at law, and dentists, and where the tax is estimated on the income from the professional business of a firm or company, if any part thereof is exempt from taxation, the exemption in favor of such firm or company shall apply to each member thereof. Where any incorporated company or person is engaged in more than one business which is made by the provisions of this chapter subject to taxation, such incorporated company or person shall pay the tax provided by law on each branch of the business.

Sec. 2369. When double tax imposed; how collected; arrest of offender.—If the commissioner ascertain that any person is continuing the business licensed for the next preceding year or any part thereof, without making application for a renewal of such license, or if he ascertain that any person has commenced any business, employment, or profession, for the prosecution of which a license is required, without making application to such commissioner for a license, he shall, in either case, assess such person upon the best information he can obtain, in the same manner he would have made the assessment if the application had been made to him; but the tax shall, in either case, be assessed by him at twice the amount which would otherwise have been imposed for a year on such business, employment, or profession. Immediately after the commissioner shall have made his assessment under the provisions of this section, he shall deliver a certificate of such assessment to the treasurer, who shall thereupon have authority to make distress, and use all the remedies to collect the same that are now given for the collection of other taxes. When the tax shall be paid, and, if necessary the court's approval of the license shall be procured, the person so assessed shall be deemed to be licensed, if he be authorized under any existing laws to obtain a license, but such payment shall not exempt such person or firm from prosecution, who engages in any business, employment, or profession, without first obtaining a license as required by law. If the said treasurer be unable to find property sufficient to satisfy the taxes so assessed, and the same be not immediately paid, he shall arrest

the person so assessed, and by his warrant commit him to jail until the payment is made, or until he enters into bond with sufficient surety, in a penalty at least double the amount of the taxes so assessed, with condition for his appearance before the circuit court of his county, or circuit or corporation court of his city, to answer such action of debt, or for his appearance before the circuit or corporation court to answer such indictment or information as may be brought against him, and to satisfy not only the fine imposed, but to pay the taxes assessed; and it shall be lawful for the court, upon the trial of such action of debt, indictment, or information, to render judgment upon such bond for the fine imposed and the taxes which have been assessed.

Sec. 2370. Auditor may reform assessment of a license.—The Auditor of Public Accounts shall, for good cause shown, have full power to reform any assessment of a license tax; and he may require a new obligation, with additional surety, where such bond with surety is required by law. He may appoint an agent to make such new assessment and to take such bond; and upon such new assessment being made, the original assessment shall thereupon be set aside, and the license granted shall cease. The said Auditor may pay to such agent, out of the treasury, a reasonable compensation, not exceeding the compensation allowed to a commissioner of the revenue for the assessment of property.

Sec. 2371. May deduct from pay of commissioner for assessment less than legal tax.—If a commissioner, in his list of licenses to be furnished the Auditor of Public Accounts, charge or extend in any case a tax less than the law requires, the said Auditor shall deduct the amount omitted to be charged or extended from the compensation of such commissioner.

Sec. 2372. To whom license tax paid.—The tax on every license issued in pursuance of law shall, unless otherwise provided, be paid to the treasurer of the county or city wherein the license issued, or to his deputy.

Sec. 2373. Commissioners to attend terms of circuit courts next preceding first day of May, and March and April terms of corporation courts, to issue licenses; when licenses expire.—The commissioner of every county or district shall attend at the courthouse and remain during the first three days of the term of the circuit court of the county next preceding the first day of May; and commissioners in cities shall attend the sessions of the corporation courts in March and April to issue certificates of license in pursuance of the pro-

visions of this chapter. All licenses shall expire on the thirtieth day of April, except licenses to theatres, public shows, exhibitions or other performances, and to bowling alleys and to billiard and bagatelle tables at watering places. Licenses to keepers of bowling alleys, billiard tables or pool tables at watering places may terminate on the thirtieth day of April or at the end of four months, whichever may happen first. If granted for four months or less the tax thereon shall be fifty per centum of the annual tax. Licenses to theatres and panoramas shall be for one week or less. Licenses to public shows, exhibitions or other performances shall be for twenty-four hours, unless the same be concluded in less time, and if so concluded the license shall cease. It shall be held to have expired whenever additional pay is exacted to return to the exhibition or performance in lieu of a check authorizing the holder to return without compensation. In those cases wherein circuit or corporation courts are required to give a certificate as a prerequisite to obtaining a license, or to give validity to a license, such certificate may be given at the March or April court next preceding the first day of May on which such license is to take effect. Where such license is not for the period of one year such court may, at the time, or before granting a license, give such certificate. If any license be granted for less than a year, the tax thereon shall bear such proportion to the whole annual tax as the space of time between granting the same and the thirtieth of April bears to the whole year, unless otherwise provided.

Sec. 2374. When commissioners to return lists of licenses to Auditor and clerks; what list to contain; Auditor to furnish forms.—Every six months, to-wit, the first day of July and the thirty-first of December of each year, the commissioner shall return, on oath, to the Auditor of Public Accounts, and to the clerk of the court of the county or city a fair classified list of all licenses granted by him within the last preceding six months, embracing all such licenses as were not contained in any preceding report; and if no licenses were issued he shall report the fact, on oath, at the time aforesaid. In each class of licenses the names of the persons licensed shall also be arranged alphabetically, and such list shall specify the date of each license and the period for which said license is granted, for what it was granted, the name of the person, firm or company to whom granted, the amount of tax on the license, to whom paid, and if paid to the deputy of any county or city treasurer, shall state also the name of his principal, and shall also show the data on which his calculations of the tax were made. It shall be the duty of the Auditor of Public Accounts to furnish to each commissioner printed

forms and oaths for authenticating such lists or reports as above indicated, and the commissioner shall make report according to such forms. Any commissioner failing to make such report at the time specified shall forfeit not less than one hundred nor more than five hundred dollars, and unless reasonable excuse is given, shall forfeit all compensation to be received from the treasury.

Sec. 2375. Lists of licenses to be evidence to charge collecting officer.—Any list of licenses signed and sworn to by the commissioner issuing the same, or, if he be dead, by his personal representative, wherein the amount of tax is stated, and to whom paid, shall be evidence to charge the collecting officer with the amount of such tax.

Sec. 2376. License, a personal privilege.—Every license shall be held to confer a personal privilege to transact the business, employment, or profession which may be the subject of the license, and shall not be exercised except by the person, firm, company, or corporation licensed, unless specially authorized by law to do so.

Sec. 2377. How license assignable, and so forth.—A license other than to authorize the conduct of a profession may be assigned to any person to whom it might have been originally granted, and in the event of the death of the licensee, the license may be assigned by his personal representative in like manner, and with the like effect as might have been done by the licensee himself. If the license was obtained, or had its validity by reason of a certificate of any court, or of any oath or bond, the assignment shall not be valid without a like certificate in favor of the assignee, and a like oath or bond by the assignee, as was required for the original grant; and when assigned shall be a personal privilege to the assignee, and shall not be exercised by any person other than the assignee, unless otherwise authorized by law.

Sec. 2378. License revocable by court.—Upon the motion of the attorney for the Commonwealth for the county or city, or of any other person, after ten days' notice to any person or firm licensed to sell liquors or any other thing, the granting of whose license was based upon the certificate of a court, the court which granted the certificate may revoke the said license. When the license of any person is revoked, as aforesaid, the court shall give judgment against the said person for the costs of the proceedings, including a fee of five dollars to the attorney for the Commonwealth.

Sec. 2379. License may be altered when place of business changed.—When a person has obtained a license to carry on any business, employment or profession at any definite place in the commissioner's district or city, and desires to remove to any other place in the same county or city where his license was granted, and wishes his license altered accordingly, the commissioner who originally issued the license shall make such alteration, and shall notify the commissioner of the district into which the licensee may remove, of such alteration.

Sec. 2380. Each day's continuance in business without license a separate offense.—If the law annexes a penalty for each or every violation of its provisions, or for each separate offense, it shall be lawful to hold that each day's continuance in the exercise of any business, employment, or profession, for which a license is required, constitutes a separate offense.

Sec. 2381. When taxes on licenses payable into the treasury.—The taxes assessed on licenses shall be accounted for and paid into the treasury by the county and city treasurers at the end of each month or when called upon by the Auditor of Public Accounts to make payments thereof. Failure of a treasurer to comply with the requirements of this section shall operate a forfeiture of his commission on license taxes.

Sec. 2382. Property used in licensed business not exempt from taxation.—A license shall not be construed to exempt from taxation the tangible property used in the licensed business nor the profits or income of such business.

Sec. 2383. Fees of commissioners on licenses.—For every license granted by a commissioner under this chapter he shall receive a fee of seventy-five cents. He shall also receive a fee of fifty cents for a transfer of a license. All such fees shall be paid by the person obtaining the license or transfer, as the case may be; and such license or transfer may be withheld until the fees are paid. The commissioner shall, for the assessment of taxes on licenses, be allowed a commission of one per centum on the first five thousand dollars assessed by him, one-half of one per centum on the excess over five thousand and under ten thousand dollars, and for the excess over ten thousand dollars he shall be allowed one-fourth of one per centum on such excess; which commission shall be paid out of the treasury by warrant from the Auditor of Public Accounts.

Sec. 2384. Treasurers to report violation of duty by commissioners; pay withheld until report made.—Every treasurer shall note and keep a memorandum of every omission or violation of duty of every commissioner of the revenue which he discovers; and shall report in writing, on oath, to the Commonwealth's attorney, and to the Auditor of Public Accounts, all such omissions and violations of duty. If none be discovered by him, he shall, in like manner, make report thereof. For a failure to make such report, all commissions and other compensation allowed him for the collection of the taxes and other public dues, shall be withheld until such report is made, or the failure to make the same-satisfactorily accounted for to the Auditor.

ERRONEOUS ASSESSMENTS.

Sec. 2385. (As amended by chapter 290, Acts 1924.) Redress against erroneous assessment of taxes.—Any person assessed with taxes on land or other property, aggrieved by any such assessment, may, unless otherwise specifically provided by law, within two years from the first day of September of the year in which such assessment is made, and any person assessed with a tax on income or a license tax, aggrieved thereby, may, within one year from the first day of September of the year in which such assessment is made, apply for relief to the court in which the officer who made the assessment gave bond and qualified, or to which or to whose clerk such bond and the certificate of his qualification were returned; except, that where it is shown to the satisfaction of the court that there has been a double assessment of the same property in any case, one of which assessments is proper and the other erroneous, and that a proper single tax has been paid thereon, the court may order that the applicant be exonerated from such erroneous assessment, whether the erroneous tax has been paid or not, and even though the application be not made within two years, as hereinbefore required. The attorney for the Commonwealth shall defend the application; and no order made in favor of the applicant shall have any validity unless it is stated therein that such attorney did so defend; that the commissioner making the assessment, or his successor, if it was made by a commissioner, was examined as a witness touching the application, and facts proved be certified.

Any person who, since March sixteenth, nineteen hundred and twenty, has made an application for exoneration from an erroneous double assessment, and has been denied the relief applied for, may again make such application and shall be entitled to the same relief as he would be entitled to had no previous application been made by him.

Sec. 2379. License may be altered when place of business changed.—When a person has obtained a license to carry on any business, employment or profession at any definite place in the commissioner's district or city, and desires to remove to any other place in the same county or city where his license was granted, and wishes his license altered accordingly, the commissioner who originally issued the license shall make such alteration, and shall notify the commissioner of the district into which the licensee may remove, of such alteration.

Sec. 2380. Each day's continuance in business without license a separate offense.—If the law annexes a penalty for each or every violation of its provisions, or for each separate offense, it shall be lawful to hold that each day's continuance in the exercise of any business, employment, or profession, for which a license is required, constitutes a separate offense.

Sec. 2381. When taxes on licenses payable into the treasury.—The taxes assessed on licenses shall be accounted for and paid into the treasury by the county and city treasurers at the end of each month or when called upon by the Auditor of Public Accounts to make payments thereof. Failure of a treasurer to comply with the requirements of this section shall operate a forfeiture of his commission on license taxes.

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Any person who, since March sixteenth, nineteen hundred and twenty, has made an application for exoneration from an erroneous double assessment, and has been denied the relief applied for, may again make such application and shall be entitled to the same relief as he would be entitled to had no previous application been made by him.

Sec. 2386. When court may order assessment to be corrected and money refunded.—If the court be satisfied that the applicant is erroneously assessed with any taxes, and that the erroneous assessment was not caused by the failure or refusal of the applicant to furnish a list of his property, real and personal, to the commissioner, on oath, as the law requires; or that the applicant is erroneously charged with a license tax, and that the erroneous assessment was not caused by the failure or refusal of the applicant to furnish the commissioner, on oath, with the necessary information, as required by law, in either case the court may order that the assessment be corrected. If the assessment exceeds the proper amount, the court may order that the applicant be exonerated from the payment of so much as is erroneously charged, if not already paid, and if paid, that it be refunded to him. If the assessment be less than the proper amount, the court shall order that the applicant pay the proper taxes. A copy of any order made under this section correcting an erroneous assessment shall be certified by the court to the Auditor of Public Accounts and the Treasurer of the State.

Sec. 2387. Treasurer restrained from collecting; how money refunded.—An order of exoneration, made as aforesaid, when delivered to the treasurer, shall restrain him from collecting so much as is thus erroneously charged, or if the same has already been collected shall compel him to refund the money if such officer has not already paid it into the treasury; and either way, when properly endorsed by the applicant it shall be a sufficient voucher to entitle the officer to a credit for so much in his settlement with the Auditor of Public Accounts; provided, that no such order of exoneration or order refunding money shall be granted unless the application be made within the time as prescribed by section twenty-three hundred and eighty-five.

Sec. 2388.—If paid into treasury; how refunded.—If what was so erroneously charged has been paid into the treasury, the order of court shall entitle the claimant to a warrant on the treasury for the amount thereof; provided, application for the same be made to the Auditor of Public Accounts within one year after the date of such order.

Correction of Assessment of Taxes Due to Error of Assessing Officer, Etc.

AN ACT to provide a simple remedy for the correction of erroneous assessments of taxes when such error is due to a mistake on the part of the assessing officer, or to the mistake of the officer on whose report the assessment was made. Approved March 27, 1922. (Chapter 458, Acts 1922.)

1. Be it enacted by the General Assembly of Virginia, That any officer charged by law with the duty of assessing taxes or levies upon land or other property, money, income or license, or any officer upon whose report such assessment is made, shall, if he is satisfied that any such assessment is erroneous and that the error was caused by his mistake, within one year from the first day of September of the year in which such assessment is made, apply to the court in which such assessing officer gave bond and qualified, or to whose clerk such bond and certificate of his qualification were returned, for the correction of such erroneous assessments. The attorney for the Commonwealth shall defend the applications and no order correcting such assessments shall have any validity unless it is stated therein that such attorney did so defend, and the facts proved be certified.

2. If the court be satisfied upon the hearing that any or all of the persons mentioned in the said application have been erroneously assessed with State taxes or local levies, or both, it may order that the same be corrected, and if application is made under section one of this act for the correction of more than one assessment at the same time, the court may dispose of any number or all of the cases in one order. The said order and the copies thereof shall be upon forms prescribed by the Auditor of Public Accounts and shall show in detail the names of the persons against whom the assessments were made, the page, line, date and nature of the book or other assessment roll upon which such assessments were made, and shall show clearly the error to be corrected. If the assessment exceeds the proper amount, the court may order that the applicant be exonerated from the payment of so much as is erroneously charged, if not already paid, and if paid, that it be refunded to him. If the assessment be less than the proper amount, the court shall order that the applicant pay the proper taxes. A copy of any order made under this section correcting erroneous assessments shall be certified by the court to the Auditor of Public Accounts and the treasurer of the county or city.

3. An order of exoneration, made as aforesaid, when delivered to the treasurer, shall restrain him from collecting so much as is thus erroneously charged, or if the same has al-

ready been collected shall compel him to refund the money to the person entitled thereto, and in either case the order shall be a sufficient voucher to entitle the officer to a credit for so much in his settlement with the Auditor of Public Accounts and the local authorities; provided, that no such order of exoneration or order refunding money shall be granted unless the application be made within the time prescribed by this act.

4. If from the statements of the facts or other evidence the Auditor of Public Accounts shall be of opinion that the order of the court granting the redress, or any portion thereof, is erroneous, he may, within one year from the time such order is made, file a petition for a rehearing of such application, or so much thereof as relates to that portion of the order which he considers erroneous; said petition may be filed in said court or with the judge thereof in vacation, and shall be in the name of the Commonwealth, and the filing of the same shall operate as a supersedeas, and, after five days' notice to the applicant, the matter shall thereupon be reheard in said court and witnesses examined in the same manner as if no previous hearing had been had. The petition shall be presented and the hearing conducted by the attorney for the Commonwealth of the county or city.

At the hearing the court shall make such order thereon as may be proper. And should the order of the court be against the Commonwealth, the Auditor of Public Accounts may take an appeal to the Supreme Court of Appeals, and a supersedeas may be granted in such case in the same manner as now provided by law in cases other than cases of appeal of right. No costs shall be adjudged against the Commonwealth or the petitioner in either the trial or the appellate court.

Assessment and Collection of Taxes—If a Remedy at Law— Suit to Restrain Cannot be Maintained.

AN ACT to prevent the maintenance of suits for the purpose of restraining the assessment or collection of taxes. Approved March 21, 1922. Chapter 333, p. 558, Acts 1922.

1. Be it enacted by the General Assembly of Virginia, That no suit for the purpose of restraining the assessment or collection of any tax, State or local, shall be maintained in any court of this Commonwealth, except when the party has no adequate remedy at law; provided, this act shall not affect any pending suit.

2. The provisions of this act affect the revenue of the State for the current year. Therefore, an emergency exists and this act shall be in force from its passage.

Sec. 2389. (As amended by chapter 238, p. 341, Acts 1920.) **Redress against erroneous assessment of levies and local taxes.**—Any person assessed with county or city levies and other local taxes, on land or other property, aggrieved by any such assessment, may, unless otherwise specially provided by law, within two years from the first day of September of the year in which such assessment is made, apply for relief to the circuit court of the county, or corporation court of the city, wherein such assessment was made, and thereupon the court shall order that he be exonerated from the payment of so much as is improperly assessed, if not already paid; and if paid, that it be refunded to him by the treasurer, who shall have credit for the same in his settlement; except that where it is shown to the satisfaction of the court that there has been a double assessment of the same property in any case, one of which assessments is proper, and the other erroneous, and that a proper single tax has been paid thereon, but that the erroneous tax has not been paid, the court may order that the applicant be exonerated from the payment of such erroneous assessments, even though the application be not made within two years as hereinbefore required. The Commonwealth's attorney for such county or city, as the case may be, shall defend the application; and no order made in favor of the applicant shall have any validity unless it is stated therein that such attorney did so defend, or that after notice of such application failed or refused to defend, in which event the court shall appoint a practicing attorney of the county or city to defend such motion; that the commissioner making the assessment or his successor was examined as a witness touching the application, and the facts proved to be certified.

Sec. 2390. **When court may render judgment against commissioner for costs; when relief refused.**—If the court shall be of opinion that the error asked to be corrected was caused by the neglect or carelessness of the commissioner, it may render judgment against him for the costs. If the error was caused by the failure or refusal of the applicant to furnish the commissioner with a proper description, exhibition, or list, or with the necessary information, as required by law, the court shall refuse relief.

Sec. 2391. **Appeal and supersedeas allowed the State; proceedings in.**—If from the statements of the facts or other evidence the Auditor of Public Accounts shall be of opinion that the order of the court granting the redress is erroneous, he may, within one year from the time such order is made, file a petition for a rehearing of such application; said peti-

tion may be filed in said court or with the judge thereof in vacation, and shall be in the name of the Commonwealth, and the filing of the same shall operate as a supersedeas, and, after five days' notice to the applicant, the matter shall thereupon be reheard in said court and witnesses examined in the same manner as if no previous hearing had been had. The petition shall be presented and the hearing conducted by the attorney for the Commonwealth of the county or city.

At the hearing the court shall make such order thereon as may be proper. And should the order of the court be against the Commonwealth, the Auditor of Public Accounts may take an appeal to the Supreme Court of Appeals, and a supersedeas may be granted in such case in the same manner as now provided by law in cases other than cases of appeal of right. No costs shall be adjudged against the Commonwealth on the appeal, but costs may, in the discretion of the court, be awarded against the commissioner of the revenue who made the assessment, if the same be erroneous.

Sec. 2392. Correction of erroneous assessments made by the State Corporation Commission in cases not already provided for.—If any assessment shall be hereafter made by the State Corporation Commission, of the real or personal property or of the franchises of any corporation in any case for which a remedy for the redress and correction of any such assessment is not now expressly provided by law, any such corporation, or the State, or any county or city, at the instance of the Attorney General for the State, and of the Commonwealth's attorney for any county or city aggrieved, may within sixty days after receiving a certified copy of the assessment and ascertainment of such taxes by the State Corporation Commission, apply to the Supreme Court of Appeals in the manner and upon the terms prescribed by said court.

PENALTIES.

ARTICLE 2393. Penalties for violations of the revenue laws.
Chapter 300 who engages in or exercises any business, em-

1. Be it enacted, in any manner violates the license or revenue collection of any profession without a license, if a license be required, if no specific fine is imposed for such violation, a fine of not less than thirty nor more than any court of this State shall impose a fine of not less than thirty nor more than no adequate remedy shall be provided for each offense.

2. The penalties prescribed in this act shall be recoverable by action of debt, presentment, or information.

Sec. 2395. How and when action of debt brought; pleadings; arrest of defendant; may give bond; where bond filed.—Such action of debt may be brought in the name of the Commonwealth, either in the county or city wherein the offense was committed, or wherein the offender resides or may be found; and such action may be in the circuit court of the county, or the circuit or corporation court of the city, and may be instituted at any time within five years after the offense was committed, and shall be for the maximum penalty prescribed, and for each violation of any of the provisions contained in this chapter. In such action, bail may be required as matter of right, and, if deemed necessary, an attachment may issue without the affidavit and bond required in other cases. A declaration shall be filed, but no order or pleadings at rules shall be necessary, and no exceptions shall be allowed to the declaration for want of form. If the offense be not sufficiently stated, the court shall require, under such rules as it may adopt, at any time before a verdict is rendered thereon, a full and explicit statement of the same. In all such proceedings, the court shall render judgment according to the very right of the case. If the defendant be arrested and in custody for want of bail, he may at the time of the arrest, or at any time before a judgment be rendered in action, give bond with sufficient surety to the officer making the arrest, or to the clerk of the court wherein the action was instituted, payable to the Commonwealth, in a penalty equal to the penalty sued for, and with condition for the appearance of the party to answer the action, and to abide by and satisfy the judgment of the court. Upon the execution of such bond, the defendant shall be discharged from custody. The bond shall be returned to and filed by the clerk with the papers in the suit.

Sec. 2396. Presentment, indictment, or information, process thereon; attorney's fee; no officer to receive fees out of treasury; taxation of costs; limitation of prosecutions.—Upon any presentment made, indictment found, or information filed in a prosecution under the revenue laws, the court may award a *capias* or other legal process against the defendant, returnable to the same or the next term of the court. In all actions of debt or prosecutions for any violation of the revenue laws, the attorney for the Commonwealth, in case there be a judgment for the Commonwealth, shall be entitled to a fee of ten dollars, to be taxed in the bill of costs and paid by the defendant. No attorney or officer shall be entitled to the payment of any fees out of the treasury for services rendered in any proceedings authorized by this chapter. In all judgments rendered in behalf of the Commonwealth in any

suit or prosecution under the revenue laws, the clerk among other costs, shall tax against the defendant the sum of five dollars as the expenses of the jury, which the clerk shall, with the fine, certify to the Auditor of Public Accounts, and said costs shall be paid into the public treasury to the credit of the Commonwealth: but no such expenses of the jury shall be taxed, unless jurors be entitled by law to receive compensation for their services. Two years shall be allowed to institute any criminal prosecution for a violation of the revenue laws.

Sec. 2397. Grand juries to examine books of assessment; fraudulent returns; when and how books corrected; when offender prosecuted; punishments.—It shall be the duty of the judges of the circuit and corporation courts, at the term next succeeding the return by the commissioners of their several books of assessment, if they shall deem it advisable, to charge the grand juries empaneled by them to examine said books of assessment, and whenever the grand juries shall think that there is probable cause to believe that any person has made a false or fraudulent return of his taxable property to the commissioner, they shall thereupon summon the person suspected of making such a false or fraudulent return, to give such explanation as he may desire, and if, on full examination and interrogation of said person, or the examination of such witnesses as they may choose to summon, they shall believe that such false return was made by him through ignorance or mistake, and with no fraudulent purpose, he shall be allowed to correct the same on said books, which correction shall be certified by the commissioner to the Auditor of Public Accounts; but if they believe that said false return was made with a fraudulent purpose to evade the revenue laws, they shall proceed to find an indictment against him, and if on a trial of the same the defendant be found guilty he shall be fined in a sum equal to double the amount of the taxes with which he is properly chargeable, and be confined in jail at the discretion of the jury.

Sec. 2548. Auditor to be informed of violations of revenue Laws.—Every commissioner of the revenue shall give information to the Auditor of Public Accounts of any violation, in his county or city, of any law in relation to the public revenue. And every sheriff or collector shall give information to the Auditor of any violation of duty by any commissioner of the revenue for his county or city.

Sec. 4864. Commissioners, sheriffs, constables, etc., to give information of violation of penal laws to attorney for the

Commonwealth.—Every commissioner of the revenue, sheriff, constable, or other officer shall give information of the violation of any penal law to the attorney for the Commonwealth, who shall forthwith institute and prosecute all necessary and proper proceedings in such case, whether in the name of the Commonwealth or of a county or corporation, and may, in such case, issue or cause to be issued a summons for any witness he may deem material to give evidence before the court or grand jury. It shall, however, be unlawful for any attorney for the Commonwealth to go before any grand jury during their deliberations, except when duly sworn to testify as a witness, but he may advise the foreman of the grand jury or any member or members thereof in relation to the discharge of their duties.

COLLECTION OF TAXES.

Assessment and Collection of Taxes—If a Remedy at Law Suit to Restrain Cannot be Maintained.

AN ACT to prevent the maintenance of suits for the purpose of restraining the assessment or collection of taxes. Approved March 21, 1922. Chapter 333, p. 558, Acts 1922.

1. Be it enacted by the General Assembly of Virginia, That no suit for the purpose of restraining the assessment or collection of any tax, State or local, shall be maintained in any court of this Commonwealth, except when the party has no adequate remedy at law; provided, this act shall not affect any pending suit.

2. The provisions of this act affect the revenue of the State of the current year. Therefore, an emergency exists and this act shall be in force from its passage.

Commonwealth and Political Subdivisions Given Preferred Claim for Taxes, Levies, Penalty and Interest.

AN ACT to give preference to claims of the Commonwealth of Virginia and her political subdivisions for taxes, levies and fees, together with penalties and interest thereon. Approved February 13, 1924. (Chapter 11, Acts 1924.)

1. Be it enacted by the General Assembly of Virginia as follows:

2. In any distribution of the assets of any person or corporation assessed with taxes, levies or fees, together with penalties and interest thereon, due to the Commonwealth of Virginia, or any of her political subdivisions, whether heretofore or hereafter imposed, the claims of the Commonwealth and her political subdivisions for such taxes, levies and fees,

penalties and interest thereon, shall be paramount and prior to any other claim, lien or encumbrance, except claims given higher dignity by Federal law.

3. Nothing in this act shall be construed in derogation of any lien of the Commonwealth or any of her political subdivisions now existing or hereafter created by law; nor shall anything herein be construed to affect the laws now in force with regard to the marshalling of a decedent's estate and in regard to the exemption of a poor debtor.

4. The collection of the public revenue being affected, an emergency is hereby declared to exist, and this act shall take effect from its passage.

Sec. 2407. Treasurers to collect and pay over taxes and levies.—Each county and city treasurer shall receive the State revenue and the county and city levies, and account for and pay over the same, in the manner provided by law.

Sec. 2408. Uniform tax tickets.—(As amended by chapter 226, p. 415, Acts 1922.) Each county, town, and city treasurer or other local officer whose duty it is to collect taxes shall make out a tax ticket in which shall be stated the name of the taxpayer, the rate for each purpose, the amount of land and the value thereof, and the value of personal property, et cetera, which ticket shall show in prominent words and plain figures the total amount of State tax and in prominent words and plain figures the total amount of tax other than State tax.

AN ACT to require treasurers of cities of over one hundred and twenty-five thousand inhabitants to mail bills for State taxes to taxpayers. Approved March 15, 1920. Chapter 187, p. 270, Acts 1920.

1. Be it enacted by the General Assembly of Virginia, That the treasurer of every city of this Commonwealth having more than one hundred and twenty-five thousand inhabitants shall, as soon as may be in each year, not later than November fifth, send by United States mail to each person in his city assessed with State taxes for that year, a bill showing the amount of State taxes due for that year, the rate for each purpose, the amount of land and the value thereof, and the value of the personal property with which he is assessed. The failure of any such treasurer to comply with this act shall constitute cause for his removal from office.

Sec. 2409. Officers collecting taxes to furnish dated tax ticket in the form prescribed by preceding section; penalty.—All officers who collect taxes shall deliver to each taxpayer from whom they have collected taxes, such tax tickets as are

prescribed by the preceding section, showing plainly the date of payment. If any officer fail to deliver such a tax ticket at the time of collecting any tax, he shall be deemed guilty of a misdemeanor, punishable by a fine of not exceeding fifty dollars; or where fraudulently done, by such fine or a sentence not exceeding thirty days in jail, or both.

Sec. 2410. When to receive them; shall advertise the time and place; penalty on taxpayers after the first of December; treasurer to call on each taxpayer; when they may distrain.—Each treasurer shall commence to receive the State taxes and county and city levies as soon as he receives copies of the commissioner's books, and continue to receive the same up to and including the first day of December of each year; and for this purpose each county treasurer shall advertise for at least ten days at the courthouse and at the voting places in the magisterial districts, in such manner as may be necessary to give general publicity thereto, upon what day or days he will be at some convenient public place in each magisterial district or receive taxes and levies and shall, at the time specified, go to the places so designated and remain there one day or more, at his discretion, for the purpose of receiving the State taxes and county levies, and shall receive the same, and so forth. Any person failing to pay any State taxes or county and city levies to the treasurer on or before the first day of December shall incur a penalty thereon of five per centum, which shall be added to the amount of taxes or levies due from such taxpayer, which, when collected by the treasurer, shall be accounted for in his settlements.

It shall be the duty of the treasurer, after the first day of December, to call upon each person chargeable with taxes and levies who has not paid the same prior to that time, or upon the agent, if any, of such person resident within the county or corporation for payment thereof; and upon failure or refusal of such person or agent to pay the same he shall proceed to collect them by distress or otherwise. Should it come to the knowledge of the treasurer that any such person or persons owing such taxes or levies is moving or contemplates moving from the county or corporation prior to the first day of December, he shall have power to collect the same by distress or otherwise at any time after such said bills shall have come into his hands; but it shall not be necessary for the treasurer of the county of Henrico to designate or to go to any place other than the county courthouse in the city of Richmond in order to receive the taxes and levies to be paid to such treasurer.

Additional Remedies for the Collection of Taxes, State, County and Municipal.

AN ACT to amend and re-enact an act approved March 24, 1914, as amended by an act approved March 21, 1916 (chapter 425, Acts 1916), entitled an act to provide additional remedies for the collection of taxes, State, county and municipal. Approved March 16, 1918. Chapter 374, p. 561, Acts 1918.

1. Be it enacted by the General Assembly of Virginia, That an act approved March twenty-fourth, nineteen hundred and fourteen, as amended by an act approved March twenty-first, nineteen hundred and sixteen (chapter four hundred and twenty-five, Acts nineteen hundred and sixteen), entitled an act to provide additional remedies for the collection of taxes, State, county and municipal, be amended and re-enacted so as to read as follows:

Section 1. Be it enacted by the General Assembly of Virginia, That the payment of any taxes, State, county or municipal, both those which have been assessed and those which ought to have been assessed, may, in addition to the remedies now allowed by law, be enforced by warrant, motion, action or debt or assumpsit, bill in chancery or by attachment before justices of the peace and courts of record within this State in the same manner, to the same extent, and with the same rights of appeal as now exists or may hereafter be provided by law for the enforcement of demands between individuals. The jurisdiction here conferred on courts of equity shall be concurrent with the jurisdiction in actions at law and in such equitable proceedings it shall not be necessary to allege or prove any equitable grounds of jurisdiction.

Such proceedings shall be instituted in the appropriate court of the county or city wherein the taxes in question were assessed, or payable, or wherein the person against whom they were assessed resides, or wherein such person resided at the time such taxes were assessable.

Such proceedings shall be instituted and conducted in the name of the Commonwealth of Virginia by the attorney for the Commonwealth of the county or by the attorney for the city or town wherein they were assessed upon the request of the treasurer of such county, city or town, or his deputy, or the Auditor of Public Accounts, or the Attorney General. The declaration, notice or other pleading or bill of particulars filed therewith shall contain a statement showing the beneficial interest respectively of the State, county and other municipal or political subdivision in the sum demanded, and may be amended at any time before final judgment or decree. Provided, that the defendant shall be entitled to a continuance for a reasonable time when said amendment is made, and any

judgment or decree entered for the plaintiff shall show the same facts in regard to the amount for which it was rendered. In such proceeding the court shall have all the powers of a commissioner of the revenue under section five hundred and eight, Virginia Code, nineteen hundred and four, as amended by chapter two hundred and seventy-nine of Acts of nineteen hundred and fourteen, page four hundred and eighty-six; and under section five hundred and nine, Virginia Code, nineteen hundred and four, as amended by chapter one hundred and fifteen of Acts nineteen hundred and twelve, page two hundred and twelve, to the end that the court may enter an order in such proceeding requiring the taxpayer to pay all taxes with which he is chargeable upon a correct assessment of his property. Payment of such judgment or decree shall be enforced by appropriate process of execution or attachment in the same manner that it could be enforced in a proceeding between individuals, and a lien shall exist and be enforced against the real and personal property of the defendant prior to any other lien or encumbrance thereon. Where, after the rendition of such a judgment or decree against a defendant, it seems to the attorney for the Commonwealth having charge thereof that there may not be found within the Commonwealth sufficient property of the defendant out of which the same may be enforced, but that the same could be enforced in some other jurisdiction, it shall be his duty to institute in some appropriate court, State or Federal, in such foreign jurisdiction, any appropriate proceeding to enforce therein the payment of such judgment.

This act shall not be construed to repeal any existing provisions of law providing for the collection of taxes.

Apportionment of Taxes, Levies, Etc.

Sec. 2449. (As amended by chapter 13, p. 18, Acts 1920.) **Apportionment of taxes, levies, or assessments, State, county, or municipal; proceedings therefor.**—The circuit court of a county and of a city having no corporation court, and the corporation court of a city having a corporation court in which county or city is situated real estate owned by two or more persons as joint tenants, tenants in common or coparceners, and taxes or taxes, penalty, and interest or levies or any assessment of any kind, whether State, county, or municipal, are charged or chargeable against the joint estate, and there has been or shall be a partition of such real estate, shall, on the motion of any person or persons to whom a proportion or proportions of such real estate has been set off or allotted, or on the motion of any person who has the right to charge such proportion or proportions with a debt, ascertain and fix

the pro rata of tax, or tax, penalty, levy or assessment, and interest aforesaid; which should be paid by such person or persons on the proportion or proportions of such real estate set off or allotted to them. When the pro rata of tax, or tax, penalty and interest, or levy or assessment aforesaid, charged or chargeable upon the proportion or proportions of such real estate set off or allotted to such person or persons has been so ascertained and paid, he or they shall hold the proportion or proportions of such real estate set off or allotted to him or them, free from the residue of the tax, or tax, penalty, and interest or levy or assessment charged on said tract before partition. And the proportion or proportions of said real estate set off or allotted to the person or persons who shall not have paid their pro rata of the tax, or the tax, penalty, and interest or levy or assessment aforesaid, shall be charged with and held bound for the portion of said tax, or tax, penalty, and interest or levy or assessment aforesaid remaining unpaid, in the same manner as if said partition had been made before said tax, or tax, penalty, and interest or levy or assessment aforesaid had been assessed or accrued, and said proportion or proportions of said real estate originally listed for taxation in the names of the delinquent person or persons.

But before such motion shall be made five days' notice thereof shall be given, in case of State and county taxes and levies to the commissioner of the revenue, treasurer, and Commonwealth's attorney, and in cases of city or municipal taxes or assessment, to the commissioner of the revenue, Auditor, and city attorney, and it shall be the duty of the Commonwealth's attorney or city attorney, as the case may be, to be present and defend the motion, and the order of the court shall show the fact.

And when such order shall have been made, it shall be the duty of the proper clerk to certify a copy thereof, in case of State or county taxes and levies, to the commissioner of the revenue and treasurer, and in case of city or municipal taxes or assessments to the Auditor and city collector, and said officers are required to make entry of said order in the proper books, and the clerk is further directed to make an entry of said order in the delinquent land books, if such land has been returned delinquent, and to furnish a copy thereof to the person or persons making such motion, for which he shall be entitled to receive from such person or persons a fee of seventy-five cents.

Lands Transferred—Heretofore Acquired or Hereafter Acquired by the United States—Relief of Taxpayers.

AN ACT for the relief of all taxpayers in the State of Virginia, whose lands during the year nineteen hundred and seventeen were taken or acquired by the United States, or shall be so taken or acquired in any year subsequent to the year nineteen hundred and seventeen. Approved March 15, 1918. Chapter 234, p. 412, Acts 1918.

Be it enacted by the General Assembly of Virginia, That all taxpayers of this State whose lands, or any portion thereof, were, during the year nineteen hundred and seventeen; or shall be in any year subsequent thereto, acquired or taken in any manner whatsoever by the United States, shall be relieved from the payment of taxes and levies on such lands as have been or shall be so taken or acquired, for that portion of the year in which said property was or shall be so taken or acquired from and after the date upon which the title was or shall be vested in the United States, and the county treasurers as to lands situated in counties, and the city treasurers and city collectors as to lands situated in cities, so taken or acquired, shall receive from and receipt to the original owner of the lands so taken by the United States, for his proportionate part of the taxes and levies for said year, and credit the payment on the tax tickets, and shall return at the time he makes his return of lands and lots improperly assessed, as required by law, the proportional part of the taxes and levies exonerated from taxation for any such year, indicating on the margin of the list the date on which the property was acquired by the United States government. Which list, when approved by proper authorities, shall be considered as a credit to any such treasurer or collector in the settlement of the accounts for said year. The clerk of the court of the county or city in which the lands lie shall furnish a certificate to the Auditor of Public Accounts and to the county or city treasurer, showing the quantity of land taken or acquired by the United States government, name of the former owner, a description of the land the district or ward in which the land is situated; also the date of the recordation of the deed by which such lands were taken or acquired by the United States government, as shown by the records in his office, which certificate shall be sufficient evidence to county and city treasurers and city collectors, to authorize them to receive and pro rate the taxes and levies as herein authorized.

Any such taxpayer whose lands have been so taken during the year nineteen hundred and seventeen, who shall have paid his taxes and levies for the whole year, shall be entitled to recover such portion of said taxes, as he would be relieved from paying under the terms of this act, on any lands that

may have been taken or acquired during the year nineteen hundred and seventeen, by the United States, in the same manner as provided by law for the correction of erroneous assessments and refunding taxes erroneously charged; and any such taxpayer, who has not paid the taxes or levies on any such lands so taken or acquired, for the year nineteen hundred and seventeen, shall also be relieved of interest and penalties therefor; provided, he shall make payment for his proportion of the taxes and levies for the year nineteen hundred and seventeen, as herein provided, on or before the first day of July, nineteen hundred and eighteen.

Inasmuch as complete settlements for certain lands acquired by the United States during the year nineteen hundred and seventeen are liable to be delayed, pending the adjustment of taxes, an emergency is declared to exist, and this act shall be in force from its passage.

Relief of Taxpayers Whose Property Has Been or May Be Acquired by This State, or Any County or Municipality Thereof.

AN ACT for the relief of all taxpayers in the State of Virginia whose property has been heretofore taken or acquired by the State of Virginia, or any county or municipality thereof, or shall be so taken or acquired in any year subsequent hereto. Approved March 24, 1922. Chapter 421, p. 733, Acts 1922.

Be it enacted by the General Assembly of Virginia, That all taxpayers of this State whose property, or any portion thereof, has been heretofore acquired or taken in any manner whatsoever by the State of Virginia, or any county or municipality thereof, shall be relieved from the payment of taxes and levies on such property as has been or shall be so taken or acquired for that portion of the year in which said property was or shall be so taken or acquired, from and after the date upon which the title was or shall be vested in the said State of Virginia, or any county or municipality thereof; and the county treasurers, as to property situated in the counties, and the city treasurers and the city collectors, as to property situated in the cities, so taken or acquired, shall, so long as they are authorized by law to collect taxes in their hands, receive from and receipt to the original owner, his personal representative, heirs, successors or assigns, of the property so taken by the State of Virginia, or any county or municipality thereof, for his proportionate part of the taxes and levies for such year and credit the payment on the tax tickets, and shall return at the time he makes his returns of land and lots improperly assessed, as required by law, the proportional part of the taxes and levies exonerated from taxation for any such

year, indicating on the margin of the list the date on which the property was so acquired and whether so acquired by the State of Virginia or by any county or municipality thereof. Said list, when approved by the proper authorities, shall be considered as a credit to any such treasurer or collector in the settlement of the accounts for said year. The clerk of the court of the county or city in which is recorded the transfer of title to said property shall furnish a certificate to the Auditor of Public Accounts and to the county or city treasurer or city collector, showing the quantity of land so taken or acquired, and whether by the State of Virginia or any county or municipality thereof, the name of the former owner, and a description of the property and the district or ward in which the property is situated, also the date of the recordation of the deed or order by which such property was taken or acquired by the State of Virginia or any county or municipality thereof, as shown by the records in his office, which certificate shall be sufficient evidence to the county and city treasurer and city collectors to authorize them to receive and pro rate the taxes and levies as herein authorized.

Any such taxpayer whose property has been so taken heretofore within three years prior to the passage of this act who shall have paid his taxes and levies for the whole year shall be entitled to recover such proportion of said taxes as he would be relieved from paying under the terms of this act on any property that has been taken or acquired heretofore by the State of Virginia, or any county or municipality thereof, in the same manner as provided by law for the correction of erroneous assessments and refunding taxes erroneously charged; provided, however, that application therefor, as provided by law, shall be made to the appropriate court on or before September first, nineteen hundred and twenty-three; and any such taxpayer who has not paid the taxes or levies on such property so taken or acquired for any year prior to nineteen hundred and twenty-two, shall be entitled to the pro ration of said taxes or levies and the relief, as herein provided, upon application to the proper court, in the manner as provided by law for the correction of erroneous assessments and refunding taxes erroneously charged, and shall also be relieved of interest and penalties therefor; provided, he shall make application to said court on or before the first day of September, nineteen hundred and twenty-three.

And any such taxpayer, as to property acquired by the State of Virginia, or any county or municipality thereof, subsequent to January first, nineteen hundred and twenty-two, who shall fail to have his taxes pro rated by the county or city treasurer or city collector, as above provided, shall be entitled to apply to the appropriate court for pro ration of said taxes,

as herein provided, in the same manner and within the same time as provided by law for the correction of erroneous assessments and refunding taxes erroneously charged; provided, however, that in such proceeding such taxpayer shall be entitled to relief of interest and penalties only as to the proportionate part of the said property so taken or acquired by the State of Virginia, or any county or municipality thereof.

Sec. 2411. Interest to be paid on all taxes and levies after June fifteenth in the year next succeeding that in which they were assessed or assessable.—Interest at the rate of six per centum per annum shall be collected upon all State, county, district, city, and town taxes or levies which may have heretofore not been paid, or may hereafter remain unpaid after the fifteenth day of June in the year next succeeding that in which such taxes or levies have been or may be assessed. Such interest shall be computed upon the principal and penalties of said taxes from the fifteenth day of June in the year after which such unpaid taxes were assessed or assessable, and shall be collected and accounted for by the officers charged with the duty of collecting such taxes or levies, along with the principal sum thereof; and any penalties incurred or accrued for default in the payment of the sum in the manner that taxes are required by law to be collected. But this section shall not apply to any city or town where interest on such taxes or levies is regulated by its charter, or by other special provision of law.

Sec. 2412. When treasurers to pay taxes into treasury; final settlement; Auditor may call for statement of collections and require payment; treasurers of Richmond, Petersburg, Norfolk, and Lynchburg to make settlements weekly; removal for failure.—Each treasurer shall, on the first day of January of each year, make up a statement of all State taxes collected by him on or before December first next preceding, verify the statement by affidavit, and forward it to the Auditor of Public Accounts within fifteen days. On or before the fifteenth day of June of each year he shall make his final settlement with the Auditor of Public Accounts, furnishing a statement of all moneys collected by him on account of taxes and penalties since his last settlement with the Auditor, and also lists of insolvents and delinquents at the time and in the mode prescribed in the following section. The Auditor may call upon any county or city treasurer, at any time he thinks proper, to pay into the State treasury any and all money in his hands belonging to the Commonwealth, and such treasurer shall, within five days from the receipt of such call, make the payment. If any treasurer fail to make any statement or pay-

ment required by this section, within the time prescribed, he shall forfeit his commissions; provided, that the treasurer of each of the cities of Richmond, Petersburg, Norfolk and Lynchburg shall render statement of collections on Monday of each week, and, at the same time pay into the treasury the amount shown by such statement to be due; and if any treasurer fail at any time to render such statements and make such payments, such failure shall be deemed a sufficient cause for his removal from office under the provisions of section twenty-seven hundred and five of this Code.

County and City Treasurers to Account for Interest on Funds, State and Local.

AN ACT requiring county and city treasurers to account for interest received upon funds of the State, or of any political subdivision thereof, and providing penalty for violation. Approved March 20, 1922. Chapter 322, p. 544, Acts 1922.

1. Be it enacted by the General Assembly of Virginia, That whenever the treasurer of any county or city in this State shall receive interest on funds belonging to the State, or to any political subdivision thereof, such interest shall become a part of the principal of the particular fund on which such interest accrued, and shall be accounted for by the treasurer in the same manner as he is required by law to account for the principal.

2. Any treasurer violating this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five thousand dollars.

Sec. 2155. How moneys paid into State treasury.—All moneys to be paid into the treasury of this State shall be paid by the person liable to pay the same to one of the depositories provided for in the following sections in the following manner: A warrant shall be obtained from the Auditor of Public Accounts or the Second Auditor, as the case may be, directing the treasurer to receive the sum to be paid; the treasurer shall, by his order upon the said warrant, require the said depository or the proper officer of the same to receive the sum therein mentioned; and upon receiving the same, the said depository or officer shall give a certificate on the same warrant that the said sum has been paid to said depository to the credit of the treasurer. Upon the return of the warrant, order, and certificate, the treasurer shall give a receipt for the sum so paid; and upon the same being delivered to the Auditor who issued the warrant, he shall grant a receipt therefor.

Sec. 2165. Moneys may be paid into treasury by certified check, etc.—Any public officer or other person having to pay money into the treasury may make such payment by delivering to the Auditor of Public Accounts a certificate of deposit, or a certified check drawn, or endorsed payable to the Treasurer of Virginia, or his order, on some bank in this State, or in the cities of Baltimore and New York, or a draft drawn by some banker in this State, or in the cities of Baltimore or New York, on some other bank of this State, or of the cities of Baltimore or New York. Immediately upon the receipt of any such certificate of deposit, check, or draft, the auditor shall cause the amount of the same, with a sufficient description thereof, to be entered to the credit of the person indebted; and should any check, draft, or certificate of deposit not be paid on presentation the amount thereof, with all costs, shall be charged to the person to whose credit it was placed, and his liability and that of his sureties, except the additional liability for costs, shall be as if he had never offered any such check, draft, or certificate of deposit.

(Bank meant is a State or National bank. Checks on private bankers cannot be accepted.)

Sec. 2413. Auditor of Public Accounts to make a statement annually showing treasurers who are in arrears; manner in which the same shall be made public.—The Auditor of Public Accounts shall have made from the books in his office annually, on the thirtieth day of September, a statement showing the condition of the accounts of every county or city treasurer of the Commonwealth who is in arrears to the State in his collections therefor, giving the year of such delinquency; and it shall be the duty of the said Auditor to transmit, within thirty days thereafter, a copy of such statement to the county clerk of each county or the clerk of the corporation court of each city wherein such treasurer resides or holds his office, respectively, and it shall be the duty of every such clerk to make a copy of the same without delay and post upon the front door of his courthouse, and place the original on file in his office, where it may be conveniently examined by any taxpayer so desiring, and he shall allow any newspaper desiring to publish the same to make a copy of it.

Sec. 2791. The suspension of treasurers of counties and cities in certain cases.—The Governor shall have power to suspend the treasurer of any county or city of this Commonwealth or other officer charged with the collection of the public revenues of the State from collecting the revenues of the State for such county or city for failure to execute and perform the duties required of such officer under the laws of

the Commonwealth with reference to the collection of the State revenues; and said officer shall not collect any further the State revenues unless the General Assembly, by joint resolution, restore him to office. The collection of the State revenue in such city or county shall then be made by the person appointed by the Governor for that purpose, and such appointee, after having qualified and given bond according to law, shall discharge all the duties of the office to which he is appointed during the time of the suspension of his predecessor, and shall be amenable to all the rules, regulations, requirements, and responsibilities declared by the laws of this State pertaining to the collection of the State revenue.

Sec. 2201. Courts to suspend whenever it appear that treasurer, clerk, or other officer has failed to make settlement; to appoint some person to discharge duties until settlement and payment are made.—

(1) The Auditor of Public Accounts shall annually, on the fifteenth day of August, report to the judge of each circuit and city court of record, and the Commonwealth's attorney of each county and city of the State, whether the treasurers of said counties and cities have settled for and paid in full the funds due by them to the Commonwealth, and if not paid, then said Auditor shall report the amounts respectively due and owing by said treasurers.

(2) The Auditor of Public Accounts shall likewise report to said judges and Commonwealth's attorneys any clerk or other officer who has failed for thirty days to report and pay over, as required by law, any money due by them, respectively, to the Commonwealth.

(3) If it shall appear that any treasurer, as aforesaid, has failed or refused to settle for or pay over, as required by law, any funds due or owing by him to the Commonwealth, then the said court shall suspend such treasurer until he shall make settlement and payment in full of the funds due by him as such treasurer to the Commonwealth, and said court, or the judge thereof in vacation, may, if deemed necessary, appoint some suitable person to discharge the duties of such treasurer until settlement and payment as aforesaid. The person so appointed shall give bond and qualify, as treasurers are now required by law to do; but before the said court shall suspend such officer the said court, or judge thereof in vacation, shall issue a rule against said officer, returnable after not less than ten days' notice to the first day of the next term of said court, to show cause, if any he can, why the court should not suspend him as aforesaid.

(4) If it appear that any clerk or other officer of any court of any county or city, charged with the collection of

public moneys, has failed for thirty days to report and pay over, as required by law, to the Auditor or any proper person authorized by law to receive the same, any funds collected by such clerk or other officer, then said court shall in like manner and after service of rule, as prescribed by paragraph three of this section, suspend said clerk or other officer until such settlement and payment has been made by such clerk or other officer; and if said court, or the judge thereof in vacation, deem it necessary, it shall appoint some competent person in like manner to discharge the duties of such clerk or other officer until settlement and payment as aforesaid.

(5) The treasurers of the several counties of this State shall settle with the board of supervisors and school boards by the first day of October of each year, and shall, on said first of October, exhibit to said judge and Commonwealth's attorney the cash to balance their accounts, if any is due, with the county levy and the county school fund. If any treasurer fail to produce said cash to balance his said account, then said court shall, after service of rule as prescribed by paragraph three of this section, suspend said treasurer, and appoint some competent person to discharge his duties, as provided in said paragraph.

Sec. 2414. (As amended by act approved March 27, 1922.) **Treasurers to return lists of uncollectible taxes and delinquents.**—The treasurer, after ascertaining which of the taxes and levies assessed in his county or city cannot be collected, shall, not later than the first day of July in each year, make out lists of three classes, to-wit: First, a list of property on the commissioner's land book improperly placed thereon or not ascertainable, with the amount of taxes and levies charged on such property; secondly, a list of other real estate which is delinquent for the nonpayment of the taxes and levies thereon; and thirdly, a list of such of the taxes and levies so assessed, other than on real estate as he is unable to collect, except that in the counties of Accomac, Northampton and Northumberland it shall be lawful for the treasurers of said counties to make such lists at any time prior to the first day of September of any year.

Sec. 2415. Form of lists; oath.—The lists mentioned in the preceding section shall be in such form as the Auditor of Public Accounts directs; and the treasurer returning such lists shall, at the foot thereof, subscribe the following oath:

"I,, treasurer (or deputy treasurer) of the county (or city) of, do swear that the foregoing list is, I verily believe, correct and just, that I have received no part of the taxes or levies for which the

real estate therein mentioned is returned delinquent; that there is no timber on any of the respective tracts of land which might have been sold for said taxes; that I have endeavored to rent out the respective tracts and lots of land publicly after due advertisement, and failing in that, privately, as required by law, and have been unable to do so; that there was, and is, no tenant upon any of the respective lots and tracts of land from whom said taxes could or can be collected; and that I have otherwise used due diligence to find property within my county or city liable to distress for said taxes or levies, and have found none."

Sec. 2416. Lists to be verified by oath; copy of third list to be posted.—The lists mentioned "first" and "thirdly" in section twenty-four hundred and fourteen shall each of them be verified by the oath of the treasurer and each of his deputies, to the effect that they verily believe no part of the taxes or levies embraced in such lists has been or could have been collected by them; and a copy of that "thirdly" mentioned shall be posted at the front door of the courthouse of the county or city on a court day during the term next preceding the time at which the list may be presented to the court and judge under the following section.

Sec. 2417. (As amended by act approved March 21, 1924.) By whom lists examined and how certified; where preserved.—Each of the three lists in the case of a county treasurer shall be submitted to the board of supervisors of the county and be accompanied by the certificate of the chairman of said board touching the propriety of such lists and each case therein contained.

The board of supervisors shall assemble at their respective courthouses for the purpose of examining the lists not later than the fifteenth day of August in each year.

The lists of the treasurer of a county shall be presented to and be examined by the circuit court of the county or judge thereof in vacation, and in the case of a city treasurer the lists shall be presented to and be examined by the corporation or hustings court, or circuit court of a city not having a corporation or hustings court, or the judge thereof in vacation. The court or judge being satisfied of the correctness of said lists, and that the taxes and levies are correctly extended, or having corrected them, if erroneous, shall direct the clerk to certify copies thereof to the Auditor of Public Accounts, and a copy of the list of property on the commissioner's land book improperly placed thereon or not ascertainable to the appropriate commissioner of the revenue, who shall correct his land book accordingly.

The original lists and the tickets for taxes and levies corresponding therewith shall be filed with and be preserved by the respective clerks in their offices.

Sec. 2418. Where assessment has been made on report of examiner of records.—Where the assessment has been made on the report of the examiner of records, the said lists shall be presented to the examiner of records instead of the commissioner of the revenue, and the said examiner shall make the certificate required by the preceding section of the commissioner of the revenue.

Sec. 2419. After copies of lists directed to be certified, clerk to receive and distribute taxes.—After the copies mentioned in this and the preceding sections are directed to be certified, the treasurer shall not receive any of the taxes mentioned in said lists, but the taxes and levies mentioned in the third list, namely, capitation taxes and personal property taxes and levies, may be paid to the clerk of the circuit or corporation court, who shall, in a book to be kept in his office for the purpose, enter the name of each person who pays any part of the taxes and levies, the amount paid and date of each payment; and on the first day of March and September of each year the clerk shall make, under oath, a report in detail to the Auditor of Public Accounts of the taxes which are the property of the State, and he shall at the same time make, under oath, a report to the board of supervisors, or city or town councils, of the amount which is the property of the county, district, city, or town, and at the time of making such report he shall pay to the Auditor of Public Accounts the amount due the State, and the board of supervisors the amount due the county, district, et cetera, and to the city or town council the amount due the city or town, less the commission which he is authorized by law to retain.

Sec. 2420. Assessment and payment of omitted capitation taxes of persons who become of age after the first day of February in any year.—Any person assessable with capitation taxes for any year or years, who has not been assessed therewith, and any person who will be assessable with such taxes for the ensuing year by reason of his becoming of age after the first of February in any year, may apply to the commissioner of the revenue for the district of the county or for the city in which he resides and have himself assessed with such omitted capitation taxes or with such capitation taxes as shall become assessable against him for the ensuing year by reason of his becoming of age after the first of February in any year, and it shall be the duty of the commissioner of

the revenue to assess such person with such omitted capitation taxes or with such capitation taxes as will become assessable against him for the ensuing year by reason of his becoming of age after the first of February in any year, and to give to such person a certificate of such assessment, and thereupon the treasurer of the county or city in which the person so assessed resides shall receive from such person the capitation taxes set out in such certificate. The commissioner of the revenue making the assessment provided for in this section shall keep a record thereof and report to the Auditor of Public Accounts on the first day of January and July of each year a list of such assessments made by him during the preceding six months. The county and city treasurers receiving the taxes assessed under this section shall pay the same into the treasury on or before the tenth of January and July of each year and shall furnish the Auditor of Public Accounts with a list of the taxes received by them under this section. The Auditor shall charge the treasurer with the amount of the assessments reported by the commissioners of the revenue and shall require the treasurer to account for the amount of such assessment received by him and shall credit him with so much of said assessments as he shall state under oath in his report were not received by him.

Sec. 2421. (As amended by chapter 139, p. 118, Acts 1920.) **Appointment of delinquent capitation tax collectors.**—The judge of the circuit court of each county and the judge of the corporation court of each city and the judge of the circuit court of each city, which has no other court of record, shall at the term preceding October the first of each year appoint a delinquent capitation tax collector, who shall give bond to the Commonwealth in such penalty as the court may deem proper, whose duty it shall be to enforce the collection by levy, garnishment, or otherwise, of all delinquent capitation taxes which shall be turned over to him for collection, as is herein provided. And where collection is made by levy or garnishment the collector shall be entitled, in addition to his compensation provided in section twenty-four hundred and twenty-two of the Code, to a fee therefor of one dollar and fifty cents, to be collected from the person delinquent, which fee, together with the said delinquent tax, may be likewise collected by levy or garnishment. A copy of the order making the appointment and a copy of the bond required shall be certified by the clerk of the court making the appointment to the Auditor of Public Accounts.

Sec. 2422. (As amended by chapter 280, Acts 1924.) **Compensation of collector.**—The said collector shall be al-

lowed thirty-three and one-third per centum of all amounts collected by him, and shall, on the first of each month, make a report to the clerk of the court, by which he was appointed, of the amounts collected by him and from whom collected, and shall at the same time pay over to the clerk of said court sixty-six and two-thirds per centum of the amount collected; and the clerk shall issue to the said collector a receipt for the amount paid over to him and shall at the same time forward to the Auditor of Public Accounts a duplicate of said receipt.

Sec. 2423. List of delinquent capitation taxes to be made out by clerk.—On or before the first day of August of each year the clerk of the court appointing the delinquent capitation tax collector, shall make out a duplicate list of all persons within his county or city who shall be as much as three and not exceeding five years delinquent in payment of capitation taxes, one of said lists shall be sent to the Auditor of Public Accounts and the other list shall be by said clerk delivered to the delinquent capitation tax collector.

Sec. 2424. Disposition of funds by Auditor.—The Auditor of Public Accounts shall dispose of any funds arising under the three preceding sections as other capitation taxes are disposed of.

Sec. 2425. List of uncollected taxes to be delivered by collector to clerk; amount to be certified to Auditor.—The delinquent capitation tax collector shall, on the thirtieth day of September of each year, deliver to the clerk of the court the list of uncollected taxes which had been by said clerk previously delivered to him as hereinbefore provided, which said list shall be by the clerk of the court filed as other delinquent capitation tax lists are filed; and the clerk of the court shall, at the time of the receipt of the list of uncollected taxes delivered to him by said collector, certify to the Auditor of Public Accounts the total amount returned as uncollected.

Sec. 2426. Penalty on treasurers for false lists; also for return as "delinquent," where sufficient property liable to distress.—Any treasurer who returns in any such lists real estate, persons, or property, as delinquent for the nonpayment of taxes or levies, when the same or any part thereof shall actually have been received by him, shall forfeit, if the return was by design, ten times the amount of taxes and levies so actually received, and if the return was by mistake, twice the amount; one-half of which forfeiture shall, in each case, be to the Commonwealth and the other half to the person

charged with such taxes and levies. Any treasurer who returns in such lists any real estate, persons, or property as delinquent, when he had either found, or by using due diligence might have found, sufficient property within his bailiwick liable to distress for the taxes and levies for which such real estate, persons, or property are returned delinquent, shall forfeit to the Commonwealth a sum equal to five times the amount of the said taxes and levies.

Sec. 2427. Treasurer to forward lists to Auditor and receive credit for taxes.—The copies of lists directed to be certified to the Auditor shall be placed by the clerk in a sealed enclosure directed to that officer, and delivered to the treasurer by whom the lists were returned, to be by him forwarded to the Auditor, who shall credit the treasurer with the amount of State taxes mentioned in section twenty-four hundred and fourteen, if they be presented at his office within three months next after his final settlement, but not otherwise.

Sec. 2428. Clerks to record and index list of real estate returned "delinquent."—The clerk of the circuit or corporation court shall record in a book, to be kept for the purpose, the list of real estate delinquent for the nonpayment of taxes and levies thereon, mentioned "secondly" in section twenty-four hundred and fourteen, and index the same in the name of the persons against whom such taxes and levies are assessed.

Sec. 2429. Auditor to place copy of "third" list in hands of officer for collection; supervisors and council to cause "second" and "third" lists to be published and posted.—The Auditor shall, within sixty days after receiving said third list, or as soon thereafter as practicable, place certified copies of the same, for collection, in the hands of any sheriff, sergeant, constable, or collector (except that such lists shall not be placed in the hands of any officer who returned the same), who shall collect the same, giving to each person from whom such collection is made a receipt specifying the several items of taxes and levies so collected, and account to the Auditor within one year after the list is placed in his hands. Said officer shall have the same power of distress and be accountable for said taxes and levies in like manner as treasurers, and he and his sureties shall be subject to all such remedies as are given the Commonwealth against treasurers for failure to pay. Within sixty days after the said second and third lists have been allowed and certified according to the provisions of section twenty-four hundred and seventeen, the

clerk of the circuit court of the county or corporation court of the city shall lay a certified copy thereof, including the State taxes, and county or city levies, before the board of supervisors of the county or the council of the city, as the case may be; and it shall be the duty of the supervisors, or the council, to cause said lists, or such parts thereof as may be deemed advisable, to be published for two successive weeks in a newspaper in the county or city, or in handbills to be posted generally throughout the county or city, and at the front door of the courthouse thereof, for three successive terms of the court.

Sec. 2430. (As amended by chapter 249, p. 350, Acts 1920.) **Compensation of treasurer for receiving and paying over State revenue.**—Every treasurer shall be allowed for his services in receiving and paying over the State revenues on amounts of twenty-five thousand dollars and less, five per centum, and on amounts in excess of twenty-five thousand dollars, three and one-half per centum, which shall be the entire compensation allowed treasurers in counties and cities in which the revenue exceeds twenty-five thousand dollars; provided, that in counties and cities in which the revenue does not exceed ten thousand dollars, he shall, in addition to the five per centum, receive four per centum on all revenues remaining unpaid on December first and collected by him; and in counties and cities in which the revenue exceeds ten thousand and does not exceed fifteen thousand dollars, he shall, in addition to the five per centum, receive three per centum on all the revenue remaining unpaid December first, and collected by him; provided, further, that the commissions of the city treasurer, for collecting and paying over the revenue where the annual collection is in excess of sixty thousand dollars, shall be at the rate of two per centum on such excess; provided, further, that where the revenue exceeds fifteen thousand dollars, but is not sufficient in excess thereof to make the treasurer's compensation as much as it would have been had such revenue been less than fifteen thousand dollars, the treasurer shall be entitled to two per centum commission on all revenue remaining unpaid the first of December and collected by him up to fifteen thousand dollars. In computing commissions of the treasurer for receiving and disbursing State revenues under this section, such revenue shall be treated as a single fund.

Sec. 2431. (As amended by chapter 436, p. 757, Acts 1922.) **Compensation of county and city treasurers for receiving and disbursing funds of the several counties, cities, school districts, and magisterial districts; local revenues.**—

Every county treasurer (and city treasurer in cases in which the law makes him collector of local revenues), shall receive for his services in receiving and disbursing the local revenues compensation as per the following schedule:

In counties and cities in which the aggregate amount of local levies extended is less than thirty thousand dollars, the compensation of the treasurer shall be seven per centum on the amount of his collections.

In counties and cities in which the aggregate amount of local levies extended is over thirty thousand dollars but less than thirty-five thousand dollars, the compensation of the treasurer shall be six and one-half per centum on the amount of his collections.

In counties and cities in which the aggregate amount of local levies extended is over thirty-five thousand dollars but less than forty thousand dollars, the compensation of the treasurer shall be six per centum on the amount of his collections.

In counties and cities in which the aggregate amount of local levies extended is over forty thousand dollars but less than forty-five thousand dollars, the compensation of the treasurer shall be five and one-half per centum on the amount of his collections.

In counties and cities in which the aggregate amount of local levies extended is over forty-five thousand dollars but less than fifty thousand dollars, the compensation of the treasurer shall be five and one-quarter per centum on the amount of his collections.

In counties and cities in which the aggregate amount of local levies extended is over fifty thousand dollars but less than seventy-five thousand dollars, the compensation of the treasurer shall be five per centum on the amount of his collections.

In counties and cities in which the aggregate amount of local levies extended is over seventy-five thousand dollars but less than one hundred thousand dollars, the compensation of the treasurer shall be four and one-half per centum on the amount of his collections.

In counties and cities in which the aggregate amount of local levies extended is over one hundred thousand dollars but less than one hundred and twenty-five thousand dollars, the compensation of the treasurer shall be four and one-quarter per centum on the amount of his collections.

In counties and cities in which the aggregate amount of local levies extended is over one hundred and twenty-five thousand dollars but less than one hundred and fifty thousand dollars, the compensation of the treasurer shall be four per centum on the amount of his collections.

In counties and cities in which the aggregate amount of local levies extended is over one hundred and fifty thousand dollars but less than two hundred thousand dollars, the com-

pensation of the treasurer shall be three and one-half per centum on the amount of his collections.

In counties and cities in which the aggregate amount of local levies extended is over two hundred thousand dollars, but less than two hundred and fifty thousand dollars, the compensation of the treasurer shall be three and one-quarter per centum on the amount of his collections.

In counties and cities in which the aggregate amount of local levies extended is over two hundred and fifty thousand dollars, the compensation of the treasurer shall be three per centum on the amount of his collections.

For the purpose of this section "local revenues" shall include funds derived from assessments of real estate, personal property, licenses, merchants' purchases, and all other subjects of taxation, whether such assessments are returned by commissioners of the revenue, examiners of records, local boards of review, or the State Corporation Commission, to be used for the benefit of the several counties, cities, school districts, road districts, or magisterial districts in which such assessments are made.

For the purpose of computing treasurer's compensation for receiving and disbursing local revenues, his collections of revenues for county or city purposes and his collections of revenue for school purposes shall be treated as one fund.

General county or city bonds and district road, bridge or school bonds.—For receiving and disbursing the money derived from the sale of general county or city bonds, or district road, bridge or school bonds, the treasurer shall receive as compensation for his services one-fourth of one per centum of the amount of the proceeds of sale of such bonds, and, in addition, the reasonable costs to him of additional surety bonds required to be given by him on account of such bond issue.

School funds appropriated to counties and cities by the General Assembly and apportionments from the literary fund.—On money appropriated to counties and cities for school purposes by the General Assembly, and on amounts apportioned from the literary fund, the county or city treasurer shall receive as compensation for his services such compensation as shall be allowed by the school boards of the counties and cities not exceeding one per centum of the amount of such school funds received and disbursed by him.

Delinquent taxes.—For receiving and disbursing amounts of delinquent taxes collected by clerks of courts and turned over by said clerks to a treasurer, the treasurer shall receive as compensation for his services five per centum of such amounts turned over to him.

For collecting delinquent taxes from taxpayers prior to sale of property for delinquent taxes, and for money received from the sale of land for delinquent taxes, the treasurer shall

receive as compensation for his services ten per centum of such delinquent taxes collected by him.

State money for road purposes.—On money appropriated by the General Assembly for road purposes county treasurers shall receive compensation for their services one-fourth of one per centum of such amounts received and disbursed by them.

Compensation of incoming treasurer for receiving and disbursing funds turned over to him by outgoing treasurer.—For receiving and disbursing the money turned over to him by an outgoing treasurer, the treasurer shall receive as compensation for his services two per centum of the amount of such money turned over to him, and for collecting the tax tickets turned over to him and disbursing the proceeds thereof, he shall receive three and one-half per centum, except that on school funds turned over to him derived from appropriations by the State or apportionments of the literary fund his compensation shall be one per centum of the amounts of such funds turned over to him, and on funds derived from county, city, or district bond issues his compensation shall be one-fourth of one per centum of the amounts of such funds turned over to him.

Nothing in this section shall prevent councils of cities from fixing the amount of compensation of treasurers of said cities in cases in which said councils are empowered by law to fix amount of compensation of treasurers of said cities, on the real estate, personal property, public service corporations, and other taxes received by the State, prior to the segregation of taxes under an act approved February sixteenth, nineteen hundred and fifteen, entitled an act to segregate for the purpose of taxation, pursuant to section one hundred and sixty-nine of the Constitution of Virginia, the several kinds and classes of property so as to specify and determine upon what subjects State taxes and upon what subjects local taxes may be levied, and to provide for the continuance for the year nineteen hundred and fifteen of the present State school tax of ten cents on every one hundred dollars of the assessed value of real estate and tangible personal property, as further amended by an act approved March fifteenth, nineteen hundred and fifteen, and as further amended by an act approved March twenty-second, nineteen hundred and sixteen, but thereafter collectible for local purposes, the treasurer of cities, counties and towns shall be paid for the tax year of nineteen hundred and twenty, and for each year thereafter the same commissions as allowed by law for collection of the State revenue at the time of the approval of the act of February sixteenth, nineteen hundred and fifteen; provided, where there is a collector of taxes in any city of over

fifty thousand inhabitants, the said commissions shall not be paid the treasurer of such city on taxes collected by the city collector.

Miscellaneous items.—On all funds other than those specified in the foregoing paragraphs the treasurer shall receive as compensation for his services, in receiving and disbursing such funds, one per centum of the amount of such funds. Such funds shall include the proportion of capitation taxes returned to counties and cities by the State, funds received from sales of county or district property, donations to county, city or district for any purpose (except amounts received for school libraries), loans made by boards of supervisors, city councils or county or district school boards, and all other funds ordered to be received by the treasurer by the county, city, or school authorities.

But no treasurer shall receive any commission upon money loaned from the literary fund for school improvement.

Sec. 2432. Auditor to deliver lists of delinquent treasurers to Attorney General, who shall proceed against them and their sureties; copy of notice to be recorded where treasurer or sureties have estate.—On or before the first day of January and the first day of July of each year the Auditor of Public Accounts shall make out and deliver to the Attorney General a list of all the treasurers who have failed to make the statements or pay the sums required by section twenty-four hundred and twelve, and such lists, where the failure is to pay, shall specify the amount due from each of the said treasurers, and shall also specify the names of their sureties, respectively. It shall be the duty of the Attorney General to proceed forthwith against the treasurers in default and their sureties for the recovery of the amounts due from such treasurers, respectively, and the interest thereon, prescribed by section twenty-four hundred and thirty-five. The proceedings may be by motion, or notice, in the circuit court of the city of Richmond. Copies of such notice, certified by the clerk of the said court, shall be forthwith sent by the Attorney General to any clerks of the circuit courts of the counties or corporation courts of the cities wherein it is ascertained that the treasurer or his sureties proceeded against have any estate, and the clerk to whom any such copy is so sent shall record it as a deed is required by law to be recorded, and index the same as well in the name of the Commonwealth as of the treasurer and his sureties, each respectively.

Sec. 2433. Lien of judgment and execution against treasurer and sureties.—A judgment in such proceeding, recovered against the treasurer or against the treasurer and

sureties, jointly or severally, shall be a lien on all his or their real estate in any county or city of or to which he or they respectively shall be possessed or entitled at or after the time such notice is recorded and indexed as aforesaid in such county or city; and an execution sued out on such judgment and placed in the hands of an officer to be executed shall bind all the personal estate of such treasurer and sureties, jointly and severally, respectively, of or to which he or they, each respectively, shall be possessed or entitled at or after the time the said notice is recorded and indexed as aforesaid and before the return day of such execution; except that as against an assignee for valuable consideration of any of said personal estate which is not capable of being levied on under an execution, or as against a person making a payment to such treasurer, the lien of the execution by virtue of this section shall not affect such assignee or person making payment unless he had notice of the execution or of the pendency of said proceeding at the time of the assignment or payment, as the case may be.

Sec. 2435. Penalty on treasurer for failure to pay over revenue.—Every treasurer who does not pay the revenue into the treasury at the time prescribed by law shall be charged with interest thereon at the rate of fifteen per centum per annum from the time the same was so payable.

Sec. 2436. Auditor may appoint collectors of delinquent taxes and levies; compensation allowed.—The Auditor of Public Accounts may appoint a collector in any county or city to collect taxes and levies on property therein, returned delinquent, and may allow him a reasonable compensation, to be agreed on (before the service is commenced) and approved by the executive, which compensation shall not exceed twenty per cent on what may be collected and paid into the public treasury.

Sec. 2533. Auditor authorized to employ attorney to make certain collections.—The Auditor may, with the approval of the Governor, employ any competent attorney to take steps and institute actions at law or suits in equity for the recovery of taxes on personal property, money and income returned delinquent, and it shall be the duty of the attorneys for the Commonwealth to accept such employment, if tendered them. The compensation of the attorney so appointed shall be agreed upon by the Auditor of Public Accounts and the attorney, which compensation, however, shall not exceed ten per centum of the amount collected, recovered and paid into the State treasury. The Auditor may authorize

the attorney employed to retain his compensation out of his collections when making settlements with him, at such times as he may require settlements. Each attorney so appointed shall give bond to the Commonwealth of Virginia for the faithful performance of the duties put upon him by this section, in a penalty to be fixed by the Auditor of Public Accounts, in whose office the bond shall be filed.

Sec. 2437. Collectors allowed reasonable time; shall give bond.—Such collector shall have a reasonable time allowed him by the Auditor, and shall, before he acts, execute a bond approved by the Auditor, with condition that he will faithfully collect the said taxes and levies, and account for and pay the same into the treasury within the time so allowed. The bond shall remain filed in the Auditor's office.

Sec. 2439. What may be distrained for taxes; fees of officers; notice to tenant.—Any goods or chattels in the corporation or county belonging to the person or estate assessed with taxes or levies, may be distrained therefor by the treasurer, sheriff, sergeant, constable, or collector. In all cases property subject to levy or distress for taxes shall be liable to levy or distress in the hands of any person for taxes thereon. any timber or wood growing on the land belonging to the person or estate assessed with taxes or levies may be distrained and sold, so far as necessary, to pay the amount of such taxes and levies and expense of sale, and shall be sold standing in the manner prescribed for the sale of goods and chattels, other than horses, mules, and oxen, under distress or levy for taxes; and the purchaser shall have the right to cut and carry away such wood or timber within twelve months after the purchase of the same, with the right of ingress and egress for this purpose, but shall not haul the same over any lands occupied at the time by growing crops. Any real estate in the county or corporation belonging to the person or estate assessed with taxes or levies due on such real estate, may be rented or leased by the treasurer, sergeant, or collector, at public outcry, in the discretion of such treasurer, sergeant, or collector, either at the front door of the courthouse or on the premises, or at some public place in the community where the premises are situated, after giving not less than fifteen days' notice by printed or written notices posted at the front door of the courthouse, and at three or more places in the neighborhood of the real estate to be leased. Such leasing shall be for a term not exceeding one year, and for cash sufficient to pay the taxes or levies due on the real estate so rented, and the costs and charges of advertising and leasing. When a lease is effected, the treasurer, sergeant, or collector

leasing such real estate, shall put the lessee in possession thereof, and for such purpose shall have like powers as those exercised by a sheriff acting under a writ of possession. When the sheriff, sergeant, or collector advertises and leases, or advertises without leasing, a parcel of real estate under this section, he shall receive a fee of sixty cents, to be paid as a part of the costs of this proceeding. In all cases where a treasurer, sergeant, or other collecting officer, has to levy or distrain and sell, or levy or distrain without selling, he shall receive a fee of sixty cents, to be collected with the taxes. But in no case shall any of these fees be paid by the State. When real estate is advertised for leasing for the taxes and there is any tenant in possession of the property so advertised, then the treasurer or other collecting officer making the lease, shall serve upon such tenant, at least five days prior to the day of leasing, a copy of the notice of leasing. This service shall be in conformity with section six thousand and forty-one.

Sec. 2440. When treasurer may distrain.—A treasurer may distrain for taxes and levies for which he has accounted to the Auditor of Public Accounts and the county authorities, respectively, at any time within one year after the period fixed by section twenty-four hundred and twelve of this Code, for the final settlement with the Auditor of Public Accounts for State taxes.

Sec. 2441. Property of tenant, etc., liable to distress; limitation of liability; when taxes and levies on land to be apportioned.—The goods and chattels of the tenant, or other person in possession, claiming under the party or estate assessed with taxes or levies on land, may be distrained if found on the premises, but not for an amount exceeding the rent contracted to be paid by such tenant for said premises, nor until the property of the landlord subject to distress, within the county or city, shall have been exhausted; and where the rent is payable in a share of the crop, only the share of the crop belonging to the landlord shall be liable to levy. But when taxes or levies are assessed wholly to one person on a tract or lot, part of which has become the freehold of another by a title recorded before the commencement of the year for which such taxes or levies are assessed, the property belonging to the former shall not be distrained for more than a due proportion of the said taxes or levies.

Sec. 2442. Where land lies partly in one county and partly in another county or corporation, how distress made; where residence of owner is in a different county or corpora-

tion or taxpayer moves out of the county or corporation, how taxes and levies collected.—Where taxes or levies are assessed on a tract of land lying partly in one county and partly in another county or corporation the treasurer of the county or corporation in which the taxes or levies are so assessed may distrain on the part of the land lying in the other county or corporation in the same manner as if such part was in his own county or corporation; and when the land or other property is in a county or corporation different from that of the residence of the owner, or where a person assessed with any taxes or levies before paying the same removes from the county or corporation in which the assessment was made, the treasurer shall have the same remedies for the collection of all such taxes and levies in all respects as if the person owing the taxes and levies resided in the officer's own county or corporation, or the said treasurer may transfer to the treasurer of the county or corporation in which such person resides the tickets for taxation and levies against such person or property, and the last named officer shall proceed to collect the same and pay the proceeds to the former officer, and the commission for collecting the said tickets shall in such case be shared equally by the said officers.

Sec. 2443. Mortgages, etc., no bar to distress.—No deed of trust or mortgage upon goods or chattels shall prevent the same from being distrained and sold for taxes or levies against the grantor in such deed while such goods and chattels remain in the grantor's possession; nor shall any such deed prevent the goods and chattels conveyed from being distrained and sold for taxes or levies assessed thereon, no matter in whose possession they may be found.

Sec. 2444. Where officer cannot find sufficient goods, etc., to distrain, how he shall proceed.—When the officer cannot find sufficient goods or chattels to distrain for taxes or levies, any person indebted to or having in his hands estate of the party assessed with such taxes or levies may be applied to for payment thereof out of such debt or estate; and a payment by such person of the said taxes or levies, either in whole or in part, shall entitle him to a charge or credit for so much on account of such debt or estate against the party so assessed. If the person applied to do not pay so much as may seem to the officer ought to be recovered on account of the debt or estate in his hands, the officer shall, if the sum due for such taxes or levies does not exceed twenty dollars, procure from a justice a summons directing such person to appear before some justice at such time and place as may seem reasonable; and if the sum due exceed twenty dollars,

shall procure from the clerk of the circuit court of the county or corporation court of the city, a summons directing such person to appear before such court on the first day of the next term thereof; and from the time of the service of any such summons, the said taxes and levies shall constitute a lien on the debt so due from such person, or on the estate in his hands.

Sec. 2445. Proceedings on return of summons executed.—If such summons be returned executed, and the person so summoned do not appear, judgment shall be entered against him for the sum due for such taxes and levies and for the fees of the clerk and of the officer who executes the summons.

Sec. 2446. Proceedings, when person summoned appears.—If the person so summoned appear, he shall be interrogated on oath, and such evidence may be heard as may be adduced, and such judgment shall be rendered as, upon the whole case, shall seem proper.

Sec. 2447. Tenant paying taxes or levies to have credit out of rents.—A tenant from whom payment shall be obtained, by distress or otherwise, of taxes or levies due from a person under whom he holds, shall have credit for the same against such person out of the rents he may owe him, except where the tenant is bound to pay such taxes and levies by an express contract with such person.

Sec. 2448. Fiduciary to be reimbursed out of estate.—Where taxes or levies are paid by any fiduciary on any estate in his hands or for which he may be liable, such taxes and levies shall be refunded out of said estate.

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 apply to the local board of equalization to increase the
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Missouri

Inheritance Tax Law

*Compiled from
Revised Statutes, 1919, and
Session Acts of 1921*

DECEMBER FIFTEEN
NINETEEN TWENTY-ONE



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By

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Foreword

FOR *the convenience and instruction of all concerned in the administration of this law we have compiled in this pamphlet the law, with the rulings and instructions of the Attorney-General and principles of inheritance tax law as defined by the courts of this and other states.*

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GENERAL PRINCIPLES.

The present Illinois Inheritance Tax Statute was in most parts adopted by the State of Missouri in 1917, when our present statute was enacted, the same going into effect June 18, 1917. The present New York statute had been adopted by Illinois. The courts of Illinois have also adopted many of the New York decisions construing this inheritance tax law. *People v. Griffith*, 245 Ill. 532. The decisions of New York and Illinois will therefore no doubt have a great deal of weight upon the courts of this state in construing our present inheritance tax statute, especially in view of the fact that there are no decisions in this state upon the present law, except the case of *McClintock v. Guinotte*, 275 Mo. 298.

The case of *McClintock v. Guinotte* upholds the constitutionality of the present inheritance tax statute against the following contentions:

1. It is in violation of Constitution, Article 2, Section 30, providing that no person shall be deprived of property without due process of law.
2. It is in violation of Constitution, Article 4, Section 28, providing that no bill shall contain more than one subject, which shall be clearly expressed in the title, though it did not refer to repeal of an existing law.
3. It is in violation of Constitution, Article 4, Section 28, providing that taxes may be levied for public purposes only.
4. It is in violation of Constitution, Article 10, Section 3, requiring taxes to be uniform on the same class of subjects.
5. It is in violation of Constitution, Article 10, Section 4, providing that all property subject to taxation shall be taxed in proportion to value.
6. It is in violation of Constitution, Article 10, Section 8, referring to property taxes, the tax provided for by the act not being one upon property recurrent at given periods.

Our Supreme Court in the McClintock case laid down the three very important fundamental rules underlying Inheritance Taxation, to-wit:

There is no constitutional provision restricting the power of the Legislature to change or modify the laws relating to descents and distributions or the laws relating to Wills.

The inheritance tax law is related to the law of descents and distributions and the law of wills and not to taxation laws.

The inheritance tax is simply a "tax" or restriction upon *the right* of a beneficiary to receive the property of a decedent.

Our Supreme Court in the following language (McClintock Case) has laid a very firm foundation for the support of inheritance taxation in this state:

* * * * * So that under the great weight of authorities, we rule (1) that the taking of property by inheritance or by will is not an absolute or natural right, but one created by the laws of the sovereign power. This court has so said (State ex rel v. Henderson, 160 Mo. l. c. 216.) (2) That this sovereign power (the state in this case) may foreclose the right absolutely, or it may grant the right upon conditions precedent, which conditions, if not otherwise violative of our Constitution, will have to be complied with before the right of descent and distribution (whether under the law or by will) can exist. And (3) that this right of the state to foreclose absolutely, or partially, the right to inherit by law or by will, is not strictly the exercise of the taxing power of the state, but the exercise of that other power which is inherent in its sovereignty, which allows the State or the Nation to say what shall be done with the property owned by the citizen at the time of his death. No provision of the Missouri Constitution stays the free hand of our law-makers as to the disposition of property owned by a citizen at the time of his death. It can be appropriated by the state, if the law-makers so decree. It may be partially taken, if the law-makers so decree. It may be permitted to descend (by will or otherwise) upon conditions precedent, if the law-makers so decree.

In this case the effect of the law is to permit the property of a deceased person to pass to others, rather than to the state, but upon conditions in the law prescribed. It is not strictly the exercise of the taxing power at all. It is, however, the exercise

of a sovereign power, which has not been prohibited by the Constitution, for it is so recognized. But what we do mean is that laws which take possession of the property of a deceased person and fixes conditions precedent upon the transfer thereof, are not necessarily the exercise of the taxing power at all.

The character of the law must be determined from its effect, rather than from the technical name which may be given thereto (*State v. Bengsch*, 170 Mo., p. 81, and other cases determining whether a law was intended for a tax on property or otherwise). After the passage of the Act of 1917, it is clear that the Legislature intended to limit the transfer of property from the estate of the deceased to others. It is clear that the whole property is placed in the hands of the custodian of the state, subject to the conditions precedent to the transfer.

Upon the whole, we are firmly convinced that the law is not referable to the taxing power at all, but is referable to the power of the state to say what becomes of the property of a person when death forecloses his right to control it. With this view of the case there is not much more left therein. We shall, however, discuss the matter from other angles suggested in the briefs."

TAXING POWER.

On the theory that the law is not the exercise of the taxing power, but of another and different sovereign power, the divers and sundry constitutional provisions as to taxation disappear from the case. This for the reason that these constitutional provisions are but limitations upon the exercise of the taxing power, and none other. * * * * *

The idea that such laws are the exercise of the taxing power of the state no doubt comes from expressions of the laws themselves and because in them we find no direct repeal of statutes relative to descents and distributions or wills. Statutes, however, may be repealed or modified by later statutes, which conflict therewith, and in this case we have a statute which imposed conditions precedent to inheritance which clearly conflict with previous laws as to descents and distributions, and also the law as to wills. To illustrate, the present law as to descents and distributions does not contain any limitations upon the right, as is contained in the law now before us. In so far as the latter law conflicts with the former, it repeals it. So, too, as to the law of wills.

The same fundamental principles have been established in practically every state.

9 R. C. L., Page 13.

Smith v. Browning, 255 N. Y. 358.

Keenvey v. New York, 222 U. S. 525;

Pullen v. Commissioners, 66 N. C. 296;

Magown v. Illinois T. & S. B., 170 U. S. 283;

Re Speed, 216 Ill. 23.

THE MISSOURI INHERITANCE TAX LAW.

IMPORTANT PROVISIONS.

This law became effective June 18, 1917, the portions in italics are the changes enacted by the regular session of the legislature, 1921, going into effect June 20, 1921, except those changes in Section 561 which were made at the extra session of the legislature, 1921, going into effect November 2, 1921.

Our statute in general provides for a graduated tax, the brackets starting from one dollar (above the exemption) to twenty thousand dollars; the second bracket is from twenty to forty thousand dollars and the other and higher brackets are of greater amounts. The tax is figured only on the amounts each beneficiary receives and not on the entire estate.

The rates begin at one per cent on the first bracket and then increases by one per cent up to six per cent upon all over four hundred thousand received; these are the rates in case the beneficiary is husband, wife or direct heir. The rates begin at three per cent in case the beneficiary is a brother, sister, nephew, niece, aunt or cousin of the decedent.

The exemptions at present are fifteen thousand dollars for husband, or wife, five thousand for direct heir, five hundred for brother, sister, nephew or niece, and lesser exemptions for other beneficiaries of lesser degree of relationship to the decedent.

The extra session of the legislature, 1921, increased the exemptions of the husband and wife to twenty thousand dollars and also exempted dower. If the decedent died prior to November 2, 1921, his beneficiaries shall be entitled only to the old exemptions.

On July 19, 1921, the Attorney-General ruled that the proper method of computing the

inheritance tax was to deduct the exemption first from the entire beneficial interest and then set out the first bracket; this changed the method of computing the inheritance tax in this state.

If the tax is not paid within nine months after the death of the decedent, interest at the rate of six per cent is assessed from the date of death of decedent for the first year and twelve per cent thereafter.

No executor can be discharged or an estate distributed until the official receipt of the State Treasurer for the full inheritance tax is filed in the Probate Court. Section 565, R. S. Mo. 1919.

Executors, administrators and trustees are made personally liable for the tax by Section 564, R. S. Mo. 1919.

Where the decedent owned real estate at the time of his death it is very important that the inheritance tax be determined in the Probate Court, or an order entered showing no tax due, otherwise the title thereto may thereafter be defective. The inheritance tax is made a lien upon the property.

It is not necessary for the determination of the inheritance tax that letters of administration be taken out.

The Probate Judge or an appraiser appointed by the Probate Court, or, in case of personal property only, the prosecuting attorney can value and appraise the property for the purposes of the inheritance tax. The Probate Court in every case assesses and determines the tax upon the different distributive interests.

Any person, bank, trust company or any other corporation which has in its or their possession property (no matter what amount) belonging to or standing in the name of a decedent, cannot transfer the same to the beneficiaries or to the executor or administrator without first procuring the consent of the state departments. Blanks for these purposes can be procured from the office of the State Treasurer, Jefferson City. Section 568, R. S. Mo. 1919. (See instructions in this pamphlet.)

The administration of this law is in the charge of the Treasurer of the State of Missouri.

THE STATUTE.

The following is a copy of our statute as amended by the 1921 sessions of the legislature, accompanied by rulings of the Attorney-General of Missouri and principles established by the courts of other states.

Sec. 558. Property Subject to Tax.—A tax shall be and is hereby imposed upon the transfer of any property, real, personal or mixed or any interest therein or income therefrom, in trust or otherwise, to persons, institutions, associations, or corporations, not hereinafter exempted, in the following cases: When the transfer is by will or by the intestate laws of this state from any person dying possessed of the property while a resident of this state. When the transfer is by will, or intestate law of property within the state, or within the jurisdiction of the state and decedent was a nonresident of the state at the time of his death. When the transfer is made by a resident or by a nonresident when such nonresident's property is within this state, or within its jurisdiction, by deed, grant, bargain, sale or gift made in contemplation of death of grantor, vendor, or donor or intending to take effect in possession or enjoyment at or after such death. Every transfer by deed, grant, bargain, sale or gift made within two years prior to the death of grantor, vendor or donor, of a material part of his estate or in the nature of a final disposition or distribution thereof without an adequate valuable consideration shall be construed to have been made in contemplation of death within the meaning of this section. Such tax shall be imposed when any person, association, institution or corporation actually comes into the possession and enjoyment of the property, interest therein or income therefrom, whether the transfer thereof is made before or after the passage of this act: *Provided*, that property which is actually vested in such persons or corporations before this act takes effect shall not be subject to the tax. (Laws 1917, p. 115.)

PROPERTY GENERALLY.

1. Real and personal property of a nonresident decedent situate within the state is subject to tax. (Ruling.)
2. Personal property of resident decedent, located outside the state is subject to tax. (Ruling.)
3. Shares of stock of Missouri corporations are subject to tax regardless of their location or decedent owner's residence. (Ruling.)
4. Notes or bonds held outside the state by a nonresident and secured by mortgages on real estate within the state are not taxable. (Ruling.)
5. Personal property owned by a nonresident, but held as collateral within the state is not taxable. (Ruling.)
6. Tax-exempt securities, such as Government bonds, War Savings Stamps, etc., are taxable.
7. Stock of National Banks is taxable. (Ruling.)
8. Debt owing by resident debtor to nonresident creditor, is not subject to tax upon the death of the latter.
9. Bonds of Missouri corporations held outside the state by nonresidents are not subject to tax. (Ruling.)
10. Real estate outside of the state is not subject to this tax. (Ruling.)

TRANSFERS GENERALLY.

1. Right of state to levy tax accrues at testator's death and the value of the property is assessed as of that date. (Ruling.)
2. Tax on gifts made in contemplation of death accrues on transfer and the property values are assessed as of that date.
3. Where property passes by will by virtue of power of appointment contained in earlier will, transfer is taxed as part of estate of the decedent who died last.
4. Gifts made in contemplation of death are taxable, even where there is no fraudulent intent to evade the law. (Ruling.)
5. Gifts made by decedent to take effect in possession and enjoyment after his death, retaining income of property to himself for life, are taxable.
6. Where personal property is bequeathed to one for life with full control of "all my property" and at her death "what remains" to go to next of kin, held to be taxable only as life estate. (Ruling.)
7. Residence, under inheritance tax law, is synonymous with domicile.

8. Gifts made within two years prior to the death of the donor are all subject to the tax. The statute defines such gifts as gifts in contemplation of death. (Ruling.)

THE FOLLOWING TRANSFERS ARE TAXABLE.

1. Escheats. (Ruling.)
2. Legacy to the United States.
3. Forgiveness of debt to debtor.
4. Legacy to executor or trustee in excess of amount of legal commission.
5. Gift received under contract to bequeath property.
6. Transfer by will whether given as gratuity or as payment of debt. (Ruling.)
7. Insurance, if made payable to the estate.
8. Future contingent estates created before the tax law became effective. (Ruling.)
9. Vested future estates created after the tax law became effective.
10. Gifts in contemplation of death.

THE FOLLOWING TRANSFERS ARE NOT TAXABLE.

1. Legacy for the maintenance of burial plot.
2. Vested estates created before tax law became effective. (Ruling.)
3. Amount of legacy renounced.
4. Gifts made upon adequate valuable consideration.
5. To the survivor in cases of tenancy by the entirety. (Ruling.)
6. War Risk Insurance. (Ruling.)
7. Insurance, if made payable to a beneficiary.

Sec. 559. What Deemed a Transfer—Tax to be Determined by Clear Market Value.—Whenever any person or corporation shall exercise the power of appointment derived from any disposition of property made either before or after the passage of this act, such appointment when made shall be deemed a transfer taxable under the provisions of this act in the same manner as though the property to which said appointment relates belonged absolutely to the donee of such power and had been bequeathed or devised by the donor by will; and whenever any person or corporation possessing such power of appointment so derived shall omit or fail to exercise the same within the time provided therefor, in whole or in part, a transfer taxable under the provision of

this act shall be deemed to take place to the extent of such omission or failure in the same manner as though the persons or corporations thereby becoming entitled to the possession or enjoyment of the property to which such power relates had succeeded thereto by a will of the donee of the power failing to exercise such power taking effect at the time of such omission or failure. The tax so imposed shall be determined by the clear market value of such property at the rate hereinafter prescribed and only upon the excess over the exemptions hereinafter made.

EXPLANATION.

Transfers occasioned by the exercise of a power of appointment are taxable to the same extent as if the donee of the power were the absolute owner of the property so transferred. Transfers occasioned by the failure to exercise such power, are taxable to the same extent as if the donee of the power had died leaving a will to the same effect.

The last sentence in this section is in part the grounds for the ruling of the Attorney-General to the effect that the exemption should first be deducted from the entire beneficial interest and then the first bracket set out.

Property must be appraised at its *clear market value*.

Sec. 560. Twenty Thousand or Less—Rates.—

When property or any beneficial interest therein or income therefrom passes by any such transfer where the amount of property, interest or income shall exceed in value the exemption hereinafter specified and shall not exceed in value twenty thousand dollars, the tax hereby imposed shall be as follows:

(1) **One Per Cent.**—Where the person or persons to whom such property or any beneficial interest therein passes, shall be the husband, wife, lineal descendant, or any lineal ancestor of the decedent, or any legally adopted child or any lineal descendant of such adopted child, or child born out of lawful wedlock, at the rate of one per centum of the clear market value of such property or interest therein.

(2) **Three Per Cent.**—Where the person or persons to whom such property or any beneficial interest therein passes shall be the brother or sister, or the descendant of a brother or sister of the decedent, the wife or widow of a son, or the husband of a daughter of the decedent, at the rate of three per centum of the clear market value of such property or interest therein.

(3) **Three Per Cent.**—Where the person or persons to whom such property or any beneficial interest therein passes shall be the brother or sister of the father or mother of the decedent, or a descendant of a brother or sister of the father or mother of the decedent at the rate of three per centum of the clear market value of such property or beneficial interest therein.

(4) **Four Per Cent.**—Where the person or persons to whom any such property or beneficial interest therein passes shall be the brother or sister of the grandfather or grandmother of the decedent, or a descendant of the brother or sister of the grandfather or grandmother of the decedent, at the rate of four per centum of the clear market value of such property or beneficial interest therein.

(5) **Five Per Cent—Other Rates.**—Where the person or persons to whom such property or any beneficial interest therein passes shall be in any other degree of collateral consanguinity than as hereinbefore stated, or shall be a stranger in blood to the decedent or shall be a body politic, association, institution, or corporation, at the rate of five per centum of the clear market value of such property or interest therein.

(6) When the amount of the clear market value of such property or interest therein exceeds twenty thousand dollars the rates of taxes upon such excess shall be as follows: Upon all in excess of twenty thousand dollars and up to forty thousand dollars two times the rates fixed in the *preceding subdivisions* of this section. Upon all in excess of forty thousand dollars and up to eighty thousand dollars, three times the rates fixed in the *preceding subdivisions* of this section. Upon all in excess of eighty thousand dollars and up to two hundred thousand dollars, four times the rates fixed in the *preceding subdivisions* of this section. Upon all in excess of two hundred thousand dollars and up to four hundred thousand dollars, five times the rates fixed in the *preceding subdivisions* of this section. Upon all in excess of four hundred thousand dollars, six times the rates fixed in the *preceding subdivisions* of this section.

RATES AND BRACKETS.

The first bracket begins after the exemptions are deducted. (Ruling.)

There is no exemption for those beneficiaries enumerated in subdivision five. (Ruling.)

Foreign charities, religious and educational institutions, including national organizations, are taxed under subdivision five.

Stepchildren are considered strangers.

TABLE OF RATES AND EXEMPTIONS.

Class of Relationship	Amount of exemption.	\$1.00 to \$20,000	\$20,000 to \$40,000	\$40,000 to \$80,000	\$80,000 to \$200,000	\$200,000 to \$400,000	In excess of \$400,000
Husband or wife.	\$20,000						
Innate and blood lineal descendants.	\$15,000	1%	2%	3%	4%	5%	6%
Lineal ancestor, lineal descendant, adopted child or its descendant, or illegitimate child.	\$5,000						
Brother, sister or their descendants, son-in-law, daughter-in-law.	\$300	3%	6%	9%	12%	15%	18%
Aunt, uncle or their descendants.	\$250	3%	6%	9%	12%	15%	18%
Brother or sister of grandparents or their descendants.	\$100	4%	8%	12%	16%	20%	24%
All others, including foreign charitable and religious bequests.	If less than \$100 not taxed.	5%	10%	15%	20%	25%	30%

Sec. 561. The following shall be exempt from taxes provided for in this article: All transfers of property or any beneficial interest therein to be used and actually used solely for county, city, town or municipal purposes or for religious, charitable, or

educational purposes in this state, whether such transfer be made directly or indirectly and said property shall be exempt from the tax where the same descends from a trustee or trustees to other trustee or trustees who hold property for the uses of the above named institutions. All transfers of property or any beneficial interest therein of the clear market value of *twenty thousand* dollars to the surviving husband or wife, *said exemption to be in addition to the marital rights of the widow or widower*, and five thousand dollars to each of the other persons described in the first subdivision, section 560 of this article. *Provided, however, that in all cases where any of the lineal descendants of the decedent are idiotic, insane, blind, deformed or otherwise mentally or physically incapacitated from performing labor whereby such descendant may not be able to earn a living there shall be exempted from the provisions of this article an amount up to the sum of fifteen thousand dollars.* All transfers of property or any beneficial interest therein of the clear market value of five hundred dollars to each of the persons described in the second subdivision of section 560 of this article. All transfers of property or any beneficial interest therein of the clear market value of two hundred and fifty dollars to each of the persons described in the third subdivision of Section 560 of this article. All transfers of property or any beneficial interest therein of the clear market value of one hundred dollars to each of the persons described in the fourth subdivision of Section 560 of this article. All transfers of property or any beneficial interest therein of which the clear market value shall be less than one hundred dollars shall not be subject to any tax. (Laws of Extra Session, 1921, page 28.)

EXEMPTIONS.

The amended portion, that in italics, goes into effect November 2, 1921, and will apply only to those estates in which the decedent died subsequent to that date.

Strangers have no exemption whatever. (Ruling.)

No bequest of less than one hundred dollars is subject to the tax.

Sec. 562. When Property Appraised—Beneficiary May Elect, etc.—When any property, interest therein or income therefrom *belonging to any estate in course of administration*, shall pass or be limited for the life of another or for a term of years, or to terminate on expiration of a certain period,

the property so passing shall be appraised immediately after the death of the decedent and the value of said life estate, term of years or period of limitation, shall be valued according to mortality tables, using the interest rate or income rate of five per cent., and the value of the remainder in said property so limited shall be ascertained by deducting the value of the life estate, term of years or period of limitation from the clear market value of the property so limited and the tax on the transfer of the separate estate or estates, remainder or remainders, or interest shall be immediately due and payable to the state treasurer together with interest thereon and said tax shall accrue as provided in Section 563 of this article and remain a lien upon the entire property until paid; *provided*, that the persons, institutions, association or corporation beneficially interested in property chargeable with said tax may elect not to pay the same until they come into actual possession or enjoyment of such property, then in that case said person, association or corporation shall give bond payable to the state of Missouri, in a penal sum three times the sum or amount of taxes due upon such transfer, with such sureties as the probate court, or any other court having jurisdiction of the matter, may approve, conditioned for the payment of said tax and interest thereon *from the date such tax is due* at such time or period as they or their representative may come into the actual possession or enjoyment of said property, which bond shall be executed in duplicate and one copy filed in the office of the probate judge of the proper county, and the other with the state treasurer; *provided further* that every person, institution, association or corporation shall make and file with the probate court of the county a full verified return of said property or interest therein, within one year of the death of the decedent, with the bond and sureties as above provided; *and provided further*, that said person, institution, association or corporation shall renew said bond every five years after the date of the death of decedent. (Laws of 1921, page 115.)

LIFE ESTATES AND VESTED REMAINDERS.

This section provides for the method of valuing and taxing life estates and remainders. Taxes upon remainders are immediately due upon death of the decedent. Bond may be given by remaindermen, but such bond must cover not only treble the tax, but must also provide for six per cent. interest.

The tax remains a lien upon the entire property until paid.

MORTALITY TABLE USED BY THE INSURANCE DEPARTMENT FOR
THE PURPOSE OF DETERMINING THE VALUE OF LIFE ESTATES
AND COMPUTING THE TAX UNDER THE TRANSFER AND
INHERITANCE TAX LAW, ON A BASIS OF 5%.

Age.	Present value.	Age.	Present value.	Age.	Present value.
10	16.556	40	13.433	70	5.983
11	16.502	41	13.252	71	5.718
12	16.445	42	13.064	72	5.457
13	16.386	43	12.868	73	5.200
14	16.324	44	12.666	74	4.947
15	16.259	45	12.456	75	4.699
16	16.192	46	12.241	76	4.455
17	16.121	47	12.020	77	4.216
18	16.048	48	11.794	78	3.982
19	15.971	49	11.563	79	3.754
20	15.891	50	11.326	80	3.531
21	15.808	51	11.085	81	3.313
22	15.722	52	10.840	82	3.099
23	15.632	53	10.590	83	2.889
24	15.539	54	10.336	84	2.681
25	15.442	55	10.077	85	2.474
26	15.341	56	9.816	86	2.268
27	15.236	57	9.550	87	2.063
28	15.127	58	9.282	88	1.858
29	15.014	59	9.010	89	1.655
30	14.896	60	8.735	90	1.456
31	14.774	61	8.459	91	1.261
32	14.647	62	8.182	92	1.072
33	14.515	63	7.903	93	.892
34	14.378	64	7.625	94	.726
35	14.235	65	7.347	95	.576
36	14.087	66	7.070	96	.456
37	13.933	67	6.795	97	.363
38	13.773	68	6.521	98	.238
39	13.606	69	6.251		

Sec. 563. Taxes When Due—Interest—Apportionment—How Made, etc.—All taxes imposed by this article, unless otherwise herein provided for, shall be due and payable at the death of the decedent, and interest at the rate of six per cent. per annum shall be charged and collected thereon for such time as said taxes are not paid, *unless the payment of interest is abated or time of payment extended by order of the probate court, because without negligence final assessment of tax cannot be made*; provided, that if said taxes are paid within nine months from the accrual thereof, or within the period of said extension for the payment thereof interest shall not be charged or collected thereon, and in all cases where the executor, administrator, or trustee does not pay such tax within one year from the death of the decedent they shall be required to give bond in the form and to the effect prescribed in section 562 of this article for the payment of said tax, together with interest at the rate of one per cent. per month, *unless abated*

or extended as aforesaid. Any administrator, executor or trustee having in charge or in trust any legacies or property for distribution subject to the tax imposed by this article, shall deduct the tax therefrom if the transfer be in money, and if not he shall collect the tax thereon from the legatee, grantee, donee devisee or person entitled to such property, and he shall not deliver or be compelled to deliver any specific legacy or property subject to this tax to any person until he shall have collected the tax thereon; and whenever any such legacy or interest shall be charged upon or payable out of real estate, the heir or devisee before paying the same shall take said tax therefrom and pay the same to the executor, administrator or trustee and the same shall remain a charge on such real estate until paid and the payment thereof shall be enforced by the executor, administrator or trustee in the same manner that the said payment of said legacy may be enforced. If, however, such legacy be given in money to any person for a limited period, the administrator, executor or trustee shall return the tax upon the whole amount, but if it be not in money he shall make application to the court having jurisdiction of his account to make an apportionment if the case requires it of the sum to be paid into his hands by such legatee and for such further orders relative thereto as the case may require.

INTEREST AND PENALTIES.

Six per cent. interest upon the tax begins to run at the death of the decedent, but if the tax is paid within nine months, the interest is remitted. If the tax is not paid on time six per cent. interest is charged for the first year and twelve per cent. thereafter.

Partial payments, fully covering the tax on part of the beneficiaries, may be made to the state treasurer, who will issue the official receipt for such payment. In this way interest and penalties may be stopped upon such taxes paid.

In case of litigation over the estate, like a will contest, six per cent. interest will be charged, but the penalties will be remitted for the period of time elapsing during such litigation. (Ruling.)

This section also provides that it is the duty of the executor, administrator or trustee to collect the tax from those beneficiaries receiving real estate and also that they must deduct from the shares of the beneficiaries in the personal property the amount of the tax. They must also pay the tax on the remainders. If they do not follow this section they are personally liable as provided by the next section.

Sec. 564. Executors, Administrators and Trustees Personally Liable, When.—All executors, administrators and trustees of any estate, property, interest therein, or income therefrom so transferred shall be personally liable for such tax and interest until they are paid. Any executor, administrator or trustee shall have full power to sell so much of the property of the decedent as will enable him to pay said tax in the same manner as they may be enabled to do by law for the payment of the debts of the estate and the interest of said tax shall be paid as hereinafter directed.

PERSONAL LIABILITY.

Executors, administrators and trustees are not only liable for tax upon transfer of personal property, but also for the tax upon the transfer of real estate. The tax is the same as a debt. It must be paid before the estate can be closed or distributed. It is not necessary for the state to make claim for the same. The next section is also very important.

Sec. 565. Money to Be Paid Into State Treasury in 30 Days—Receipt to Be Countersigned by State Auditor, etc.—Every sum of money retained by any executor, administrator, or trustee or paid into his hands for any taxes on any property or derived from any source whatever for the payment of any such taxes shall be paid by him within thirty days thereafter into the state treasury *except two and one-half per cent. of such tax which he shall pay to the probate judge for his fees.* Upon the payment to the state treasurer of any taxes due under this act, such treasurer shall issue a receipt therefor in triplicate, one copy of which he shall deliver to the person paying said tax and the original and one copy of which he shall immediately send to the state auditor whose duty it shall be to charge the treasurer so receiving the tax with the amount thereof and said auditor shall retain one of said receipts and the other he shall countersign and seal with the seal of his office and immediately transmit to the clerk of the court fixing such tax and no executor, administrator or trustee shall be entitled to credit in his accounts or be discharged from liability from said tax, nor shall such estate be distributed or closed unless a receipt so sealed and countersigned by the state auditor or a copy thereof duly certified by him shall have been filed with the court.

PAYMENT OF TAX AND RECEIPT.

The executor, administrator, trustee or whoever pays the tax, must pay ninety-seven and one-half per cent. of the tax to the state treasurer and two and one-half per cent. of the tax to the probate judge.

The state treasurer sends out a statement of the tax upon receipt of a copy of the "Report of Appraiser" from the probate court.

No estate can be closed or distributed until the full tax is paid; the full payment must be evidenced by the official receipt of the state treasurer on file in the probate court.

Probate judges are entitled to a fee of two and one-half per cent., providing the decedent died after March 15, 1921.

The executor or administrator paying the tax should send the fee due the probate judge direct to him and send the balance due the state treasurer direct to the state treasurer.

Sec. 566. Excess to be Taxed, etc.—If a testator devises or bequeaths property to one or more executors or trustees in lieu of their commission or allowances, or makes them his devisees or legatees to an amount exceeding the commission or allowance prescribed by law for an executor or trustee, the excess in value of the property so bequeathed above the amount of commission or allowances prescribed by law in similar cases shall be subject to the tax imposed by this act.

Sec. 567. Refund, How Paid, etc.—Whenever any debts shall be proven against the estate of a decedent after the payment of legacies or disposition of property from which the tax has been taken or upon which it has been paid and a refund is made by the legatee, devisee, heir or next of kin, a proportion of the tax so deducted or paid shall be refunded to him by the executor, administrator or trustee if said tax has not been paid into the state treasury, or by said state treasurer if it has been so paid.

PROCEDURE.

It is necessary to procure an order of the probate court for a refund. This order must be forwarded to the state treasurer. Lawyers should favor the office of the state treasurer with copy of their petition for such refund.

Sec. 568. Ten Days' Notice to State Treasurer and Attorney-General of Transfer, When.—If a foreign executor, administrator or trustee shall assign or transfer any stock or obligation in this state standing in the name of the decedent or in trust for a decedent liable for any such tax, the tax shall be paid to the state treasurer on the transfer thereof. No safe deposit company, trust company, corporation, bank or other institution, person or persons having in possession or under control securities, deposits or other assets belonging to or standing in the name of a decedent who is a resident or non-

resident, or belonging to or standing in the joint names of such a decedent and one or more persons, including the shares or capital stock or other interest in a safe deposit company, trust company, corporation, bank or other institution making a delivery or transfer herein provided, shall deliver or transfer the same to the executor, administrator or legal representatives of said decedent or the survivor or survivors when in the joint name of a decedent and one or more persons or upon their order or request unless notice of the time and place of such intended delivery or transfer be served upon the state treasurer and attorney-general at least ten days prior to said delivery or transfer; nor shall any safe deposit company, trust company, corporation, bank, or other institution, person or persons, deliver or transfer any securities, deposits, or other assets belonging to or standing in the name of decedent or belonging to or standing in the joint names of a decedent and one or more persons, including the shares of capital stock of or any other interest in the safe deposit company, trust company, corporation, bank or other institution making the delivery or transfer without retaining a sufficient portion or amount thereof to pay any tax or interest which may thereafter be assessed on account of the delivery or transfer of such securities, deposits, or other assets, including the shares of capital stock or other interest in the safe deposit company, trust company, corporation, bank or other institution making the delivery or transfer under the provisions of this article unless the state treasurer and the attorney-general consent thereto in writing. And it shall be lawful for the state treasurer, together with the attorney-general, personally or by representative, to examine said securities, deposits or assets at the time of such delivery or transfer. Failure to serve such notice or failure to allow such examination or failure to retain a sufficient portion or amount to pay such tax or interest as herein provided shall render said safe deposit company, trust company, corporation, bank or other institution, person or persons liable to the payment of the amount of the tax and interest due or thereafter to become due upon said securities, deposits or other assets, including the charges of capital stock of, or other interest in the safe deposit company, trust company, corporation, bank or other institution making the delivery or transfer, and in addition thereto a penalty of one thousand dollars; and the payment of such tax and interest thereon or the penalty above prescribed or both may be enforced in an action brought by the state treasurer in any court of competent jurisdiction.

BANKS AND TRUST COMPANIES.

No institution, corporation or person shall transfer or deliver any property or interest therein belonging to or standing in the name of a decedent, without first notifying the state treasurer and attorney-general of the state of Missouri of intention so to do, and obtaining the consent of said officials to such transfer or delivery. Failure to comply with these provisions shall subject said institution, corporation or person to liability for the amount of the tax and interest found to be due on account of said transfer and, in addition, to a penalty of one thousand dollars (\$1,000.00).

As the highest rate for which the transfer of any portion of an estate may be liable is thirty per cent. (30%), it is obvious that such institution, corporation or person may safely transfer or deliver seventy per cent. (70%) of such property immediately and pending the service of notice and obtaining of consent of the state officials required by the provisions of said section.

A. Where There Is Administration.

Where letters of administration or testamentary have been taken out on an estate, but little delay, trouble or annoyance is experienced by anyone affected by the provisions of this section of the act. In such estates it is only necessary that the person in whose possession, or under whose control property belonging to a decedent is found at the time of his death, forward to the state treasurer and attorney-general the notice required by said section. Said officials, upon receipt of such notice, issue at once their Waiver of Appearance and Consent to the transfer or delivery of the assets concerned, *conditioned* as in said waiver set out. The law requires that such person give ten days' notice of intention to deliver and such notice must be given, but under the plan in operation, the institution or person giving the notice may transfer or deliver said assets immediately upon receipt of the state's Waiver and Consent.

We wish, however, to emphasize that the property and assets left by a decedent may be appraised and the tax thereon determined **INDEPENDENT OF ADMINISTRATION.**

B. Where There Is No Administration.

Where the decedent left a small *deposit* in a bank or savings institution and *no administration* has been had or none is contemplated on his estate, the state

departments have devised a simple and more expeditious procedure for the convenience of the banks and small estates.

1. Deposits.

Where the beneficiaries are surviving husband or wife, mother or father, or direct lineal descendant of deceased, the amount to be transferred does not exceed \$2,500.00, and the affidavit of such beneficiaries shows that the total value of the estate cannot reach the amount of the exemptions allowed such beneficiaries, then the bank may have the blank, "Statement and Inventory," executed. When this is done the deposit may be immediately transferred without further consent of the state departments, but the "Statement and Inventory" should be forwarded to the state treasurer. The above requirements must be strictly followed.

Where there are more than one such beneficiary, then the deposit to be transferred as above may be as much as \$5,000.00. In any event the "Statement and Inventory" cannot be used if there could possibly be an inheritance tax due.

When the beneficiaries are *brother, sister, niece or nephew* then the same conditions as above apply, except that the deposit must not exceed \$500.00.

These blanks, "Statement and Inventory," may be used where the amount of the deposit exceeds the above amounts, but then only as a preliminary showing. In such cases the executed blank should be forwarded to the state treasurer and the property should not be transferred until the bank receives the state's unconditional waiver.

2. Joint Accounts.

The above rules in regard to the use of the "Statement and Inventory" also apply to joint deposits, except that the limit in the amount of the deposit is double, that is, one-half of the joint deposit must not exceed the above limits.

3. Safety Deposit Boxes.

The above rules in regard to the use of the "Statement and Inventory" also apply to the transfer of the contents of safety deposit boxes standing in the name of deceased, but the contents must be of fixed value. The bank must certify that the contents do not exceed in value the above limits. And it is important to keep in mind that this procedure applies only in case there is no administration on the estate. The value of the contents of the safety deposit box must be added to any deposit in determining whether or not the assets in the bank's possession reaches the restricted limits.

C. Small Estates Where a Tax Is Due.

Such a situation should be taken up with the probate court; the probate judge has power to appraise an estate and assess the tax. A copy of his appraisal and assessment of the tax should be forwarded to the state treasurer along with draft or certified check for the tax. The state treasurer will then immediately issue the state's consent for the transfer of any of the assets listed in the appraisal.

D. Transfer of Property to Beneficiaries.

Unconditional waivers can be procured from the office of the state treasurer for the transfer of any of the assets which are listed in the "Report of Appraiser." It is therefore important that all property be listed specifically in the "Report of Appraiser."

Where the court finds "No Tax Due," then the property may be transferred without penalty. (Section 570.)

E. Other Circumstances.

Where a peculiar set of facts arises, the matter should be taken up with the state treasurer.

F. Foreign Estates.

Where there is no administration in this state, the foreign executor or administrator must execute the blanks forwarded by the state treasurer. When the tax is determined and paid, or no tax is found due, unconditional waivers for the transfer of assets, usually shares of stock in Missouri corporation, will be issued by the state treasurer.

Where there is ancillary administration in Missouri, the inheritance tax is determined in the same manner as is done in domestic estates, that is, by the probate court through an appraiser.

Where there is Missouri real estate, the inheritance tax should be determined by the probate court in the county where most of the land is situate.

Sec. 569. Tax Paid Erroneously to be Refunded, etc.—When any tax shall have been paid erroneously to the state treasurer it shall be lawful for him, on satisfactory proof of said erroneous payment, to refund and pay to the executor, administrator or trustee, person or persons who paid the same, the amount of such tax so erroneously paid; *provided*, that all applications for the refund of said tax shall be made within two years from the date of the *accrual of the right to such refund*. (Laws of 1921, page 115.)

PROCEDURE.

It is necessary to procure an order of the probate court for a refund.

Sec. 570. Jurisdiction, Court to Appoint Appraisers, When.—The probate court which grants letters testamentary or of administration, either original or ancillary, on the estate of any decedent, shall have jurisdiction to determine the amount of the tax provided for in this act and the person, persons, association, institution or corporation liable therefor, and to determine any question which may arise in connection therewith, and to do any act in relation thereto which is authorized by law to be done by such court in other matters or proceedings coming within its jurisdiction. *Such court or the judge thereof in vacation shall immediately upon the filing of the inventory and appraisement of the estate of a decedent, examine the same, and if it is apparent, in the opinion of said court or judge, that such estate is not subject to the tax provided for in this act, such finding and opinion shall be entered of record in said court, and thereupon the provisions of section 568 shall become inoperative as to the holders of funds or other property thereof, and there shall be no further proceedings relating to such tax, unless upon the application of interested parties the existence of other property or an erroneous appraisement be shown. If it appear that said estate may be subject to such tax, it shall be the duty of the court to set a day for the hearing and determining the amount of said tax and to cause notice thereof to be given in the same time and manner and to the same parties as is hereinafter provided for appraisers, or the court before determining such matters, may of its own motion, or on the application of any interested person, including the state treasurer, the prosecuting attorney or attorney-general, appoint some qualified tax-paying citizen of the county as appraiser to appraise and fix the clear market value of any property, estate or interest therein, or income therefrom which is subject to the payment of a tax under the provisions of this act. Every such appraiser shall make and subscribe, and file with the court appointing him, an oath that he will faithfully and impartially discharge his duties as such appraiser and that he will appraise all the property, estate, interest therein or income therefrom involved in the proceeding in which he is appointed at its clear market value and shall forthwith fix a time and place for hearing the evidence and shall file notice thereof with the court appointing him not less than ten days prior to the date so fixed and shall also give notice by mail to all interested persons whose address*

he may have, always including the state treasurer and the prosecuting attorney of the county. (Laws of 1921, page 672.)

PROBATE JUDGES AND APPRAISERS.

If it is clear to the probate judge that there could be no inheritance tax due, considering not only the personal property but also real property, the probate court should enter its judgment finding no tax due. This order is very important where there is real property involved. The probate judge should also consider any gifts made within two years prior to death of the decedent.

Where there is real property in other counties, a copy of judgment of the court finding no tax due or assessing the tax should be filed in the probate court of such other county. A copy of the state treasurer's receipt showing payment of the tax, should also be filed in such other county.

The probate judge may act as appraiser, but in doing so he must be governed by the statutes applicable to appraisers. In complicated estates it is advisable to appoint an appraiser.

Where an appraiser files his report in the probate court, the said court should examine the same, and if it approves said report it should enter its order and judgment approving the report and assessing the inheritance tax.

This section does not affect section 568, unless the court has entered an order finding no tax due.

The probate court must require the appraiser to fulfill all the provisions of this and the following sections of the statute.

The probate court may, of its own motion, appoint an appraiser.

Sec. 571. Appraisers—Oath—Duties—Report, etc.—The appraiser shall appraise all property, estate, assets, interest or income at its clear market value and he is hereby authorized to issue subpoenas and compel the attendance before him of witnesses and the production of books, records, documents, papers and all other material evidence, to administer oaths and to take the testimony of all witnesses, under oath. He shall make report of his appraisal to the court in writing and shall return the testimony of the witnesses and all other evidence and such other facts in relation thereto as the court may by its order require, and such report shall be made within twenty days after the appointment of such appraiser, unless the court for good and sufficient cause, by order, gives such appraiser further time in which to report: *Provided, when the estate consists of personal property only, the prosecuting attorney may, with the consent of the state treasurer, agree*

with the parties liable to pay any tax upon the amount of the same, and the court, if it approves such agreement, shall enter judgment accordingly and no appraiser shall be appointed. (Laws of 1921, page 116.)

In complicated estates it is very important that a lawyer, not interested in the estate, be appointed, so that the provisions of this section may be properly used.

The prosecuting attorney may agree with the executor or heirs on the amount of the tax, where the estate consists of personal property only. The prosecuting attorney must first procure the written consent of the state treasurer.

The appraiser should expedite the appraisement as much as possible, in order to avoid interest and penalties against the estate.

Sec. 572. Exceptions—Thirty Days in Which to File—Appeal—Bond.—Any interested person, including the state treasurer, attorney-general or prosecuting attorney of the county may file exceptions to the report of the appraiser within thirty days after the time same is filed, specifically pointing out his or their objection thereto, and such exception shall be determined by the court in a summary manner. Any person aggrieved by the judgment of the court as to the amount of liability for the tax may appeal to the court having jurisdiction of appeals from said court in ordinary civil actions, and in case of appeal the appellant shall be required to give bond to the state in double the amount of the tax, interest, penalty and costs involved, conditioned to pay all taxes, interest and penalties assessed and costs taxed by the appellate court: *Provided*, that the state may appeal in any case without giving bond.

EXCEPTIONS AND APPEAL.

Exceptions to the appraiser's report must be made within thirty days.

Objections to the judgment of the court in assessing the tax must be made during that term of the court.

Attorneys should always furnish the legal department of the state with a copy of their pleadings.

Sec. 573. Appraiser's Report—To Be Filed.—The report of the appraiser shall be filed with the court in duplicate, one of which duplicate copies, together with the certificate of the court or clerk shall be forwarded to the state treasurer within five days after the amount of said tax shall be fixed.

Sec. 574. Appraisers' Per Diem and Expenses—Costs—How Paid.—The appraiser shall be entitled to five dollars a day for the time he is actually engaged in hearing the evidence, viewing the property,

and preparing and filing his reports, and the actual and necessary expenses incurred by him in the performance of his duties, which together with all witness fees and other costs shall be taxed against and paid by the administrator, executor or trustee as other costs of the estate, and if no administration is pending, then by the persons liable for the tax, but before the appraiser shall be entitled to said per diem or expenses he shall file with the court appointing him a sworn statement of the same and the court shall only allow any appraiser his per diem for the time he is actually and necessarily engaged and expenses actually and necessarily paid by him in the performance of his duty as such appraiser and no appraiser shall be allowed the aforesaid per diem in more than three proceedings in the same day. And such appraiser who shall take, directly or indirectly, any fee or reward other than such as may be allowed him by law from any executor, administrator, trustee, legatee, next of kin, or heir of any decedent or from any other person liable to pay said tax or any portion thereof, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five hundred dollars, or be imprisoned in the county jail for six months, or both, and in addition thereto, the attorney-general shall remove him from his office. (Laws of 1921, page 114.)

Sec. 575. Prosecuting Attorneys to Represent State, etc.—The prosecuting attorney shall represent the state at all hearings, proceedings and trials under the provisions of this act in the probate and circuit courts, and the attorney-general shall, at the request of the state treasurer, assist the prosecuting attorney in any such hearing, proceeding or trial and shall appear for and represent the state in any appeal or proceeding in the supreme or appellate courts of the state, and in any case in the federal courts.

Sec. 576. No Administration — Tax, How Fixed.—If any tax shall be due under the provisions of this article and no administration has been had in this state on the estate of the decedent and no proceedings are pending in this state in which the amount of said tax may be fixed or the lien therefor enforced, any person interested in the property or estate may file an affidavit with the probate court of the county wherein the property or estate, or the greater part thereof, is situated, setting forth a description thereof and the clear market value thereof and the names of the persons, associations or corporations liable for the tax thereon, and an appraiser shall be appointed and the tax fixed by said court as hereinbefore provided. *However, the pro-*

bate court of any county in which administration on any such estate should be granted may, on its own motion, appoint such an appraiser. (Laws of 1921, page 116.)

EXPLANATION.

In order to determine the inheritance tax, it is not necessary that letters of administration should be taken out.

Titles to real estate will not be perfect until the inheritance tax has been determined in the probate court, the tax, if any, paid, and the official receipt of the state treasurer filed in the office of the probate court.

Sec. 577. Prosecuting Attorney to Institute Suit, When.—Whenever any tax shall be due under the provisions of this article and no proceedings are pending in this state in which the amount of such tax may be fixed, suit may be instituted in any court of competent jurisdiction by the prosecuting attorney of the county, or, at the request of the state treasurer, by the attorney-general, in the name of the state, to recover such tax and enforce the lien therefor and in any such suit all persons, associations or corporations interested in the estate from which such property is derived, including administrators, executors, guardians, curators and trustees, may be made parties and service may be had on both residents and nonresidents in the same manner as provided by law in civil actions.

Sec. 578. Omissions—How Collected.—Whenever it shall appear to the prosecuting attorney, the judge of the probate court, the state treasurer, or attorney-general that any part of any gift, legacy, inheritance, bequest, devise, appointment or succession liable to the tax herein provided was omitted in fixing the amount of the taxes in any proceeding and that the tax on the same has not been paid, suit may be instituted as hereinbefore provided for the recovery of such tax and the enforcement of the state's lien therefor.

Sec. 579. Joint Defendants, When.—In any proceeding under the provisions of this act all persons, associations or corporations to whom any property or interest therein has passed from a common decedent and the administrator, executor, guardian, curator or trustee may be joined as defendants, together with any lienor, encumbrancer or any other person claiming or appearing to have any interest of any kind whatsoever in said property.

Sec. 580. Value of Future—Contingent or Limited—How Determined.—The value of every future or contingent or limited estate, income, or interest, shall, for the purposes of this article, be

determined by the rule, method and standards of mortality and of value that are set forth in the actuaries' combined experience tables of mortality for ascertaining the value of policies of life insurance and annuities, and for the determination of the liabilities of life insurance companies, save that the rate of interest to be assessed in computing the present value of all future interests and contingencies shall be five per centum per annum. The commissioner of insurance in this state shall, on the application of the court, determine the value of any future or contingent estate, interest or income and certify the same, and such certificate shall be *prima facie* evidence of the value of such estate, interest or income.

Sec. 581. Contingent Encumbrances—No Allowance in Determining Value.—In determining the value of any estate, property, interest therein or income therefrom to the beneficial enjoyment or possession whereof there are persons or corporations presently entitled, no allowance shall be made on account of any contingent encumbrance thereon, nor on account of any contingency upon the happening of which the estate, property, interest or income or some part thereof or interest therein might be abridged, defeated or diminished: *Provided, however,* that in the event of such encumbrance taking effect as an actual burden upon the interest of the beneficiary, or in the event of the abridgment, defeat or diminution of said estate or property or interest therein as aforesaid, a return shall be made to the persons properly entitled thereto of a proportionate part of such tax on account of the encumbrance when taking effect, or so much as will reduce the same to the amount which would have been assessed on account of the actual duration or extent of the estate or interest enjoyed. Such return of tax shall be made in the manner provided by section 569 thereof upon order of the court having jurisdiction.

DEFERABLE ESTATES.

This section provides that if an estate is given which is subject to be defeated before its termination, it must be assumed for the purposes of this inheritance tax, that such possibility of defeasance will not happen.

Sec. 582. When Transferred Subject to Charge, etc.—When any property shall after the passage of this article be transferred subject to any charge, estate or interest, determinable by the death of any person, or at any period ascertainable only by reference to death, the increase accruing to any person or corporation upon the extinction

or determination of such charge, estate or interest, shall be deemed a transfer of property taxable under the provisions of this article in the same manner as though the person or corporation beneficially entitled thereto had then acquired such increase from the person from whom the title to their respective estate or interests is derived. When the property is transferred in trust or otherwise, and the rights, interest or estates of the transferees are wholly dependable upon contingencies or conditions whereby they may be wholly or in part created, defeated, extended or abridged, a tax shall be imposed upon said transfer at the highest rate which, on the happening of any of the said contingencies or conditions, would be possible under the provisions of this article, and such tax so imposed shall be due and payable forthwith by the executor, administrator, or trustee, out of the property transferred: *Provided, however*, that on the happening of any contingency whereby the said property, or any part thereof, is transferred to a person or corporation exempt from taxation under the provisions of this article, or to any person taxable at a rate less than the rate imposed and paid such person or corporation shall be entitled to a return of so much of the tax imposed and paid as is the difference between the amount paid and the amount which said person or corporation should pay under the provisions of this article. Such return of overpayment shall be made in the manner provided by section 569 of this article, upon the order of the court having jurisdiction. Estates in expectancy which are contingent or defeasible and in which proceedings for the determination of the tax have not been taken or where the taxation thereof has been held in abeyance, shall be appraised at their full, undiminished value when the persons entitled thereto shall come into the beneficial enjoyment or possession thereof, without diminution for or on account of any valuation theretofore made of the particular estate for the purposes of taxation, upon which said estates in expectancy may have been limited. Where an estate for life or for years can be divested by the act or omission of the legatee or devisee it shall be taxed as if there were no possibility of such divesting.

CONTINGENT ESTATES.

Where property is placed in trust for the purpose of paying the income from the property to certain beneficiaries for their life or lives, or for a term of years, with a contingent remainder or executory devise thereafter, the value of the life estate or estates or term of years must be determined and the tax paid thereon. This value should be de-

ducted from the total value of the property so placed in trust, and the result is the value of the remainder. The contingencies are either as to the persons who will take or as to the *quantum* of the estate that certain person will take. All these possibilities in remainder must be examined and that one, which bears the highest amount of tax, must be chosen; in other words, it must be assumed that *that one* contingency will happen in the future and must be taxed accordingly at the present time.

This is the state's only and last chance to impose a tax upon such remainders. No inheritance tax can be suspended or placed in abeyance under the present statute.

There is, however, a provision for a refund of that part of the tax which is later proven by time not to have been due at the death of the decedent.

This tax must be paid by the executor out of the "property so transferred," the *corpus* of the estate.

There are a great many cases upon this point in Illinois and New York.

This section also provides that if the tax on future contingent estates has been placed in abeyance under the old law in past years, it must be paid on the vesting of these contingencies. That is, all contingent estates created before this law went into effect, and which are just now vesting, are subject to the inheritance tax. If this tax is not paid, the trustee is personally liable for the same. If this property held in trust, is transferred to such remaindermen without the consent of the state departments, such trustee is liable not only for the tax but also for a \$1,000.00 penalty. These matters should be taken up with the legal department of the state.

Sec. 583. Actions to Quiet Title—How.—Actions may be brought against the state for the purpose of quieting the title to any property against the lien or claim of lien of any tax or taxes under this article, or for the purpose of having it determined that any property is not subject to any lien for taxes under this article. In any such action, the plaintiffs may be any administrator, or executor of the estate or will of any decedent whether the said estate shall have been fully administered and the estate settled and closed or not, and any heir, legatee, devisee of any such decedent or trustee, of the estate or of any part of the estate of such decedent or distributee of the estate or of any part of the estate of any such decedent, and any assignee, grantee or successor in interest of any such persons, and all or any other persons who might be made parties defendant in any action brought by the state under the provisions of this section, and notwithstanding that all or any of the persons enum-

erated in this section shall or may have assigned, granted, conveyed or otherwise parted with all or any interest in or title to the property, or any part thereof, involved in any such claim or lien before the commencement of such action. All or any of the persons in this action enumerated may be joined or united as parties plaintiff. The enumeration in this section of the parties who may be made parties shall not be deemed to be exclusive, but the joinder or nonjoinder of parties except when otherwise herein provided, shall be governed by the rules in equity in similar cases. In all cases any person who might properly be a party plaintiff in any such action who refuses to join as plaintiff may be made a defendant. All actions under this section shall be commenced in the circuit court of the county in which is situated any part of any real property against which any lien is sought to be enforced, or to which title is sought to be quieted against any lien or claim of lien; but if in said action no lien against real property is sought to be enforced, the action shall be brought in the circuit court of the county which has, or which had jurisdiction of the administration of the estate of the decedent mentioned herein. Service of summons in the actions brought against the state shall be made on the state treasurer and the prosecuting attorney of the county, and it shall be the duty of said prosecuting attorney to defend for the state. The procedure and practice in all actions brought under this section, except as otherwise provided in this article, shall be governed by the provisions of the code of civil procedure in relation to civil actions, so far as the same shall or may be applicable, including all provisions relating to motions for new trials and appeals. The remedies provided in this section shall be in addition to and not exclusive of any remedies provided in the sections preceding this section.

EXPLANATION.

If the inheritance tax is not determined in the probate court, it will be necessary for the beneficiaries to bring suit to quiet the title to their real estate. It is, therefore, very important that the matter of inheritance tax be immediately presented to the probate court.

Sec. 584. Quarterly Statements.—The state treasurer shall, every three months, make a statement in writing to the attorney-general of the property from which or the parties from whom he has reason to believe a tax under this article has been due and unpaid for twelve months.

Sec. 585. State Treasurer to Furnish Probate Judges With Books, etc.—The state treasurer shall

furnish to every probate judge of this state a book in which to enter the returns made, the appraisement, the cash value of annuity, life estate or terms of years and other property fixed by him, and the tax assessed thereon and the amount of any receipts for payments thereof filed with him, which books shall be kept in the office of the probate judge as a public record.

Sec. 586. Failure or Refusal—Penalty.—Every officer who fails or refuses to perform within a reasonable time any and every duty required by the provisions of this article, or who fails or refuses to make or deliver within a reasonable time any statement or record required by this article shall forfeit to the state of Missouri the sum of one thousand dollars to be recovered in an action brought by the attorney-general in the name of the people of the state on the relation of the state treasurer.

Sec. 587. Religious, Educational or Charitable Institutions Exempt, When.—When any property, benefit or income shall pass to or for the use of any hospital, religious, educational, bible, missionary, scientific, benevolent or charitable purpose in this state, or to any trustee, association or corporation, bishop, minister of any church, or religious denomination in this state, to be held and used and actually held and used exclusively for religious, educational or charitable uses and purposes, whether such transfer be made directly or indirectly, the same shall not be subject to any tax, but this provision shall not apply to any corporation which has a right to make dividends or distribute profits or assets among its members. (Laws of 1921, page 116.)

Sec. 588. Property Passing by Death of Another, etc.—When—How.—When property or any interest therein or income therefrom shall pass to, or for the use of any person, institution, association or corporation by the death of another by deed, instrument or memoranda or by any transfer or passage whatsoever (and) such transfer shall be deemed a transfer within the meaning of this article and taxable at the same rates and be appraised in the same manner and subject to the same duties and liabilities as any other form of transfer provided in this article.

DEEDS.

Transfers by deed of any kind to take effect upon the death of the grantor, are subject to the inheritance tax.

Sec. 589. Defining the Words "Estate," "Property" and "Transfer," etc.—The words "estate" and "property," as used in this article, shall be taken to mean the real and personal property

or interest therein of the testator, intestate, grantor, bargainor, vendor or donor passing or transferred to individual legatees, devisees, heirs, next of kin, grantees, donees, vendees, or successors, and shall include all personal property within or without the state. The word "transfer" as used in this article shall be taken to include the passing of property or any interest therein, in possession or enjoyment, present or future, by inheritance, descent, devise, succession, bequest, grant, deed, bargain, sale, gift or appointment in the manner herein described. The word "decedent" as used in this article shall include the testator, intestate, grantor, bargainor, vendor or donor. The words "contemplation of death" as used in this article shall be taken to include that expectancy of death which actuates the mind of a person on the execution of his will, and in nowise shall said words be limited and restricted to that expectancy of death which actuates the mind of a person in making a gift *causa mortis*, and it is hereby declared to be the intent and purpose of this article to tax any and all transfers which are made in lieu of or to avoid the passing of the property transferred by testate or intestate laws.

INTENT OF ACT.

It is the intent of this act to tax every conceivable transfer in the nature of a final distribution, and the transfers taxable are not confined to those by will or by the intestate laws.

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3

STATE OF MISSOURI

INCOME TAX LAW

Law and Regulations

RELATIVE TO THE TAX ON INCOME OF INDIVIDUALS,
CORPORATIONS, JOINT STOCK COMPANIES,
ASSOCIATIONS AND INSURANCE
COMPANIES

NOVEMBER 2, 1921

IMPOSED BY REVISED STATUTES 1919, AS
AMENDED AUGUST 3, 1921



MDCCCXX

X724: (27335)

Compiled by
GEO. E. HACKMANN
STATE AUDITOR

INCOME TAX LAW REVISED STATUTES 1919

AS AMENDED AUGUST 2, 1921

TAXATION AND REVENUE: Incomes.

AN ACT providing for the assessment, levying, collecting and paying of income tax.

SECTION

- 13106. Rates—levied—when.
- 13107. Incomes—includes what—classes.
- 13108. Incomes defined for purposes of this act.
- 13109. Exemptions.
- 13110. Deductions allowed.
- 13111. Exemptions—deductions, etc., of married persons, etc.
- 13112. Corporations, joint stock companies, insurance companies, etc.
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- 13121. Assessor to give bond.
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- 13132. False returns—individuals—penalty.
- 13133. Powers of assessors.
- 13134. Governor to request information concerning federal incomes.
- 13135. Officers not to divulge, etc.—penalty.
- 13136. Returns to be destroyed—when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section 13106. Rates—levied, when.—There shall be levied, assessed, collected and paid annually upon the entire net income received in the calendar year nineteen hundred nineteen from all sources by every individual, a citizen or resident of this state, a tax of one and one-half per centum upon such income; and a like tax shall be levied, assessed, collected and paid annually upon the entire net income received in the year nineteen hundred nineteen from all sources within this state by every individual, a non-resident, including interest on bonds, notes or other interest-bearing obligations of residents, corporate or otherwise. The foregoing tax shall apply to the entire net income, except as hereinafter provided, received by every taxable person in the year nineteen hundred nineteen, and in each calendar year thereafter; *provided, however*, that the taxes collected under this chapter shall for the year 1922 and subsequent years be levied, assessed, collected and paid annually at the rate of one per cent; *Provided further*, that for that part of the calendar year 1921 which shall not have expired at the date this act shall take effect said taxes shall be levied, assessed and collected at the rate of one-half of one per cent.

Sec. 13107. Incomes—includes what—classes.—(a) That, subject only to such exemptions and deductions as are hereinafter allowed, the net income of a taxable person shall include gains, profits, and income derived from salaries, wages or compensation for personal service of whatever kind and in whatever form paid, or from professions, vocations, business, trade, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or the use of or interest in real or personal property, also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever.

(b) . . . Income received by estates of deceased persons during the period of administration or settlement of the estate, shall be subject to the tax and taxed to their estates, and also such income of estates or any kind of property held in trust, including such income accumulated in trust for the benefit of unborn or ascertained persons, or persons with contingent interests and income held for future distribution under the terms of the will or trust shall be likewise taxed, the tax in each instance, except when the income is returned for the purpose of the tax by the beneficiary, to be assessed to the executor, administrator, or trustee, as the case may be: *Provided*, that where the income is to be distributed annually or regularly between existing heirs or legatees, or beneficiaries the rate of tax and method of computing the same shall be based in each case upon the amount of the individual share to be distributed. Such trustees, executors, administrators, and other fiduciaries are hereby indemnified against the claims or demands of every beneficiary for all payments of taxes which they shall be required to make under the provisions of this act, and they shall have credit for the amount of such payments against the beneficiary or principal in any accounting which they make as such trustees or other fiduciaries.

(c) For the purpose of ascertaining the gain derived from the sale or other disposition of property, real, personal, or mixed, acquired before July 1st, nineteen hundred seventeen, the fair market price or value of such property as of July 1st, nineteen hundred and seventeen, shall be the basis for determining the amount of such gain derived.

Sec. 13108. Incomes defined for purposes of this act.—For the purpose of this tax, the taxable income of any individual shall include the share to which he would be entitled of the gains and profits, if divided or distributed, whether divided or distributed or not, of all corporations, joint-stock companies or associations, or insurance companies, however created or organized, formed or fraudulently availed of for the purpose of preventing the imposition of such tax through the medium of permitting such gains and profits to accumulate instead of being divided or distributed; and the fact that any such corporation, joint-stock company, or association, or insurance company, is a mere holding company, or that the gains and profits are permitted to accumulate

beyond the reasonable needs of the business, shall be *prima facie* evidence of a fraudulent purpose to escape such tax; but the fact that the gains or profits are in any case permitted to accumulate and become surplus shall not be construed as evidence of a purpose to escape the said tax in such case unless the state auditor shall certify that in his opinion such accumulation is unreasonable for the purposes of the business. When requested by the assessor such corporation, joint-stock company or association, or insurance company shall forward to him a correct statement of such gains and profits and the names and addresses of the individuals or shareholders who would be entitled to the same if divided or distributed.

Sec. 13109. Exemptions.—The following income shall be exempt from the provisions of this act: The proceeds of life insurance policies paid to the individual beneficiaries upon the death of the insured; the amount received by the insured, as a return of premium or premiums paid by him under life insurance, endowment, or annuity contracts, either during the term or at the maturity of the term mentioned in the contract or upon the surrender of the contract; the value of property acquired by gift, bequest, devise, or descent (but the income from such property shall be included as income); interest upon the obligations of a state or any political subdivision thereof or upon the obligations of the United States or its possessions; the compensation of public officers for public service shall not be computed as a part of the taxable income in such cases where the taxation thereof would be repugnant to the Constitution.

Sec. 13110. Deductions allowed.—That in computing net income in the case of a citizen or resident of this state, for the purpose of the tax there shall be allowed as deductions:

First. The necessary expenses actually paid in carrying on any business or trade, not including personal, living, or family expenses;

Second. All interest paid within the year on his indebtedness;

Third. Taxes paid within the year imposed by the authority of the United States, or its territories, or possessions, or under authority of any state, county, school district, or municipality, or other taxing subdivision of any state, not including those assessed against local benefits;

Fourth. Losses actually sustained during the year, incurred in his business or trade, or arising from fires, storms, shipwreck, or other casualty, and from theft, when such losses are not compensated for by insurance or otherwise: *Provided*, that for the purpose of ascertaining the loss sustained from the sale or other disposition of property, real, personal, or mixed, acquired before July first, nineteen hundred and seventeen, the fair market price or value of such property as of July first, nineteen hundred and

seventeen, shall be the basis for determining the amount of such loss sustained;

Fifth. In transactions entered into for profit but not connected with his business or trade, the losses actually sustained therein during the year to an amount not exceeding the profits arising therefrom;

Sixth. Debts due the taxpayer actually ascertained to be worthless and charged off within the year;

Seventh. A reasonable allowance for the exhaustion, wear and tear of property arising out of its use or employment in the business or trade;

Eighth. (a) In the case of oil and gas wells a reasonable allowance for actual reduction in flow and production to be ascertained not by the flush flow, but by the settled production or regular flow; (b) in the case of mines a reasonable allowance for depletion thereof, not to exceed the market value in the mine of the product thereof, which has been mined and sold during the year for which the return and computation are made, such reasonable allowance to be made in the case of both (a) and (b) under rules and regulations to be prescribed by the auditor of the state: *Provided*, that when the allowances authorized in (a) and (b) shall equal the capital originally invested, or in case of purchase made prior to July first, nineteen hundred and seventeen, the fair market value as of that date, no further allowance shall be made. No deductions shall be allowed for any amount paid out for new buildings, permanent improvements, or betterments, made to increase the value of any property or estate, and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made.

Ninth. For the purpose of this tax, the income embraced in a personal return shall be credited with the amount received as dividends upon the stock or from the net earnings of any corporation, joint-stock company, or association, trustee, or insurance company, which is taxable upon its net income as hereinafter provided; a like credit shall be allowed as to the amount of income, the tax upon which has been paid or withheld for payment at the source of income under the provisions of this title.

Tenth. Contributions or gifts made within the taxable year to corporations, associations and societies organized and operated exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, to an amount not in excess of fifteen per centum of the taxpayer's net income as computed without the benefit of this paragraph.

Eleventh. All sums, paid within the taxable year, by a resident of this state, as taxes assessed and levied by any other state as income taxes on property of nonresidents shall be deducted from the amount of the income tax required by this act;

Provided, such credit shall be limited to the amount such taxes would have been, if they had been assessed and levied at the rate of such taxation prescribed by this act.

Sec. 13111. Exemptions—deductions, etc., of married persons.—That for the purpose of this tax there shall be allowed as an exemption in the nature of a deduction from the amount of the net income of each said person, ascertained as provided herein, the sum of \$1,000, plus \$1,000 additional if the person making the return be the head of the family, or a married man with a wife living with him, or plus the sum of \$1,000 additional if the person making the return be a married woman with a husband living with her; but in no event shall this additional exemption of \$1,000 be deducted by both a husband and a wife; *provided* that only one deduction of \$2,000 shall be made from the aggregate income of both husband and wife when living together: *Provided further*, that if the person making the return is the head of a family there shall be an additional exemption of \$200.00 for each child dependent upon such person, if under eighteen years of age, or if incapable of self-support because mentally or physically defective, but this provision shall operate only in the case of one parent in the same family: *Provided, further*, that guardians or trustees shall be allowed to make this personal exemption as to income derived from the property of which such guardian or trustee has charge in favor of each ward or *cestui que* trust: *Provided, further*, that in no event shall a ward or *cestui que* trust be allowed a greater personal exemption than \$1,000.00, or, if married, \$2,000.00 as provided in this paragraph, from the amount of net income received from all sources. There shall also be allowed an exemption from the amount of the net income of estates of deceased persons during the period of administration or settlement, and of trust or other estates the income of which is not distributed annually or regularly under the provisions of paragraph (b), section 13107, the sum of \$1,000, including such deductions as are allowed under section 13110. A non-resident individual may receive the benefit of the exemption provided for in this section only by filing or causing to be filed with the assessor a true and accurate return of his total income, received from all sources, corporate or otherwise, in this state, in the manner prescribed by this act; and in case of his failure to file such return the collector shall collect the tax on such income, and all property, belonging to such non-resident individual shall be liable to distraint for the tax.

Sec. 13112. Corporations, joint stock companies, insurance companies, etc.—That there shall be levied, assessed, collected and paid annually upon the total net income received in the calendar year nineteen hundred nineteen, and in each year thereafter, from all sources by every corporation, joint stock company or association, except express companies which now pay an annual tax on their gross receipts in this state, and insurance companies which pay an annual tax on their gross premium receipts in this state, organized in this state, no matter

how created or organized, but not including partnerships, a tax of one and one-half per cent. upon such income; and a like tax shall be levied, assessed, collected and paid annually upon the total net income received in the calendar year nineteen hundred nineteen, and in each year thereafter, from all sources within this state by every corporation, joint stock company or association organized or existing under the laws of another state, country or territory, except express companies which now pay an annual tax on their gross receipts in this state, and insurance companies which pay an annual tax on their gross premium receipts in this state, and except that in case a nonresident corporation, joint stock company or association be engaged in both interstate and intrastate business within this state, then such tax shall be only upon the total net income derived from the intrastate business within this state, including interest on bonds, notes or other interest-bearing obligations of residents, corporate or otherwise, and including the income derived from dividends on capital stock or from net earnings of resident corporations, joint stock companies or associations, whose net income is taxable under this article: *Provided*, that the term "dividends," as used in this article, shall be held to mean any distribution made or ordered to be made by a corporation, joint stock company or association out of its earnings or profits accrued since January first, nineteen hundred and nineteen, and payable to its shareholders, whether in cash or in stock of the corporation, joint stock company or association, which stock dividend shall be considered income, to the amount of its cash value. The foregoing tax rate shall apply to the total net income received by every taxable corporation, joint stock company or association in the calendar year nineteen hundred and nineteen, and each year thereafter, except that if it has fixed its own fiscal year under the provisions of existing law, the foregoing rate shall apply to the proportion of the total net income returned for the fiscal year ending prior to December thirty-first, nineteen hundred nineteen, which the period between January first, nineteen hundred nineteen, and the end of such fiscal year bears to the whole of such fiscal year, and the rate fixed shall apply to the remaining portion of the total net income returned for such fiscal year. For the purpose of ascertaining the gain derived or loss sustained from the sale or other disposition by a corporation, joint stock company or association of property, real, personal or mixed, acquired before January first, nineteen hundred and nineteen, the fair market price or value of such property as of January first, nineteen hundred and nineteen, shall be the basis for determining the amount of such gain derived or loss sustained: *Provided, however*, that the taxes collected under this chapter shall for the years 1922 and subsequent years be levied, assessed, collected and paid annually at the rate of one per cent.: *Provided further*, that for that part of the calendar year 1921 which shall not have expired

at the date this act shall take effect said taxes shall be levied, assessed and collected at the rate of one-half of one per cent.

Sec. 13113. Incomes exempt, etc.—(a) That there shall not be taxed under this act any income received by any—

First. Labor, agricultural, or horticultural organization;

Second. Mutual savings bank not having a capital stock represented by shares;

Third. Fraternal beneficiary society, order or association, operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents;

Fourth. Domestic building and loan associations, and co-operative banks without capital stock organized and operated for mutual purposes and without profit;

Fifth. Cemetery company owned and operated exclusively for the benefit of its members;

Sixth. Corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual;

Seventh. Business league, chamber of commerce, or board of trade, not organized for profit and no part of the net income of which inures to the benefit of any private stockholder or individual;

Eighth. Civic league or organization not organized for profit but operated exclusively for the promotion of social welfare;

Ninth. Club organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, no part of the net income of which inures to the benefit of any private stockholder or member;

Tenth. Farmers' or other mutual hail, cyclone, or fire insurance company, mutual ditch or irrigation company, mutual or co-operative telephone company or like organization of a purely local character, the income of which consists solely of assessments, dues, and fees collected from members for the sole purpose of meeting its expenses;

Eleventh. Farmers', fruit growers', or like association, organized and operated as a sales agent for the purpose of marketing the products of its members and turning back to them the proceeds of sales, less the necessary selling expenses, on the basis of the quantity of produce furnished by them;

Twelfth. Corporation or association organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title; or

Thirteenth. Federal land banks and national farm-loan associations, as provided in section 26 of the act of Congress approved July seventeenth, nineteen hundred and sixteen, entitled "An act to provide capital for agricultural development, to create standard forms of investment based upon farm mortgage, to equalize rates of interest upon farm loans, to furnish a market for United States bonds, to create government depositaries and financial agents for the United States, and for other purposes;"

Fourteenth. Joint-stock land banks as to income derived from bonds or debentures or other joint-stock land banks or any federal land bank belonging to such joint-stock land bank.

(b) There shall not be taxed under this act any income derived from any public utility performing functions of national government or those incident to the state or any political subdivision thereof, or from the exercise of any essential governmental function accruing to any state, territory or the District of Columbia, *provided*, that whenever any state, territory, or the District of Columbia, or any political subdivision of a state or territory, has, prior to the passage of this act, entered in good faith into a contract with any person or corporation, the object and purpose of which is to acquire, construct, operate, or maintain a public utility, no tax shall be levied under the provisions of this act upon the income derived from the operation of such public utility, so far as the payment thereof will impose a loss or burden upon such state, territory, or the District of Columbia, or a political subdivision of this state; but this provision is not intended to confer upon such person or corporation any financial gain or exemption or to relieve such person or corporation from the payment of a tax as provided for in this act upon the part or portion of the said income to which such person or corporation shall be entitled under such contract.

Sec. 13114. Income of corporations, joint-stock companies, associations and insurance companies ascertained—how.—(a) In the case of a corporation, joint-stock company or association, or insurance company, organized in the state, such net income shall be ascertained by deducting from the gross amount of its income received within the year from all sources—

First. All the ordinary and necessary expenses paid within the year in the maintenance and operation of its business and properties, including rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity.

Second. All losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for the exhaustion, wear and tear of property arising out of its use of employment in the business or trade; (a) in the case of oil and gas wells a reasonable allowance for actual reduction in flow and production, to be ascertained

not by the flush flow but by the settled production or regular flow; (b) in the case of mines a reasonable allowance for depletion thereof not to exceed the market value in the mine of the produce thereof which has been mined and sold during the year for which the return and computation are made, such reasonable allowance to be made in the case of both (a) and (b) under rules and regulations to be prescribed by the state auditor: *Provided*, that when the allowance authorized in (a) and (b) shall equal the capital originally invested, or in case of purchase made prior to July first, nineteen hundred and seventeen, the fair market value as of that date, no further allowance shall be made; and (c) in the case of insurance companies, the net addition, if any, required by law to be made within the year to reserve funds and the sums other than dividends paid within the year on policy and annuity contracts: *Provided*, that no deduction shall be allowed for any amount paid out for new buildings, permanent improvements, or betterments made to increase the value of any property or estate, and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made: *Provided further*, that mutual fire and mutual employers' liability and mutual workmen's compensation and mutual casualty insurance companies requiring their members to make premium deposits to provide for losses and expenses shall not return as income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves: *Provided further*, that mutual marine insurance companies shall include in their return of gross income premiums collected and received by them less amounts paid for reinsurance, but shall be entitled to include in deductions from gross income amounts repaid to policyholders on account of premiums previously paid by them and interest paid upon such amounts between the ascertainment thereof and the payment thereof, and life insurance companies shall not include as income in any year such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder, within such year.

Third. The amount of interest paid within the year on its indebtedness to an amount of such indebtedness not in excess of the sum of (a) the entire amount of the paid-up capital stock outstanding at the close of the year, or, if no capital stock, the entire amount of capital employed in the business at the close of the year, and (b) one-half of its interest-bearing indebtedness then outstanding; *provided*, that for the purpose of this act preferred capital stock shall not be considered interest-bearing indebtedness, and interest or dividends paid upon this stock shall

not be deductible from gross income; *provided further*, that in cases wherein shares of capital stock are issued without par or nominal value, the amount of paid-up capital stock, within the meaning of this section, as represented by such shares, will be the amount of cash, or its equivalent, paid or transferred to the corporation, as a consideration for such shares; *provided further*, that in the case of indebtedness wholly secured by property collateral, tangible or intangible, the subject of sale or hypothecation in the ordinary business of such corporation, joint-stock company or association as a dealer only in the property constituting such collateral, or in loaning the funds thereby procured, the total interest paid by such corporation, company, or association within the year on any such indebtedness may be deducted as a part of its expenses of doing business, but interest on such indebtedness shall only be deductible on an amount of such indebtedness not in excess of the actual value of such property collateral; *provided further*, that in the case of bonds or other indebtedness, which have been issued with a guaranty that the interest payable thereon shall be free from taxation, no deduction for the payment of the tax therein imposed, or any other tax paid pursuant to such guaranty, shall be allowed; and in the case of a bank, banking association, loan or trust company, interest paid within the year on deposits or on moneys, received for investment and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan or trust company.

Fourth. Taxes paid within the year imposed by an authority of the United States, or its territories or possessions, or any foreign country, or under the authority of any state, county, school district, or municipality, or other taxing subdivision of any state, not including those assessed against local benefits.

(b) In the case of a corporation, joint-stock company, or association, organized, authorized, or existing under the laws of any other state, such net income shall be ascertained by deducting from the gross amount of its income received within the year from all sources within the state—

First. All the ordinary and necessary expenses actually paid within the year out of earnings in the maintenance and operation of its business and property within the state, including rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity.

Second. All losses actually sustained within the year in business or trade conducted by it within the state and not compensated by insurance or otherwise, including a reasonable allowance for the exhaustion, wear and tear of property arising out of its use or employment in the business or trade; (a) and in the case of oil and gas wells a reasonable allowance for actual reduction in flow and production to be ascertained not by the flush

flow, but by the settled production or regular flow; (b) in the case of mines a reasonable allowance for depletion thereof not to exceed the market value in the mine of the product thereof which has been mined and sold during the year for which the return and computation are made, such reasonable allowance to be made in the case of both (a) and (b) under rules and regulations to be prescribed by the state auditor: *Provided*, that when the allowance authorized in (a) and (b) shall equal the capital originally invested, or in case of purchase made prior to July first, nineteen hundred and seventeen, the fair market value as of that date, no further allowance shall be made; and (c) in the case of insurance companies the net addition, if any, required by law to be made within the year to reserve funds and the sums other than dividends paid within the year on policy and annuity contracts; *provided*, that no deduction shall be allowed for any amount paid out for new buildings, permanent improvements, or betterments, made to increase the value of any property or estate, and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made: *Provided further*, that mutual fire and mutual employers' liability and mutual workmen's compensation and mutual casualty insurance companies requiring their members to make premium deposits to provide for losses and expenses shall not return as income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves: *Provided, further*, that mutual marine insurance companies shall include in their return of gross income gross premiums collected and received by them less amounts paid for reinsurance, but shall be entitled to include in deductions from gross income amounts repaid to policyholders on account of premiums previously paid by them and interest paid upon such amounts between the ascertainment thereof and the payment thereof, and life insurance companies shall not include as income in any year such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder, within such year.

Third. The amount of interest paid within the year on its indebtedness to an amount of such indebtedness not in excess of the proportion of the sum of (a) the entire amount of the paid-up capital stock outstanding at the close of the year, or, if no capital stock, the entire amount of the capital employed in the business at the close of the year, and (b) one-half of its interest-bearing indebtedness then outstanding, which the gross amount of its income for the year from business transacted and capital invested within the state bears to the gross amount of its income

derived from all sources within and without the state: *Provided*, that in the case of bonds or other indebtedness which have been issued with a guaranty that the interest payable thereon shall be free from taxation, no deduction for the payment of the tax herein imposed or any other tax paid pursuant to such guaranty shall be allowed; and in case of a bank, banking association, loan or trust company, or branch thereof, interest paid within the year on deposits by or on moneys received for investment from either citizens or residents of the state, and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan or trust company, or branch thereof.

Fourth. Taxes paid within the year imposed by the authority of the United States or its territories, or possessions, or under the authority of any state, county, school district, or municipality, or other taxing subdivision, of any state, paid within the state, not including those assessed against local benefits.

(c) In the case of assessment insurance companies, whether domestic or foreign, the actual deposit of sums with state or territorial officers, pursuant to law, as additions to guarantee or reserve funds shall be treated as being payments required by law to reserve funds.

Sec. 13115. State divided into districts—how.—For the purposes of this act the state shall be divided into one hundred and fifteen assessment districts, whose boundaries shall coincide and in every way correspond with the one hundred and fourteen counties and the city of St. Louis in this state. The assessors and collectors of the several counties and the city of St. Louis shall be the assessors and collectors of the income tax of the districts in which they live.

Sec. 13116. Incomes assessed—how.—Every person who has a taxable income, shall on the first day of January of each year, or as soon thereafter as practicable, apply in person or by mail, to the assessor of the district in which such person resides, for a proper blank on which to make a return, which said return shall be filed with the assessor on or before the first of March next following. The assessor shall be furnished all necessary printing, stationery, postage and office equipment, and he and his deputies shall be entitled to receive their actual necessary expenses incurred in the performance of their duties, all such expenditures shall be audited and paid out of the state or county treasury in the same manner as other similar expenses are audited and paid.

Sec. 13117. Assessors to keep separate book, etc.—There shall be furnished to the assessors a separate book for income taxes known as the "income assessment book" which shall contain a list of the names of all persons having a taxable income, alphabetically arranged, with proper priority of vowels, and such book may contain a number of columns after the manner of "personal

assessment books," in so far as they are applicable and such other columns as are useful and convenient in practice.

Sec. 13118. Assessor to require report—when.—Whenever in the judgment of the assessor any person in his district shall be subject to an income tax under the provisions of this act, he shall require such person to make report at such time and in such manner and form as he may prescribe, specifying particularly among other items the amount of income received from services, unsecured notes, mortgages, bonds, stocks and rent, the amount of income received by his wife and child under eighteen years of age residing together with him as members of the family and such other information as he shall deem necessary to enforce the provisions of this act.

Sec. 13119. Assessment to be complete and result certified, when.—The county or township assessor shall complete the assessment of incomes on or before the first day of March of each year, and shall thereupon forthwith certify the result to the county clerk or city auditor, who shall compute the taxes thereon, and said clerk shall enter such income taxes upon a tax book provided for that purpose, and deliver the same to the county collector on or before the first day of May thereafter, and the taxes shall be collected and paid on or before the first day of June thereafter to the county collector and by him remitted monthly to the state treasurer.

Sec. 13120. Returns—to whom made—how made—when.—The place at which the tax herein provided for shall be assessed, levied and collected shall be determined as follows:

First. Persons residing within the state shall make returns to the assessor of the district in which they reside.

Second. Persons residing without the state and deriving income from sources within the state or within its jurisdiction, shall make return to the assessor of the district where their chief office is located and if they have no office within the state, they shall make application to the state auditor, whose duty it shall be to designate the district in which they shall make income tax returns.

Sec. 13121. Assessor to give bond.—Every assessor before entering upon the duties of his office shall give bond and security to the state to the satisfaction of the county court, or the clerk in vacation, or the common council of the city of St. Louis, with three or more solvent sureties, householders of the county or city, in a sum not less than the annual emolument of his office, the amount to be fixed by the court or clerk or city auditor, as the case may require, conditioned for the faithful performance of the duties of his office, which bond shall be deposited in the office of the clerk of the county court, or city auditor.

Sec. 13122. Failure of assessor—penalty.—Every assessor who shall fail to perform any duty enjoined upon him by law, in the time prescribed, shall be removed from office by the

county court or the common council of the city of St. Louis, who shall appoint another instead. Such new assessor shall take a like oath and give a like bond as required of the first and the county court or common council of the city of St. Louis shall order suit brought upon the bond of such delinquent assessor, against him and his sureties, for such amount as shall be sufficient to reimburse such county or city for completing and reassessing such county or city.

Sec. 13123. State auditor may question assessment—when.— Within one year after the completion of the income tax assessment, for any year, the state auditor may, if he believes that the assessment of any assessor has been fraudulently, collusively or erroneously made, make application to the circuit judge of the judicial circuit in which such assessor's district is located. The judge to whom such application is made may thereupon appoint a competent person, who is a non-resident of the district of such assessor, to reassess the income tax of such district. Such person shall possess the powers, be subject to the duties and receive the same compensation as the regular assessor. The report of such person shall be filed with the judge by whom he was appointed. If the state auditor upon the examination of such report, believe that criminal proceedings should be had, he shall place the matter before the governor who may direct the attorney-general, or one of his assistants, to aid the prosecuting or circuit attorney in enforcing the provisions of this act.

Sec. 13124. Compensation of assessors and collectors.— Assessors and collectors shall be compensated in like manner and in like amounts as for the assessments of other taxes; *provided*, that in counties in which the assessors and collectors are paid a fixed salary, that in addition to the salary paid, they shall be permitted to charge for work performed in the assessing and collecting of the income tax, as provided by this act, the same fees as are charged by assessors and collectors whose salary is not fixed by law, and which fees are charged by said assessors and collectors for services rendered in assessing and collecting the income tax shall be paid by the state.

Sec. 13125. State auditor to furnish forms, etc.— It shall be the duty of the state auditor to make out and forward to the clerk or auditor of each county and the auditor of the city of St. Louis, from time to time, for the use of county and city officers, suitable forms for the return of income taxes. He shall give instructions for carrying this chapter into effect and all such instructions shall be strictly complied with by the officers in the performance of their duties, as required by this chapter. He shall give his opinion and advice on all questions of doubt as to the true intent and meaning of the provisions of this chapter.

Sec. 13126. Powers and duties of boards of equalization, etc. The board of equalization and the board of appeals, or any individual or body exercising similar powers and duties, of any

civil or political subdivision of this state, shall have the same powers and duties with respect to the income tax, as they now have with respect to the tax on personal property, in so far as the law is applicable, with the additional power to estimate income.

Sec. 13127. Tax delinquent, when.—For the purpose of this act income taxes shall become delinquent on the 2nd day of June following the day when the tax book is required by law to be delivered to the collector, and said taxpayers appearing in such tax book shall have the same penalty assessed against them as in the cases of other taxes, and suit shall be brought and the taxes collected in the same manner as personal delinquent taxes are now collected.

Sec. 13128. False returns—penalty.—In case any return made by any person is made with false or fraudulent intent, or in case of a refusal or neglect to make a return as required by law, or an additional amount is discovered, such income shall be subject to twice the original rate.

Sec. 13129. Assessor may allow further time—when.—In case of neglect occasioned by the sickness or absence of an officer of any corporation, joint-stock company or association required to make said return, or for other sufficient reason, the assessor may allow such further time for making and delivering such return as he may deem necessary, not to exceed thirty days.

Sec. 13130. False returns by corporations, etc.—penalty.—If any of the corporations, joint-stock companies or associations aforesaid shall fail or refuse to make return at the time hereinbefore specified in each year, or shall render a false or fraudulent return, such corporation, joint-stock company or association shall be liable to a penalty of not less than one hundred dollars and not to exceed five thousand dollars at the discretion of the court.

Sec. 13131. False returns with intent to evade or defraud—penalty.—Any officer of a corporation, joint-stock company or association required by law to make, render, sign or verify any return who makes any false or fraudulent return or statement with intent to defeat or evade the assessment required by this act to be made, shall upon conviction be fined not to exceed five hundred dollars or be imprisoned not to exceed one year, or both, at the discretion of the court, with the cost of prosecution.

Sec. 13132. False returns—individuals—penalty.—Any individual who fails or refuses to make a return at the time hereinbefore specified in each year or shall render a false or fraudulent return, shall upon conviction be fined not to exceed five hundred dollars, or be imprisoned not to exceed one year, or both, at the discretion of the court, together with the costs of prosecution.

Sec. 13133. Powers of assessors.—In the performance of such duty, the assessors shall possess all powers now or hereafter granted by law to assessors in the assessment of personal property and also the power to estimate incomes.

Sec. 13134. Governor to request information concerning federal incomes.—It shall be the duty of the governor to request such information concerning the payment of federal income taxes by citizens of this state as the federal authorities may be willing to divulge.

Sec. 13135. Officers not to divulge, etc.—penalty.—It shall be unlawful for any person, persons or officer to divulge, give out or impart to any other person, or persons, any information relative to, or the contents of any income filed under this act, or to permit any other person, or persons not connected with his office to see, inspect or examine the same; and it shall be unlawful for any person or officer to use any income filed under this in any manner whatever in connection with, or for the purpose of assessing of property tax or determining the amount of assessment of any person or corporation or to use the same in any way in making up an assessment roll. It shall be unlawful for any board of equalization, or any member thereof, or any officer, to in any way permit the inspection of any such return or to use the same in any way in making assessment other than the assessment of the tax provided for in this act and any person violating the provisions of this section shall be deemed guilty of a felony and upon conviction thereof shall be fined a sum of not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000) or imprisonment in the penitentiary for a term of not less than two years and not more than five years, or both such fine and imprisonment as the court may deem proper; and any officer convicted for the violation of this section, the judgment of conviction shall be construed and held to be a forfeiture of the office held by such convicted person.

Sec. 13136. Returns to be destroyed—when.—It shall be the duty of the collector, assessor or any other officer of this state, having in his custody income tax returns, to destroy the same within six months after such income tax becomes due, provided that no income tax return shall be destroyed before the tax has been paid.

REGULATIONS.

Regulations concerning the tax imposed by the Revised Statutes, 1919, as amended August 1, 1921, on net income of Individuals, Corporations, Joint-stock Companies, Associations, and Insurance Companies.

OFFICE OF THE STATE AUDITOR.

Jefferson City, Mo., November 2, 1921.

PART 1.

Individual Income Returns and Collections.

Article 1. Section 13106 of the above-named act imposes a tax of one and one-half per centum on net incomes arising or accruing from all sources during the preceding calendar year to—

Persons taxable.

(a) Every citizen of the State of Missouri, whether residing at home or abroad; and

(b) Every person residing in the State of Missouri, though not a citizen thereof; and

(c) From all property owned and from every business, trade, or profession carried on in the State of Missouri, by a person residing elsewhere.

Art. 2. The NET INCOME shall consist of the total gains, profits, and income derived from all sources (designated as gross income) less deductions numbered first to eleventh, inclusive, specifically enumerated in Sec. 13110 of the act.

Net income defined.

In computing the taxable income for the purposes of the tax there shall be deducted from the net income as above ascertained:

Normal tax: upon what computed.

(a) The amount included in the gross income received as dividends upon the stock or from the net earnings of any corporation, joint-stock company, association, or insurance company which is taxable upon its net income;

(b) The specific exemption of \$1,000 or \$2,000, as the case may be.

Art. 3. Gross income includes all gains, profits, and income derived from—

Gross income. What it includes.

INCOME TAX REGULATIONS.

(a) Salaries, wages, or compensation for personal service of whatever kind and in whatever form paid.

(b) Professions, vocations, business (including income from copartnerships), trade, commerce, or sales or dealings in property, growing out of the ownership or use of, or interest in, real or personal property.

(c) Interest, rent, dividends, securities, or transaction of any lawful business carried on for gain or profit.

(d) Gains or profits and income derived from any source whatever, including the *income* from, but not the value of, property acquired by gift, bequest, devise or descent.

The foregoing is held to include all income, gains, and profits arising or accruing from all sources whatever in the calendar year for which the return is made, except as hereinafter specifically stated.

Income ex-
empt from tax-
ation.

Art. 4. The following items should not be included as gross income:

(a) *Value* of property acquired by gift, bequest, devise, or descent during the year.

(b) Proceeds of life insurance policies paid upon the death of the person insured to beneficiaries, or payments made by or credited to the insured, on life insurance, endowment, or annuity contracts, upon the return thereof to the insured at the maturity of the term mentioned in the contract, but this shall not be construed to mean that interest payments to beneficiaries from insurance companies shall not be included as income.

(c) The compensation of all officers and employees of the State or any political subdivision thereof, including public-school teachers, etc., should be included.

Deductions
allowed.

Art. 5. *Deductions and exemptions allowed in computing taxable income for the purposes of the tax.*

1. The amount of necessary expenses actually paid for carrying on business, but not including business expenses of partnerships and not including personal, living, or family expenses.

2. All interest paid within the year on personal indebtedness of the taxpayer incurred in the conduct of business.

3. All National, State, county, school, and municipal taxes paid within the year (not including those assessed against local benefits).

4. Losses actually sustained during the year incurred in trade or arising from fires, storms, or shipwreck and not compensated for by insurance or otherwise.

5. Debts due to the taxpayer, which have been actually ascertained to be worthless and charged off within the year.

6. Amount representing a reasonable allowance for the exhaustion, wear, and tear of property arising out of its use or employment in the business, not to exceed, in the case of mines, reasonable per cent of the gross value at the mine of the output for the year for which the computation is made, *but not including the expense of restoring property or making good the exhaustion thereof, for which an allowance is or has been made*, nor for any amount paid for new buildings, permanent improvements, or betterments, made to increase the value of any property or estate.

The term "gross value at the mine," as used in paragraph 3 of section 9 of the act of April 12, 1917, prescribing a limit to the amount which may be deducted in the return of individuals and corporations as depreciation in the case of mines, is held to mean the bona fide market value of ore, coal, crude oil, and gas at the mine or well, where such value is established by actual sales at the mine or well; and in case the market value of the product of the mine or well is established at some other place than at the mine or well, or on the basis of the bullion or metallic value of the ore, then the gross value at the mine is held to be the value of the ore, coal, oil, or gas sold, or of the metal produced, less transportation, reduction, and smelting charges.

"Gross value at the mine" defined.

7. The amount included in gross income received as dividends upon the stock, or upon the net earnings, of any corporation, joint-stock company, association, or insurance company which is taxable upon its net income.

None of the above items of deduction shall include money or other items of value disposed of by gift, donation, or endowment.

Gifts or donations made during the year not to be deducted.

Personal exemption of \$1,000 or \$2,000, as the case may be, is to be deducted from the net income except in the cases of nonresident aliens. (See arts. 7, 9, and 10.)

Exemptions allowed.

Art. 6. The act provides that the said normal tax shall be computed on the remainder of said net income accruing during each preceding calendar year.

Tax computed on the calendar year.

Specific exemption allowed to single person or married persons living apart.

Art. 7. Every single person and every married person not living with husband or wife in the sense below defined, who has a net income exceeding \$1,000 per annum, is liable to pay the normal tax under this law, but in making return for such tax such person may claim an exemption of \$1,000 from his or her total net income.

Specific exemption allowed with respect to aggregate income of husband and wife.

Art. 8. Husband and wife living together are entitled to an exemption of \$2,000 only from the aggregate net income of both, which may be deducted in making the return of such income for taxation. However, when the husband and wife are separated and living permanently apart from each other each shall be entitled to an exemption of \$1,000.

If husband and wife have separate estates one return may be made showing income of each.

If the husband and wife not living apart have separate estate, the income from both may be made on one return, but the amount of income of each, and the full name and address of both, must be shown in such return.

The husband, as the head and legal representative of the household and general custodian of its income, should make and render the return of the aggregate income of himself and wife, and for the purpose of levying the income tax it is assumed that he can ascertain the total amount of said income.

Wife's return of separate estate to be attached to husband's return or husband's income may be included in wife's return.

If a wife has a separate estate managed by herself as her own separate property and receives an income of \$1,000 or over, she may make return of her own income, and if the husband has other net income, making the aggregate of both incomes more than \$2,000, the wife's return should be attached to the return of her husband, or his income should be included in her return, in order that a deduction of \$2,000 may be made from the aggregate of both incomes. The tax in such case, however, will be imposed only upon so much of the aggregate income of both as shall exceed \$2,000.

Return required if either husband or wife has an income of \$1,000 or over.

If either husband or wife separately has an income equal to or in excess of \$1,000, a return of annual net income is required under the law, and such return must include the income of both, and in such case the return must be made even though the combined income of both be less than \$2,000.

Return required if aggregate income of husband and wife is in excess of \$2,000, although neither may have an income of \$1,000 or over.

If the aggregate net income of both exceeds \$2,000, an annual return of their combined incomes must be made in the manner stated, although neither one separately may have an income of \$1,000 per annum. They are jointly and separately liable for such return and for the payment of the tax.

The single or married status of the person claiming the specific exemption shall be determined as of the time of claiming such exemption if such claim be made within the year for which return is made, otherwise the status at the close of the year.

When status is to be determined.

Art. 9. His or her prorata share of the net profits derived from a partnership business, whether or not divided and paid out, shall be included in the personal return of each partner.

Interest in partnership profit, how reported.

Art. 10. Partnerships, as such, are not subject to the income tax, and are only required to make return when requested to do so by the State Auditor of Missouri or the assessor for the county or township in which said partnership has its principal place of business; and when a return is required it shall give a complete and correct statement of the gross income of the said partnership and also a complete statement of the actual expenses of conducting the business of said partnership, and the net profits and the name and address of each member of said partnership, and their respective interest in the net profit thus reported.

Partnerships, as such, not liable to tax, but statement may be required.

Art. 11. The net annual profits of a partnership when divided and paid to the members thereof shall be included by each individual partner receiving same in his annual return of net income, and the tax shall be paid thereon as required by law. When the annual profits of a partnership are not distributed and paid to the members thereof the respective interest of each member in said profits shall be ascertained, and the individuals entitled thereto shall include the said amount in their annual return as a part of their gross income, the same as if said profits had been distributed and paid to them.

Partnership profits to be included in returns made by individual partners.

Art. 12. Undivided annual net profits of partnerships thus returned by the individual members thereof, and tax paid thereon, shall not, when said profits are actually distributed and paid to such members, be again included in their annual return as a part of their gross income.

Individual partnership profits.

Returns.

Art. 13. Each person of lawful age whose net income is if married \$2,000 or over, if single \$1,000 or over shall, on or before the 1st day of March each year file an accurate return of income under oath or affirmation.

When returns of annual net income of \$2,000 or over are to be made.

Where filed.

If the person making the return of income has his place of business in the county or township in which he resides, the return shall be filed with the assessor of that county or township. If his principal place of business is elsewhere, the return shall be filed in the county in which that business is located.

In the case of an individual residing in another state or a foreign country return shall be made to the assessor for the county where his principal business is carried on within the State of Missouri.

Form of return.

Art. 14. The required return will be made on Form 11 in accordance with the instructions printed thereon, and will specifically set forth—

1. All income received from each specific source and the total thereof.
2. All the separate items of deduction claimed under Sec. 13110 of this law.
3. The amount of specific exemption claimed under Sec. 13111.

When return will be made by guardian or duly authorized agent.

Art. 15. When by reason of minority, insanity, absence, sickness, or other disability, the individual is unable to make his own return, the same shall be made by his guardian or duly authorized agent.

Executor or administrator to make return in case of death.

In the case of the death of a person whose net income for the part of the year during which he lived was \$1,000 or over, return of net income shall be made by the executor or administrator of the estate of the deceased, and in computing the taxable income of such estate there shall be allowed the specific exemption provided by law.

Notice of failure to file return to be served on guardian or agent.

Art. 16. When the required return has not been made by a person acting as guardian, agent of a nonresident alien, or by one acting in any other capacity in which the law makes it a duty for him to represent the individual, notice of failure to make such return will be served upon such guardian or agent.

Evidence may be filed showing nonliability to make return.

The person upon whom such notice is served may, however, when the facts warrant, file evidence with the assessor showing that the individual for whom he acts did not receive an income subject to tax during the year, or that the said guardian or agent had filed the return with some other assessor.

Returns to be prepared by assessor in certain cases.

Art. 17. If any person liable to pay an income tax for himself or others shall fail to make and deliver the return required by law, but shall consent to disclose the particulars of any business or occupation liable to pay such tax, it shall be the duty of the assessor or deputy assessor to make such list or

return, which being distinctly read and consented to, signed, and verified by oath or affirmation by the person liable to make such return, the same may be received as the list or return of such person.

Art. 18. In case any person liable to make return shall neglect or refuse to make or render a list or return, or shall render a willfully false or fraudulent return, it shall be the duty of the assessor, after due notice has been given, to make such list, according to the best information he can obtain by the examination of such person, or any other evidence.

Refusal or neglect to make return.

When duly certified by the assessor, the said list thus prepared shall be the return of said person and the tax so ascertained to be due, shall be double the original rate.

Penalty for failure to make return or for making false return.

Art. 19. The annual return must be verified by oath or affirmation of the person making the same. Assessors are directed by law to require every return to be so verified by the person rendering it. The affidavit may be made before the assessor for the county or township or before any officer authorized by law to administer oaths.

Returns to be verified by oath or affirmation.

Art. 20. When the return is not filed within the required time by reason of sickness or absence of the individual, an extension of time, not exceeding 30 days from March 1, within which to file such return may be granted by the assessor, provided a written application therefor is made by the individual within the period for which such extension is desired.

Extension of time to file return may be granted.

Art. 21. All assessments shall be made by the assessor, and all persons shall be notified of the amount for which they are respectively liable on or before the 1st day of June of each successive year, and said assessments shall be paid on or before the 1st day of June, except in cases of refusal or neglect to make such return and in cases of false or fraudulent returns, in which cases the assessor shall, upon the discovery thereof, at any time within three years after said return is due, make a return upon information obtained, as provided by the law, and the assessment made by the assessor thereon shall be paid by such person or persons immediately upon notification of the amount of such assessment.

Assessments; notification of; when to be paid.

Art. 22. If any person, corporation, joint-stock company, association, or insurance company liable to make returns or pay tax shall refuse or neglect to make returns at the time or times specified in each year, such person shall be liable to a penalty of not less than \$100 nor more than \$5,000.

Penalties for failure to make returns.

Penalties for making false or fraudulent returns.

Any person or any officer of any corporation required by law to make, render, sign, or verify any return who makes any false or fraudulent return or statement with intent to defeat or evade the assessment required by law to be made shall be guilty of a misdemeanor, and shall be fined not exceeding \$500.00 or be imprisoned not exceeding one year, or both, at the discretion of the court, with the costs of prosecution.

Art. 23. Nothing in the law or these regulations shall be construed to release a taxable person from liability for income tax, nor shall any contract entered into after the act of April 12, 1917, took effect be valid in regard to any State income tax imposed upon a person liable to such payment.

PART 2.

Relating to the income tax imposed by Revised Statutes 1919 as amended August 1, 1921, on Corporations, Joint-stock Companies or Associations, and Insurance Companies.

Organizations subject to tax.

Art. 24. Under the provisions of section 13112 of the income tax law, every corporation, joint-stock company or association, and every insurance company organized in the State of Missouri, no matter how created or organized, except those specifically exempted, shall be subject to pay annually an income tax upon the entire net income arising or accruing from all sources during the preceding calendar or fiscal year, as the case may be.

Rate explained: calendar year 1921.

The rate of tax for the calendar year 1921 is computed as follows: For the first ten months it is at the rate of one and one-half per cent. For the last two months it is at the rate of one-half of one per cent. This calculation makes the rate for the entire year one and one-third per cent.

Fiscal year rate.

Corporations making returns on the basis of a fiscal year will be required to compute their tax at the rate of one and one-half per cent up to November 1st, 1921, and if the fiscal year ends November 30th, at the rate of one-half of one per cent for the one month.

Rate on incomes of year 1922.

Commencing with the year 1922 and subsequent years, the rate on incomes shall be at the rate of one per cent. Individuals and corporations are to bear this instruction in mind when making their returns in 1923.

Art. 25. A similar tax shall be levied, assessed against, and paid annually by corporations, joint-stock companies or associations, and insurance companies organized, authorized, or existing under the laws of any foreign country upon the amount of net income accruing from business transacted and capital invested within the State of Missouri during such year.

Foreign corporations subject to the tax.

Art. 26. "Corporation" or "corporations," as used in these regulations, shall be construed to include all corporations, joint-stock companies or associations, and all insurance companies coming within the terms of the law, and such organizations will hereinafter be referred to as "corporations."

Corporations defined.

Art. 27. It is immaterial how such corporations are created or organized. The terms "joint-stock companies" or "associations" shall include associates, real estate trusts, or by whatever name known, which carry on or do business in an organized capacity, whether organized under and pursuant to State laws, trust agreements, declarations of trusts, or otherwise, the net income of which, if any, is distributed, or distributable, among the members or share owners on the basis of the capital stock which each holds, or, where there is no capital stock, on the basis of the proportionate share of capital which each has invested in the business or property of the organization, all of which joint-stock companies or associations shall, in their organized capacity, be subject to the tax imposed by this act.

Associations, real estate trusts, etc., subject to tax.

Art. 28. Every corporation not specifically enumerated as exempt shall make the return of annual net income required by law whether or not it may have any income liable to tax, or whether or not it shall be subordinate to or controlled by another corporation. Mutual telephone companies, mutual insurance companies, and like organizations, although local in character, and whose income consists largely from assessments, dues, and fees paid by members, do not come within the class of corporations specifically enumerated as exempt. Their status under the law is not dependent upon whether they are or are not organized for profit. Not coming within the statutory exemption, all organizations of this character will be required to make returns of annual net income, and pay any income tax thereby shown to be due. For this purpose the surplus of receipts of the year over

Corporations required to make returns.

Mutual telephone and mutual insurance companies not exempt.

expenses will constitute the net income upon which the tax will be assessed.

A railroad or other corporation which has leased its properties in consideration of a rental equivalent to a certain rate of dividends on its outstanding capital stock and the interest on the bonded indebtedness, and such rental is paid by the lessee directly to the stock and bondholders, should, nevertheless, make a return of annual net income showing the rental so paid as having been received by the corporation.

Interest deduction by corporations operating leased or purchased lines.

Art. 29. A railroad company operating leased or purchased lines shall include all receipts derived therefrom, and, if bonded indebtedness of such lines has been assumed, such operating company may deduct the interest paid thereon to an amount not exceeding one-half of the sum of its interest-bearing indebtedness and its paid-up capital stock outstanding at the close of the year.

Lessee corporations not to include capital stock or indebtedness of lessor corporations.

Art. 30. Corporations operating leased lines should not include the capital stock of the lessor corporations in their own statement of capital stock outstanding at the close of the year. The indebtedness of such lessor corporations should not be included in the statement of the indebtedness of the lessee unless the lessee has assumed the same. Each leased or subsidiary company will make its own separate return, accounting for therein all income which it may have received by way of dividends, rentals, interest, or from any other source.

Foreign corporations having branch offices in the State of Missouri to designate principal office.

Art. 31. A foreign corporation having several branch offices in the State of Missouri should designate one of such branches as its principal office and should also designate the proper officers to make the required return.

Corporations organized during year to make returns.

Art. 32. A corporation organized during the year should render a sworn return on the prescribed form, covering that portion of the year (calendar or fiscal) during which it was engaged in business or had an income accruing to it.

Corporations going into liquidation.

Art. 33. Corporations going into liquidation during any tax period may, at the time of such liquidation, prepare a "final return" covering the income received or accrued to them during the fractional part of the year during which they were engaged in business, and immediately file the same with the assessor of the county or township in which the corporations have their principal places of business.

Art. 34. Limited partnerships are held to be corporations within the meaning of this act and these regulations, and in their organized capacity are subject to the income tax as corporations.

Limited partnerships.

Art. 35. The act specifically enumerates and exempts from its provisions and requirements labor, agricultural, or horticultural organizations, mutual savings banks not having a capital stock represented by shares, fraternal beneficiary societies, orders, or associations operating under the lodge system, or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident, and other benefits to the members of such societies, orders, or associations, and dependents of such members, domestic building and loan associations, cemetery companies organized and operated exclusively for the mutual benefit of their members, any and all corporations or associations organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of whose net income inures to the benefit of any private stockholder or individual, business leagues, chambers of commerce, or boards of trade not organized for profit, no part of the net income of which inures to the benefit of the private stockholder or individual, and civic leagues or similar organizations not organized for profit, but operated exclusively for the promotion of social welfare.

Corporations exempt from tax.

Domestic building and loan associations are among those enumerated as exempt from the requirements of the law. A domestic building and loan association is held to be one organized under and pursuant to the laws of the State of Missouri, or under the laws applicable to Alaska or the District of Columbia. Mutuality in operation and in the distribution of profits and benefits is essential to exemption. Therefore, in order to come within the exempted class such associations must not only be "Domestic," as defined, but they must be organized and operated exclusively for the mutual benefit of the members; that is, all the profits and benefits provided for in the articles of association and by-laws must be ratably distributed among all members regardless of the kind of stock held, according to the amount of money they have on deposit. An association issuing different classes of stock upon which different rates of interest or dividends are guaranteed or paid, does not come within the exempted class.

Domestic building and loan associations defined. Mutuality essential.

Corporations must establish their right to exemption.

Art. 36. All corporations and all beneficiary societies enumerated above shall by affidavit, or otherwise, at the request of the assessor or State Auditor, establish their right to the exemption provided, in which case it will not be sufficient to merely declare that they are exempt, but they must show the character and purpose of the organization, the manner of distributing the net income, if any, or that none of the net income inures to the benefit of any private stockholder or individual. In the absence of such a showing, such organizations may, at any time, be required to make returns of annual net income or disclose their books of account to a revenue officer for examination in order that the status of the company may be determined.

Society or association subject to exemption defined.

Art. 37. A society or association "operating under the lodge system" is considered to be one organized under a charter, with properly appointed or elected officers, with an adopted ritual or ceremonial, holding meetings at stated intervals, and supported by fees, dues, or assessments.

Cemetery companies organized for mutual benefit of their members exempt.

Art. 38. Cemetery companies organized and operated exclusively for the mutual benefit of their members are exempt. The provisions of the law clearly indicate that companies which operate cemeteries for profit are liable to the tax. The status of cemetery associations under the law will, therefore, depend upon the character and purpose of the organization and what disposition is made of the income.

Corporations whose status as to exemption is in doubt must make return.

Art. 39. Any corporation, concerning whose status under the law there is any doubt, or which does not clearly come within one or another of the classes of those specifically enumerated as exempt, should file a return (in blank if desired) and attach thereto a statement setting out fully the nature and purpose of the organization, the source of its income, and what disposition is made of it, and particularly of any surplus.

Co-operative dairies not issuing stock and allowing patrons dividends, exempt.

Art. 40. Co-operative dairies not issuing stock and allowing patrons dividends based on butter fat in milk furnished are not liable. In such case the "dividends" are the purchase price of the raw material furnished.

When income from public utilities is not taxable.

Art. 41. The income derived from any public utility or from the exercise of any essential governmental function, which income accrues to any State, Territory, the District of Columbia, or any political subdivision of a State, Territory, or the District of

Columbia shall not be subject to the tax imposed by this act. In cases wherein any State, Territory, or the District of Columbia, or any political subdivision of a State, or Territory, shall have, prior to the passage of this act, contracted in good faith with any person or corporation to acquire, construct, operate, or maintain a public utility, no income tax pursuant to this act shall be levied upon the income derived from the operation of such public utility, so far as the assessment and payment of such tax will impose a loss or burden upon such State, Territory, District of Columbia, or political subdivision. But the person or corporation is not relieved from the payment of the tax upon that portion of the income accruing to him, or it, under such contract.

Persons or corporations not exempt.

Art. 42. Ordinary copartnerships are not, as such, subject to the tax imposed by this act, but the individual members of any such partnership are liable for income tax only in their individual capacity on their respective shares of the earnings of such partnership, whether such earnings be distributed or not.

Partnerships not taxable as corporations.

Art. 43. Full amount of stock, as represented by the par value of the shares issued, is to be regarded as the paid-up capital stock, except when such stock is assessable on account of deferred payments, or payable in installments, in which case the amount actually paid on such shares will constitute the actual paid-up capital stock of the corporation.

What constitutes paid-up capital stock.

Art. 44. The following definitions and rules are given for determining the gross income of various classes of corporations:

Gross income, how determined.

Gross income of banks and other financial institutions consists of the total revenue derived from the operation of the business, including income, gains, or profits from all other sources, as shown by the entries on the books of account, within the calendar or fiscal year for which the return is made.

Gross income of banks and other financial institutions.

Art. 45. Gross income of insurance companies consists of the total revenue derived from the operation of the business, including income, gains, or profits from all other sources, as shown by the entries on the books of account within the calendar or fiscal year for which the return is made, except as modified by the express exemptions of the article which apply to mutual fire, mutual marine, and life insurance companies.

Gross income of insurance companies.

Art. 46. Mutual fire insurance companies, which require their members to make premium

Gross income of mutual fire insurance companies.

deposits to provide for losses and expenses, shall not return as gross income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves.

Mutual marine insurance companies.

Art. 47. Mutual marine insurance companies may include in their deductions from gross income amounts repaid to policyholders on account of premiums previously paid by them and interest paid upon such amounts between the ascertainment thereof and the payment thereof, such amounts and interest having been included in gross income.

Deferred dividends deductible, when.

Art. 48. Life insurance companies are authorized to omit from gross income such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to the policyholder or treated as an abatement of his premium. In so far as "deferred dividends" payable at a stated period represent "a portion of any actual premium received," such deferred dividends may be included in the amounts to be omitted from gross income for the year in which they were actually paid back, credited to the policyholder, or applied as an abatement of premium. In the case of dividends credited or apportioned annually to the policyholder, only the aggregate amount so actually credited or apportioned during the premium-paying period, and not any accretions thereto, can be excluded from gross income. In the case of whole-life or five-year distribution policies, deferred dividends may be excluded from gross income to the extent that they are paid back, or credited to the insured, or used as an abatement of his annual premiums.

Gross income of insurance companies, to include what.

Art. 49. Gross income of insurance companies, as defined above, will include net premium income as reported to the State insurance department, except the foregoing items specifically exempted in the act, and, in the case of life insurance companies, surrender values applied in any manner, consideration for supplementary contracts involving and not involving life contingencies, and all other income, gains, or profit as shown by the books of account.

Consideration for supplementary contracts.

Art. 50. Applied surrender values and consideration for supplementary contracts not involving life contingencies included in income will, of course,

be deducted as payments under policy contracts, but for convenience in verifying the returns, these items should appear in the return in both gross income and deductions.

Art. 51. All insurance companies should include and attach to their returns a supplementary statement showing, for life companies, the aggregate of items "of such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder within such year;" in the case of mutual fire insurance companies a statement showing "any portion of the premium deposits returned to their policyholders;" and in the case of mutual marine companies "amounts repaid to policyholders on account of premiums previously paid by them, and interest paid upon such amounts between the ascertainment thereof and the payment thereof," which are, or may be, omitted from gross income.

Supplementary statement to accompany returns.

Art. 52. Gross income of manufacturing companies shall consist of the total sales of manufactured goods during the year covered by the return, increased or decreased by the gain or loss as shown by the inventories of finished and unfinished products, raw material, etc., at the beginning and end of the year. To this amount should be added the income, gains, or profits from all other sources as shown by the books of account.

Gross income of manufacturing companies.

Art. 53. Gross income of mercantile companies shall include the total merchandise sales during the year, increased or decreased by the gain or loss as shown by the inventories of merchandise at the beginning and end of the year for which the return is made; to this amount should be added the income, gains, or profits derived from all other sources as shown by the books of account.

Gross income of mercantile corporations.

Art. 54. Gross income of miscellaneous corporations consists of the total revenue derived from the operation and management of the business and property of the corporation making the return, together with all amounts of income, including the income, gains, or profits from all other sources as shown by the books of account.

Gross income of miscellaneous companies.

Art. 55. It will be noted from these definitions that the gross income embraces not only the operating revenues, but also income, gains or profits from

Definition of gross income.

all other sources, such as rentals, royalties, interest, and dividends from stock owned in other corporations, and appreciation in values of assets, if taken up on the books of account as gain; also profits made from the sale of assets, investments, etc.

Income derived from sale of capital assets.

Art. 56. For the purpose of determining the income resulting from the sale of capital assets and the amount to be accounted for as income under this act, there shall be included any and all profit resulting from such sale and which may be apportioned to the period during which the corporation tax law (April 12, 1917) was in force and effect, which was not returned as income during that period.

Ascertaining net income from the sale of capital assets.

Art. 57. In ascertaining net income derived from the sale of capital assets, if such assets were acquired subsequent to January 1, 1918, the difference between the selling price and the buying price shall constitute an item to be added to or subtracted from gross income according to whether the selling price was greater or less than the buying price. If the capital assets were acquired prior to January 1, 1918, the amount of profit or loss representing the difference between the market value as of January 1, 1918, and price for which they were sold shall be added to, or deducted from, the gross income for the year in which the sale was made.

Profit or loss arising from the sale of such assets.

Art. 58. For the purpose of determining the profit or loss arising from the sale of such assets, there shall be added to the price actually realized from the sale any amount which has heretofore been set aside and deducted from gross income by way of depreciation since January 1, 1918, which has not been paid out in making good such depreciation on the property sold.

Changes in book value of assets.

Art. 59. In the case of changes in book values of capital assets resulting from a reappraisal of property, the consequent gains or losses shall be computed for the return in the manner prescribed above in the case of the sale of capital assets.

Result of annual adjustment of values to be shown in return.

In cases wherein there is an annual adjustment of book values of securities, real estate and like assets, and the increases and decreases in values, thus indicated, are taken up on the books and reflected in the profit and loss account, such readjusted values will be taken into account in making the return of annual net income and no prorating will be required. If such adjustment had been made annually prior to January 1, 1918, the book value of the assets at that date will be taken as the basis

for determining gain or loss resulting from subsequent sale, maturity, or adjustment. The adjustment referred to will comprehend assets which have increased in value as well as those which have decreased.

Art. 60. Where a corporation is engaged in carrying on more than one class of business, gross income derived from the different classes of business shall be ascertained according to the definitions above, and which are applicable thereto.

Where corporations are engaged in more than one class of business.

Art. 61. The net income shall be ascertained by deducting from the gross amount of the income of such corporation received within the year from all sources:

Net income, how ascertained.

First. All the ordinary and necessary expenses paid within the year in the maintenance and operation of its business and properties, including rentals or other payments required to be made as a condition to the continued use or possession of property.

Ordinary and necessary expenses.

Second. All losses actually sustained within the year and not compensated by insurance or otherwise, including a reasonable allowance for depreciation by use, wear and tear of property, if any, and in the case of mines, a reasonable allowance for depletion of ores and all natural deposits, of the gross value at the mine of the output for the year for which the computation is made; and in the case of insurance companies, the net addition, if any, required by law to be made within the year to reserve funds, and the sums other than dividends paid within the year on policy and annuity contracts, except as provided in the cases of mutual fire, mutual marine, and life insurance companies.

Loss sustained within the year.

Depreciation.

Third. The amount of interest accrued and paid within the year on its indebtedness to an amount of such indebtedness not exceeding one-half of the sum of its interest-bearing indebtedness and its paid-up capital stock outstanding at the close of the year, or if no capital stock, on the amount of its indebtedness not exceeding the amount of capital employed in the business at the close of the year: *Provided*, that in case of indebtedness wholly secured by collateral the subject of sale in ordinary business of such corporation, joint-stock company, or association, the total interest secured and paid by such company, corporation, or association within the year on any such indebtedness may be deducted as a part of its expense of doing business: *Provided further*, that in the case of bonds or other indebtedness, which have been issued with a guaranty that the

Interest accrued and paid within the year.

Interest on indebtedness secured by collateral.

Tax paid on guaranteed bonds not deductible.

interest payable thereon shall be free from taxation, no deduction for the payment of the tax herein imposed shall be allowed; and in the case of a bank, banking association, loan, or trust company, interest paid within the year on deposits or on moneys received for investment and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan, or trust company.

Taxes paid within the year.

Fourth. All sums paid within the year for taxes imposed under the authority of the United States, or any state or territory thereof, or imposed by the government of any foreign country.

General expenses.

Art. 62. Expenses of operation and maintenance shall include all expenditures for material, labor, fuel, and other items entering into the cost of the goods sold or inventoried at the end of the year, and all other expenses incurred in the operation of the business except such as are required by the act to be segregated in the return.

Cost of buildings on leased grounds.

Art. 63. The cost of erecting permanent buildings on ground leased by a company is a proper deduction as a rental charge, provided such buildings are left on the ground at the expiration of the lease as a part of the rental payment. In such case the cost will be prorated according to the number of years constituting the term of the lease and the annual deduction will be made accordingly.

Commissions to salesmen paid in stock.

Art. 64. Commissions allowed salesmen, paid in stock, may be deducted as expense if so charged on books at the actual value of such stock.

Additions and betterments.

Art. 65. Amounts expended in additions and betterments which constitute an increase in capital investment are not a proper deduction.

Compensation based on stockholding not deductible.

Art. 66. Amounts paid as compensation or additional compensation to officers or employees, which amounts are based upon the stockholdings of such officers or employees, are held to be dividends, and although paid in lieu of salaries or wages, are not allowable deductions from gross income, for the reason that dividends are not deductible.

Gifts, pensions, or gratuities not deductible.

Art. 67. Amounts paid for pensions to retired employees, or to their families, or others dependent upon them, or on account of injuries received by employees, are proper deductions as "ordinary and necessary expenses;" gifts or gratuities to employees in the service of a corporation are not properly deductible in ascertaining net income.

Donations which are deductible.

Art. 68. Donations made for purposes connected with the operation of the property when

limited to charitable institutions, hospitals, or educational institutions, conducted for the benefit of its employees, or their dependents, shall be a proper deduction for ordinary and necessary expenses.

Art. 69. Funds set aside by a corporation for insuring its own property are not a proper deduction, but any loss actually sustained and charged to such fund may be deducted.

Reserves for insurance.

Art. 70. In ascertaining expenses proper to be included in the deductions to be made under the item of "Expenses," corporations carrying materials and supplies on hand for use should include in such expenses the charges for materials and supplies only to the amount that the same are actually disbursed and used in operation and maintenance during the year for which the return is made.

Materials and supplies.

Art. 71. The deduction for losses must be losses actually sustained during the year and not compensated by insurance or otherwise. It must be based upon the difference between the cost value and salvage value of property or assets, including in the latter value such amount, if any, as has, in the current or previous years, been set aside and deducted from gross income by way of depreciation, as elsewhere defined, and has not been paid out in making good such depreciation.

Losses sustained during the year.

Art. 72. Bad debts, if so charged off the company's books, during the year, are proper deductions. But such debts, if subsequently collected, must be treated as income.

Bad debts charged off.

Art. 73. Reserves to take care of anticipated or probable losses are not a proper deduction from gross income.

Reserves not deductible.

Art. 74. Loss due to voluntary removal of buildings, etc., incident to improvements is either a proper charge to the cost of new additions or to depreciation already provided, as the facts may indicate, but in no case is it a proper deduction in determining net income, except as it may be reflected in the reasonable amount allowable as a deduction for depreciation of the new building. Any loss claimed because of the voluntary removal of a building is presumed to have been covered by previous depreciation charges; otherwise the amount of such loss will constitute a part of the cost of the new building.

Loss due to removal of buildings.

Art. 75. All losses claimed arising from sale of capital assets should be arrived at in the manner

Losses from sale of capital assets.

prescribed in section 13114, defining gains arising from sale of capital assets.

Depreciation defined.

Art. 76. The deduction for depreciation should be the estimated amount of the loss, accrued during the year to which the return relates, in the value of the property in respect of which such deduction is claimed, that arises from exhaustion, wear and tear, or obsolescence out of the uses to which the property is put, and which loss has not been made good by payments for ordinary maintenance and repairs deducted under the heading of expenses of maintenance and operation. This estimate should be formed upon the assumed life of the property, its cost and its use. Expenses paid in any one year in making good exhaustion, wear and tear, or obsolescence in respect of which any deduction for depreciation is claimed, must not be included in the deduction for expense of maintenance and operation of the property, but must be made out of accumulated allowances, deducted for depreciation in current and previous years.

Depreciation, how determined.

Depreciation deductible, how treated.

Art. 77. The depreciation allowance, to be deductible, must be, as nearly as possible, the measure of the loss due to wear and tear, exhaustion, and obsolescence, and should be so entered on the books as to constitute a liability against the assets of the company, and must be reflected in the annual balance sheet of the company. The annual allowance deductible on this account should be such an amount as that the aggregate of the annual allowances deducted during the life of the property, with respect to which it is claimed, will not, when the property is worn out, exhausted, or obsolete, exceed its original cost.

Incidental repairs.

Art. 78. Incidental repairs which neither add to the value of the property nor appreciably prolong its life, but keep it in an operating condition, may be deducted as expenses.

Depreciation reserve.

Art. 79. Depreciation set up on the books and deducted from gross income can not be used for any purpose other than making good the loss sustained by reason of the wear and tear, exhaustion, or obsolescence of the property with respect to which it was claimed. If it develops that an amount has been reserved or deducted in excess of the loss by depreciation, the excess shall be restored to income and so accounted for.

Diversion of depreciation reserve.

Art. 80. If any portion of the depreciation set up is diverted to any purpose other than making

good the loss sustained by reason of depreciation, the income account for the year in which such diversion takes place must be correspondingly increased.

Art. 81. Depreciation in book values of capital assets shall be treated in the return in the manner prescribed in the case of loss from the sale of capital assets (Art. 75), but amounts arbitrarily charged off will not be allowed as deductions except so far as they represent an actual shrinkage in values which may be determined to have taken place during the year for which the return is made.

Shrinkage in book value.

Art. 82. Where a corporation holds bonds which were purchased at a rate above par and said corporation shall proportionately reduce the value of those bonds on its books each year so that the book value shall be the redemption value of the bonds when such bonds become due and payable, the return of annual net income of the corporation holding such bonds may show the depreciation on account of amortization of such bonds. The requirement is, however, that the amount carried to the amortization account each year shall be equitably proportioned with respect to the difference between the purchase price and the maturing value and the number of years to elapse until the bonds become due and payable. With respect to bond issues where such bonds are disposed of for a price less than par and are redeemable at par, it is also held that because of the fact that such bonds must be redeemed at their face value, the loss sustained by reason of their sale for less than their face value may be prorated by the issuing corporation in accordance with the life of the bond.

Amortization of bonds.

Loss to be prorated.

Art. 83. "Good will" represents the value attached to a business over and above the value of the physical property, and is such an entirely intangible asset that no claim for depreciation in connection therewith can be allowed.

Good will.

Art. 84. An allowance for depreciation of patents will be made on the following basis:

Depreciation on patents.

The deduction claimed for exhaustion of the capital assets as represented by patents to be made in the return of annual net income of a corporation for any given year shall be one-seventeenth of the actual cost of such patents reduced to a cash basis. Where the patent has been secured from the Government by a corporation itself, its cost would be represented by the various Government fees, cost of

How determined.

drawings, experimental models, attorneys' fees, etc. Where the patent has been purchased by the corporation for a cash consideration, the amount would represent the cost. Where the corporation has purchased a patent and made payment therefor in stocks or other securities, the actual cash value of such stocks or other securities at the time of the purchase will represent the cost of the patent to the corporation.

Deduction in case of obsolescence of patents.

Art. 85. With respect to the depreciation of patents, one-seventeenth of the cost is allowable as a proper deduction each year until the cost of the patent has been returned to the corporation. Where the value of a patent has disappeared through obsolescence or any other cause and the fact has been established that the patent is valueless, the unreturned cash investment remaining in the patent may be claimed as a total loss and be deducted from gross income in the return of annual net income for the year during which the facts as to obsolescence or loss shall be established, such unreturned cash value to be fixed in accordance with the proportion that the number of years which the patent still has to run bears to the full patent period of 17 years.

Depreciation of timber land.

Art. 86. Corporations owning tracts of timber lands and removing therefrom and selling, or otherwise disposing of the timber will be permitted to deduct from their gross income on account of depreciation or depletion an amount representing the original cost of such timber, plus any carrying charges that may have been capitalized or not deducted from income. The purpose of the depreciation or depletion deduction is to secure to the corporation, when the timber has been exhausted, an aggregate amount which, plus the salvage value of the land, will equal the capital actually invested in such timber and land.

Deductions to cease, when.

Art. 87. When an amount sufficient to return this capital has been secured through annual depreciation deductions no further deduction on this account shall be allowed. For the purpose of increasing the deduction on this account no arbitrary increase in values shall be made, unless such increase in value shall be returned as income for the year in which the increase in value was taken up on the books.

Depreciation of natural deposits.

Art. 88. The depreciation of coal, iron, oil, gas, and all other natural deposits must be based upon the actual cost of the properties containing

such deposits. In no case shall the annual deduction on this account exceed a reasonable amount of the gross value at the mine (well, etc.) of the output for the year for which the computation is made.

Art. 89. The term "gross value at the mine," as used in paragraphs of section 13114 of the act prescribing a limit to the amount which may be deducted in the return of individuals and corporations as depreciation in the case of mines, is held to mean the market value of ore, coal, crude oil, and gas at the mine or well, where such value is established by actual sales at the mine or well; and in case the market value of the product of the mine or well is established at some place other than at the mine or well, or on the basis of the bullion or metallic value of the ore, then the gross value at the mine is held to be the value of the ore, coal, oil, or gas sold, or of the metal produced, less transportation, reduction, and smelting charges.

Definition of "gross value" at the mine.

In case the reserves shall be in excess of the estimates, no further deduction on account of depletion shall be made where the capital investment has been returned to the corporation.

Deduction to cease, when.

Art. 90. In addition to the deduction to measure the loss due to depletion, the corporation will be allowed the usual depreciation of its machinery, equipment, etc., such depreciation to be determined on the basis of the cost and estimated life of the property with respect to which the depreciation is claimed.

Depreciation of plant, etc.

Art. 91. Corporations leasing oil or gas territory shall base their depletion deduction upon the cost of the lease, and not upon the estimated value, in place of the oil or gas.

Corporations leasing oil or gas.

Art. 92. Corporations operating mines (including oil or gas wells) upon a royalty basis only can not claim depreciation because of the exhaustion of the deposits.

Corporations operating mines.

Art. 93. Unearned increment will not be considered in fixing the value on which depreciation shall be based.

Unearned increment.

Art. 94. (a) Under item 5 (a) of the return form, the insurance company may take credit for all losses actually sustained during the year and not compensated by insurance or otherwise, including losses resulting from the sale or maturity of securities or other assets, as well as decreases by adjustment of book values of securities, in so far as such decreases represent actual declines in values which have taken

Deduction of losses, depreciation, payments on policy contracts by insurance companies.

place during the year for which the return is made; also losses from agency balances, or other accounts, charged off as worthless; losses by defalcation; premium notes voided by lapse, when such notes shall have been included in gross income. This item will not, however, include payments on policy contracts.

Losses by shrinkage in value of property.

(b) In this item may be deducted actual losses sustained within the year by reason of the depreciation of property, which shall have been so entered on the books of the company as to constitute a liability against its assets. An arbitrary depreciation deduction claimed in the return, but not evidenced by book entry, can not be allowed.

Policy contracts paid.

(c) In this item credit will be taken for all death, disability, or other policy claims, including fire, accident, and liability losses, matured endowments, annuities, payments on installment policies, surrender values, and all claims actually paid under the terms of policy contracts. Salvage need not be included in gross income if deducted in ascertaining the net amount paid for losses under policy contracts.

Losses incurred and unpaid not deductible.

Reserves covering liabilities for losses incurred, reported, resisted, adjusted or unadjusted but not paid, can not be deducted from gross income under this or any other item of the return.

Additions to reserves required by law, how determined.

(d) The reserve funds of insurance companies to be considered in computing the deductible net addition to reserve funds are held to include only the reinsurance reserve and the reserve for supplementary contracts required by law in the case of life insurance companies, the unearned premium reserves required by law in the case of fire, marine, accident, liability, and other insurance companies, and only such other reserves as are specifically required by the statutes of a State within which the company making the return is doing business. The reserves used in computing the net addition must not include the reserve on any policies the premiums on which have not been accounted for in gross income. For the purpose of this deduction, the net addition is the excess of the reserve at the end of the year over that at the beginning of the year and may be based upon the highest authorized reserve required by any State in which the company making the return does business.

Assessment company reserves.

In the case of assessment insurance companies, the actual deposits of sums with the State or Territorial officers pursuant to law, as additions to guaranty or reserve funds, shall be treated as payments required by law to reserve funds.

Art. 95. The amount of interest accrued and paid within the year by a corporation on an amount of bonded or other indebtedness not in excess of *one-half* of the sum of the interest-bearing indebtedness and the paid-up capital stock outstanding at the close of the year, or, if no capital stock, on the amount of interest-bearing indebtedness not exceeding the amount of capital employed in the business at the close of the year, constitutes an allowable deduction; that is, the maximum principal, upon which interest for the purpose of this deduction can be computed, must not exceed, in the one case, one-half of the sum of the interest-bearing indebtedness and the capital stock outstanding at the close of the year, or, in the other case, must not exceed the amount of capital employed in the business at the close of the year. The interest to be deductible must have been computed on the proper principal at the contract rate and must have been actually paid within the year.

What constitutes allowable interest deduction.

Interest paid pursuant to contract on an indebtedness secured by mortgage on real estate occupied and used by a corporation, in which real estate the corporation has no equity or to which it is not taking title is an allowable deduction from gross income as a rental charge, payment of which is required to be made as a condition to the continued use and possession of the property. If, however, the corporation has an equity in or is purchasing for its own use the real estate upon which such mortgage is a prior lien, the indebtedness will be held to be indebtedness of the corporation within the meaning of the law and the interest paid on such mortgage will be deductible only to the extent that it, with interest on other obligations of the corporation, is within the limit fixed by the act.

Interest paid as rental deductible.

Interest on mortgage on real estate in which corporation has equity not deductible.

Art. 96. In the case of banks and banking associations, loan or trust companies, interest paid within the year on deposits, or on moneys received for investment and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan or trust company, may be allowably deducted from the gross income of such corporations.

Banks and banking associations.

Art. 97. Interest paid on indebtedness, wholly secured by collateral, the subject of sale in ordinary business of such corporations, is also deductible to the full amount of such interest paid. This contemplates that the entire interest received on the

Interest paid on indebtedness.

collateral securing such indebtedness shall be included in the gross income returned.

Different rates of interest.

Art. 98. Interest on bonded or other indebtedness bearing different rates of interest may be deducted from gross income during the year, provided the aggregate amount of such indebtedness on which the interest is paid does not exceed the limit prescribed by law, and in case the indebtedness is in excess of the amount on which interest may be legally deducted the indebtedness bearing the highest rate may be first considered in computing the interest deduction, and the balance, if any, will be computed upon the indebtedness bearing the next lower rate actually paid, and so on until interest on the maximum principal allowed has been computed.

Taxes deductible.

Art. 99. All sums paid within the year for taxes imposed under the authority of the United States or of any State or Territory thereof, or imposed by the government of any foreign country, are deductible from gross income.

Taxes not deductible.

Art. 100. Taxes paid for local benefits are not deductible. Taxes paid by a corporation pursuant to a contract guaranteeing that the interest payable on its bonds or other indebtedness shall be free from taxation are not deductible.

Tax on capital stock of banks.

Art. 101. Banks paying taxes assessed against their stockholders because of their ownership of the shares of stock issued by such banks can not deduct the amount of taxes so paid in making their return for the income tax imposed by this act unless specially authorized to do so by the laws of the State in which they do business. The shares of stock are the property of the stockholders, and such holders are primarily liable for the tax.

Import duties.

Art. 102. Import duties or taxes are not deductible under the item of taxes paid during the year, but should be included in arriving at the cost of goods under item No. 4 (expenses).

Reserves for taxes.

Art. 103. Reserves for taxes can not be allowed, as the law specifically provides that only such sums as are paid within the year for taxes shall be deducted.

Foreign corporations subject to tax.

Art. 104. Foreign corporations shall be subject to the normal tax of one and one-half per cent computed upon the net income received by or accruing to such corporations from business transacted and capital invested in this State. For the purpose of a tax the net income of such foreign organizations shall be ascertained by deducting from the gross income arising, received, or accruing from business done and

capital invested in this State the deductions enumerated in the act, which deductions shall be limited to expenditures or charges actually incurred in the maintenance and operation of the business transacted and capital invested in the State of Missouri or, as to certain charges, such proportion of the aggregate charges as the gross income from business done and capital invested in the State of Missouri bears to the aggregate income within and without the State of Missouri. In other words, the deductions from the gross income of a foreign corporation doing business in this State should, as nearly as possible, represent the actual expenses and authorized charges incident to the business done and capital invested in this State and must not comprehend, either directly or indirectly, any expenditures or charges incurred in the transaction of business or the investment of capital without the State of Missouri.

Deductions confined to expenses of business done in the State of Missouri.

Art. 105. It is immaterial whether the deductions except for taxes and losses are evidenced by actual disbursements in cash, or whether evidenced in such other way as to be properly acknowledged by the corporate officers and so entered on the books of the corporation as to constitute a liability against the assets of the corporation making the return. Deductions for taxes, however, should be the aggregate of the amounts actually paid, as shown on the cash book of the corporation. Deductions for losses should be confined to losses actually sustained and charged off during the year and not compensated by insurance or otherwise. Except as the same may be modified by the provisions of the act, limiting certain deductions and authorizing others, the net income as returned for the purpose of the tax should be the same as that shown by the books or the annual balance sheet.

How deductions shall be evidenced.

Art. 106. The tax imposed upon the income of corporations, whether domestic or foreign, shall be computed upon the net income, ascertained in the manner hereinbefore indicated.

Tax on net income of corporations for the year 1917.

Art. 107. In order that certain classes of corporations may arrive at their correct income, it is necessary that an inventory, or its equivalent, of materials, supplies, and merchandise on hand for use or sale at the close of each calendar year shall be made in order to determine the gross income or to determine the expense of operation.

Inventories.

A physical inventory is at all times preferred, but where a physical inventory is impossible and

Physical inventory.

an equivalent inventory is equally accurate, the latter will be acceptable.

An equivalent inventory is an inventory of materials, supplies, and merchandise on hand taken from the books of the corporation.

Form of re-
turn.

Art. 108. Under the authority conferred by this act, forms of return have been prescribed, in which the various items specified in the law are to be stated. Blank forms of this return will be forwarded to assessors and should be furnished to every corporation, not expressly exempted, on or before January 1 of each year. Failure on the part of any corporation, joint-stock company, association, or insurance company liable to this tax to receive a prescribed blank form will not excuse it from making the return required by law, or relieve it from any penalties for failure to make the return in the prescribed time. Corporations not supplied with the proper forms for making the return should make application therefor to the assessor in whose county is located its principal place of business in ample time to have its return prepared, verified, and filed with the assessor on or before the last due date as hereinafter defined. Each corporation should carefully prepare its return so as to fully and clearly set forth the data therein called for. Imperfect or incorrect returns will not be accepted as meeting the requirements of the law.

Penalties im-
posed by act.

Art. 109. For refusal or neglect to make a return within the prescribed time, or for a false or fraudulent return, the corporation so offending shall be liable to a specific penalty not exceeding \$5,000. Any person divulging unlawfully any information whatever disclosed by a return shall be punished by a fine not exceeding \$1,000, or by imprisonment not exceeding five years, or both.

Fraudulent
returns.

Any person or any officer of any corporation required by law to make, render, sign or verify any return, who makes any false or fraudulent return or statement with intent to defeat or evade the assessment of income tax, shall be guilty of a misdemeanor and shall be fined not exceeding \$2,500 or be imprisoned not exceeding one year, or both, at the discretion of the court, with the costs of prosecution.

Fiscal year,
how estab-
lished.

Art. 110. The State income-tax law authorizes corporations, joint-stock companies, etc., under certain conditions to make their returns on the basis of an established "fiscal year" or consecutive 12-

months period, which may be other than the calendar year.

Pursuant to this provision the following instructions are issued for the guidance of assessors and other interested parties:

Any corporation, joint-stock company, or association, or any insurance company subject to the tax imposed by this act may, at its option, have the tax payable by it computed upon the basis of the net income arising or accruing from all sources during its fiscal year, provided that it shall designate the last day of the month selected as the month in which its fiscal year shall close as the day of the closing of its fiscal year, and shall give notice, in writing, to the assessor of the county in which its principal place of business is located, of the day it has thus designated as the closing of such fiscal year.

May designate day for closing of fiscal year and must give at least 30 days' notice to assessor of the day so designated.

Art. 111. The Attorney-General of Missouri has ruled that corporations making returns on the basis of a fiscal year, shall make them at the same time and in the same manner as calendar year corporations—that is between January 1st and March 1st of each year. Fiscal year corporations shall notify their respective assessors in writing of the fact that they are fiscal year corporations, and the designated date their business year closes.

Fiscal year: time of making return.

Notice to assessors.

Art. 112. Assessors of counties receiving notices of the selection and designation of the "fiscal years," as above indicated, will make record of the same, recording (a) the name of the corporation or like organization, (b) the date when notice was given, (c) the day designated for the closing of the fiscal year.

Assessors must make a record of the designation of the "fiscal year."

Art. 113. In all cases where a fiscal year is not established as above prescribed returns must be made on the basis of the calendar year. Returns must be verified under oath or affirmation by its president or other principal officer, and its treasurer or assistant treasurer; that is to say, by two different persons acting in the official capacity indicated.

Where fiscal year is not properly established, returns must be made for calendar year.

Art. 114. If it shall appear in any case that returns have been made to the assessor on the basis of a fiscal year not designated as above indicated, the corporations making such returns will be advised that such returns can not be accepted, but must be made to cover the business of the calendar year.

Returns made on basis of fiscal year not so designated can not be accepted.

Art. 115. Returns made under this act and pursuant to these instructions must be made on the new forms prescribed by the State Auditor.

Returns for 1921 must be made on new forms.

Extension
not to exceed
30 days.

Art. 116. An extension of time within which a return may be filed can in no case exceed 30 days from the date on which the return is due and can be granted only upon written application to the assessor, and in case of sickness or absence of an officer whose signature to the return is required, such application to be made prior to the date on which the return is due.

Returns prop-
erly mailed in
time to reach
assessor not
subject to pen-
alty under cer-
tain conditions.

Art. 117. If a return is made and placed in the United States mails, properly addressed, and postage paid, in ample time, in due course of mails, to reach the office of the assessor or deputy assessor on or before the last due date, no penalty will be held to attach should the return not be actually received by such officer until subsequent to that date.

Last due date
defined.

Art. 118. "Last due date," as hereinbefore used, is construed to mean the last day upon which a return is required to be filed in accordance with the provisions of the law, or the last day of the period not exceeding 30 days covered by an extension of time granted by the assessor.

When due
date falls on
Sunday or legal
holiday.

Art. 119. When the due date as above defined falls on Sunday or on a legal holiday, the last due date will be held to be the day next following such Sunday or legal holiday and the return should be made to the assessor not later than such following day, or, if placed in the mails, it should be posted in ample time to reach the assessor's office, under ordinary handling of the mails, on or before the date on which the return is thus made due in the office of the assessor.

Assessment
and payment of
taxes.

Art. 120. All assessments against corporations, etc., making returns are required to be made and the several corporations, joint-stock companies, etc., notified of the amount for which they are liable on or before the first day of June of each successive year, and said assessments shall be paid on or before the first day of June of such year. In case of refusal or neglect by a corporation, etc., to make a return, and in case of false or fraudulent return, the State Auditor, upon the discovery thereof within three years after such returns are due, shall make a return upon information obtained in the manner provided in the act, and the assessment made on the basis of such return shall be paid immediately upon notice and demand given by the collector.

Notice of as-
sessment.

Art. 121. When the assessments shall have been made, the returns shall be filed in the office of the

County Clerk and shall constitute public records, subject to inspection upon the order of the State Auditor. Copies of returns on file in the County Clerk's office are not permitted to be sent to any person, except to the corporation itself or to its duly authorized attorney.

Returns are public records, subject to inspection, upon order of the State Auditor.

Art. 122. At the request of the Attorney-General, or by direction of the State Auditor, certified copies of returns may be made and delivered to the prosecuting attorneys of the counties in the State for their use as evidence in the prosecution or defense of suits in which the collection or legality of the tax assessed on the basis of such returns is involved, or in any suit to which the State of Missouri and the corporation, etc., making the return are parties and in which suit such certified copies would constitute material evidence.

Certified copies of returns.

Art. 123. The disclosure by any assessor, deputy assessor, agent, clerk, or other officer or employee of the State of Missouri to any person of any information whatever contained in or set forth by any return of annual net income made pursuant to this act is, by the act, made a misdemeanor, and is punishable by a fine not exceeding \$1,000, or by imprisonment not exceeding two years, or both, at the discretion of the court, and if the offender is an officer or employee of the State of Missouri he shall be dismissed and be incapable thereafter of holding any office under the State of Missouri.

Penalty for giving information in regard to returns.

Art. 124. No particular system of bookkeeping or accounting will be required by the department. However, the business transacted by corporations must be so recorded that each and every item set forth in the return of annual net income may be readily verified by an examination of the books of account.

Bookkeeping.

Art. 125. The books of a corporation are assumed to reflect the facts as to its earnings, income, etc. Hence they will be taken as the best guide in determining the net income upon which the tax imposed by this act is calculated. Except as the same may be modified by the provisions of the law, wherein certain deductions are limited, the net income disclosed by the books and verified by the annual balance sheet, or the annual report to stockholders, should be the same as that returned for taxation.

Books of account best guide to income.

Omitted
taxes may be
assessed.

Art. 126. In cases wherein corporations have neglected or refused to make returns, and in cases wherein returns made are found, upon investigation or otherwise, to be false or fraudulent, the State Auditor may, upon discovery thereof, at any time within three years after said return is due, make return upon the information obtained in the manner provided in the act, and the tax so discovered to be due, together with the additional tax prescribed, shall be assessed, and the amount thereof shall be paid immediately upon notice and demand.

Corporations
subject to nor-
mal tax.

Art. 127. Corporations coming within the terms of this law are subject to the normal tax only; that is, a tax computed on their entire net income regardless of the amount of such net income.

Examination
of books.

Art. 128. For the purpose of verifying any return, made pursuant to this act, the State Auditor may, by any duly authorized agent or deputy, cause the books of such corporation to be examined, and if such examination discloses that the corporation is liable to tax in addition to that previously assessed, or assessable, the same shall be assessed and shall be payable immediately upon notice and demand. For the purpose of such examination, the books of corporations shall be open to the examining officer, or shall be produced for this purpose upon summons issued by any properly authorized officer.

Profit and
loss statement.

Art. 129. All corporations are absolutely required to paste or attach to their income tax returns, their profit and loss statement, showing their net gain or loss as per their books, for the period covered by their return.

PART 3.

Assessment and Collection.

Art. 130. All amounts of income listed by assessors will be entered on the "income assessment book," Form 1, in the case of individual, and on Form 2 in the case of corporations.

Amount of income to be reported on assessment lists.

Art. 131. The names of corporations subject to tax will be listed on Form 2, according to their designated class, and in alphabetical order as to each class. Names of individuals subject to tax will be listed on Form 1, alphabetically, without reference to class.

Names to be listed in alphabetical order.

Art. 132. The assessor of any county or township may require any person in his county or township, who shall be subject to an income tax, to make report to him at such time and in such manner and form as he may prescribe.

Assessor may require persons to report.

Art. 133. The assessor of each county or township, in this State, shall complete the assessment of incomes, on or before the first day of March of each year, and shall immediately after the said assessment of incomes is completed and the assessment book of same is made and delivered to the County Clerk, all Income returns shall be filed at the office of the Collector of the Revenue and shall be destroyed by said Collector within six months after said income tax becomes due, provided that no income tax return shall be destroyed before the tax has been paid.

Assessor to complete and certify assessment.

Art. 134. Assessors before entering upon the duties herein required of them, shall execute a bond to the satisfaction of the County Court, or the Clerk thereof in vacation, or the Council of the City of St. Louis, with three or more solvent sureties; such bond to be filed in office of the County Clerk or City Auditor.

Assessor to execute bond.

Art. 135. Any assessor who shall fail or refuse to perform any duty in the time prescribed by law, may be removed and another appointed in his place.

Assessor may be removed, when.

Art. 136. In case of neglect occasioned by sickness or absence of an officer of a corporation, joint-stock company or association, the assessor may allow such further time as he may deem necessary not to exceed thirty days.

Assessor may allow further time to file lists, when.

Art. 137. Assessors are empowered to estimate incomes.

Assessor's power to estimate.

Compensation of assessors.

Art. 138. Assessors are allowed the same compensation for their services as is allowed under the general revenue laws of the State.

Powers of boards of equalization.

Art. 139. The County Boards of Equalization and appeals have the same powers and duties with respect to the income tax as they have with respect to the assessment of personal property, with the additional power to estimate incomes.

County clerk to extend tax.

Art. 140. The County Clerk, or City Auditor, shall extend the tax against each person or corporation on the "income assessment book" returned by the assessors at the rate prescribed by law.

County clerk or auditor to certify assessment.

Art. 141. The County Clerk, or City Auditor, shall immediately, after the "income assessment book" and the assessment lists have been filed in his office, certify under the seal of his office, to the State Tax Commission, the aggregate amount of income assessed against individuals, corporations, joint-stock companies, insurance companies, mutual insurance companies and railroad companies in his county or the City of St. Louis.

County clerk or auditor to certify abstract of taxes.

Art. 142. The County Clerk and the Auditor of the City of St. Louis shall upon completion of the extension of the taxes levied under this act, upon the "income assessment book" certify under the seals of their respective offices, to the State Auditor, an aggregate abstract of the valuation of the several classes of income, and the total tax extended on such "income assessment book" against each of said classes, together with the receipt of the Collector of the Revenue of his county or city, attached thereto.

County clerk to report collection.

Art. 143. The County Clerk shall report all taxes collected by the collector under this act at the same time and in the same manner, as he is required by the revenue laws of the State, to report collections of other taxes.

Compensation of county clerk or auditor.

Art. 144. The County Clerk and the City Auditor are allowed the same compensation for services performed under this act as is allowed for like services under the revenue laws of the State, such fees to be wholly paid by the State.

Collectors' duties.

Art. 145. The collector of each county and the City of St. Louis shall collect the taxes imposed by this act in the same manner as personal taxes are collected, subject to the penalties imposed by this act, and the revenue laws of the State.

Collectors to report and remit tax.

Art. 146. Collectors of the revenue shall report, to the County Clerk, and make remittances to the State Treasurer of all taxes collected under this act

in the same manner and at the same time as is required under the revenue laws of the State as to real and personal taxes.

Act. 147. Collectors are allowed the same compensation for collecting taxes under this act as are allowed for collecting real and personal taxes under the revenue laws of the State.

Collectors'
compensation.

GEORGE E. HACKMANN,
State Auditor of Missouri.

CONSTITUTION AND LAWS
OF KANSAS

4

RELATING TO

ASSESSMENT AND TAXATION



Compiled by the Tax Commission
February, 1924

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Constitutional Provisions.

EDUCATION.

ARTICLE 6, SECTION 10, CONSTITUTION.

§ 10. Tax for state educational institutions. The legislature may levy a permanent tax for the use and benefit of the state educational institutions and apportion among and appropriate the same to the several institutions, which levy, apportionment and appropriation shall continue until changed by statute. Nothing herein contained shall prevent such further appropriation by the legislature as may be deemed necessary from time to time for the needs of said state educational institutions.

NOTE.—This section was submitted by the legislature of 1917 (L. 1917, ch. 352), and was adopted by the people at the general election November 5, 1918.

FINANCE AND TAXATION.

ARTICLE 11, SECTIONS 1 TO 8, CONSTITUTION.

§ 1. System of taxation; exemption. The legislature shall provide for a uniform and equal rate of assessment and taxation; but all property used exclusively for state, county, municipal, literary, educational, scientific, religious, benevolent and charitable purposes, and personal property to the amount of at least two hundred dollars for each family, shall be exempted from taxation.

Assessment on property benefited by special improvement; "tax," considered. *Todd v. Atchison*, 9 K. A. 251.

Injunction granted where property unlawfully taxed more than its proportion. *Railway Co. v. Geary County*, 9 K. A. 250. (Reversed, *Geary County v. Railway Co.*, 62 K. 188.)

Penalty upheld where injunction against collection of taxes is dissolved. *Railway Co. v. Labette County*, 9 K. A. 545.

Valuation of personal property for all purposes must be uniform. *Stanfield v. Boyd*, 10 K. A. 265.

Statute taxing certain counties because of delinquent taxes, void. *The State, ex rel., v. Leavenworth County*, 2 K. 61.

Levying cost of improvements on lots according to area, valid. *Hines v. City of Leavenworth*, 2 K. 186, 197.

Lands of united tribes of Shawnee Indians, subject to taxation. *Blue-Jacket v. Commissioners of Johnson County*, 3 K. 299, 364. (Reversed, *The Kansas Indians*, 71 U. S. 737, 759.)

Assessment of railroad by board of county clerks, held valid. *Gulf Railroad Co. v. Morris*, 7 K. 219, 220.

Land owned by educational institution, but unoccupied, not exempt. *Washburn College v. Comm'rs of Shawnee Co.*, 8 K. 244, 248.

Dwelling owned by church, used exclusively as residence, not exempt. *Vail v. Beach*, 10 K. 214.

Use for "educational purpose" must be direct, immediate and exclusive. *St. Mary's College v. Crowl, Press., etc.*, 10 K. 442, 449.

Relief bonds, not for public purposes, tax unconstitutional. *The State, ex rel., v. Oswego Township*, 14 K. 418.

Agricultural college lands held under contracts of purchase are taxable. *Oswalt v. Halliwell*, 15 K. 154, 156.

Both statute and city ordinance taxing foreign insurance company, valid. *City of Leavenworth v. Booth*, 15 K. 617.

Law apportioning indebtedness when county divided does not conflict herewith. *Comm'rs of Sedgewick Co. v. Bunker*, 16 K. 496, 504.

"Uniform and equal rate of assessment and taxation," construed. *Comm'rs of Ottawa Co. v. Nelson*, 19 K. 224.

Uniform assessment and taxation herein contrasted with other state constitutions. *Francis Press., v. A. T. & S. F. Rld. Co.*, 19 K. 302, 306.

All persons owning property on assessment roll, although property exempt. *The State, ex rel., v. Comm'rs of Phillips Co.*, 26 K. 422.

Rolls should contain names of all parties owning taxable property. *The State, ex rel., v. Comm'rs of Phillips Co.*, 26 K. 418, 424.

- Corporation tax depending on tax imposed by other states, valid. Phoenix Ins. Co. v. Welch, *Supt.*, 29 K. 672, 674.
- Property conveyed to county, used exclusively for county purposes, exempt. Durkee v. Comm'rs of Greenwood Co., 29 K. 697.
- Special assessments for improvements, not taxes within meaning of section. Tull v. Royston, 30 K. 617, 619.
- Section refers to property tax; does not prohibit license tax. City of Newton v. Atchison, 31 K. 151.
- Tax on cattle driven into state after March 1, void. Graham v. Comm'rs of Chautauque Co., 31 K. 478, 477.
- Assessment on property must be uniform and equal. Newman v. City of Emporia, 32 K. 460, 460.
- Taxation on railroad property only, to pay railroad commissioners, unconstitutional. A. T. & S. F. Rld. Co. v. Howe, *Treas.*, 32 K. 737.
- Ordinance regulating, restricting and taxing dogs, not in conflict herewith. The State, *ex rel.*, v. City of Topeka, 36 K. 76, 85.
- Stenographer's fee is not a tax within the meaning hereof. Beebe v. Wells, 37 K. 472, 475.
- Statute permitting exemption of property of nonresidents of township, void. M. & M. Rly. Co. v. Champlin, *Treas.*, 37 K. 682.
- Unplatted land lying within city is subject to city taxation. Mendenhall v. Burton, 42 K. 570, 575.
- Uniform and equal rate required merely in each taxing district. Elevator Co. v. Stewart, 50 K. 378, 383.
- Indian lands after first payment are subject to state tax. Logan v. Comm'rs of Clark Co., 51 K. 747, 753.
- When exemption claimed, person must bring himself clearly within exemption. Stahl v. Educational Assoc'n, 54 K. 542, 547.
- Assessment some property full value, other three-fourths less, excess illegal. C. B. & Q. Rld. Co. v. Comm'rs of Atchison Co., 54 K. 781, 787.
- Property taxed for fire tax but excluded from benefit, unconstitutional. Railway Co. v. Clark, 60 K. 826.
- Tax on insurance contracts with unlicensed companies, unconstitutional. *In re Page*, 60 K. 842, 848.
- Equalization fixed by state board compulsory only for state taxes. Geary County v. Railway Co., 62 K. 168, 173.
- Property used by mutual benefit insurance association, not exempt. National Council v. Shawnee County, 63 K. 799, 808.
- Taxation for sewers; act does not violate this section. Kansas City v. Gibson, 66 K. 501.
- Waterworks owned by city, although charging prescribed rentals, is exempt. Sumner County v. Wellington, 66 K. 590, 593.
- "Uniform and equal" does not apply to penalty for nonpayment. Railway Co. v. Miami County, 67 K. 434.
- Taxation; judicial-sale act of 1901 constitutional. Baker v. Atchison County, 67 K. 527.
- Compromise act, authorizing compromise of taxes on unsold property, valid. Trust Co. v. Davis, 76 K. 689, 642.
- Drainage; lands not subject to overflow may be assessed. Roby v. Drainage District, 77 K. 754.
- Authorizing city to issue bonds aiding university, not in conflict herewith. The State v. Lawrence, 79 K. 234, 245.
- Act making estates liable for maintenance at state hospital, valid. Kaiser v. The State, 80 K. 364, 371.
- Only property used exclusively, directly and immediately in dispensing charity, exempt. Mason v. Zimmerman, 81 K. 799, 807.
- Exemption based solely upon exclusive use; charitable purposes discussed. Masonic Home v. Sedgwick County, 81 K. 859, 868.
- Property used exclusively for benevolent or charitable purposes, exempt. Masonic Home v. Sedgwick County, 81 K. 869.
- Taxation of stock owned by resident in foreign corporation, valid. Hunt v. Allen County, 82 K. 824, 826.
- Collection of excess enjoined where unlawful, intentional discrimination in valuation. Bank v. Lyon County, 83 K. 376, 379.
- Property in Kansas belonging to foreign municipality, subject to taxation. The State v. Holcomb, 85 K. 178, 182.
- Where property exempt hereunder, legislature cannot limit amount of property. Ottawa University v. Stratton, 85 K. 246, 248.
- Collection of expenses in eradicating San José scale, held valid. Balch v. Glenn, 85 K. 735, 740.
- Legislature may exempt residents in certain cities from poll tax. Shane v. City of Hutchinson, 88 K. 188, 192.
- Inheritance tax law of 1909 did not conflict herewith. The State, *ex rel.*, v. China, 91 K. 416.
- School property not exempt from special assessments for public improvements. City of Wichita v. Board of Education, 92 K. 967, 968.
- Registration fees for real-estate mortgages (ch. 250, 1916), held unconstitutional. Wheeler v. Weightman, 96 K. 50.
- Taxation for current expenses; classification of counties, considered. Railway Co. v. Cowley County, 97 K. 155.
- Oil inspection fee, held unconstitutional. The State, *ex rel.*, v. Cumiskey, 97 K. 343, 352.
- County aid to state fairs, held constitutional. The State, *ex rel.*, v. Reno County, 98 K. 648.
- Statute providing manner of listing insurance company's property, valid. Freedom Township v. Douglas, 99 K. 176.

Moving-picture films; fees collected for examination, valid. *The State, ex rel., v. Ross*, 101 K. 377, 378.

Employment of county prisoners on public works, not unconstitutional. *The State, ex rel., v. Chase County*, 101 K. 564, 567.

Section does not forbid different methods of assessment. *Bank v. Geary County*, 102 K. 334, 347, 352.

Deduction of debts from credits, statute valid. *Ritchie v. Ahlstedt*, 105 K. 739, 741.

Act providing for improvement of county roads, valid. *The State, ex rel., v. Raub*, 106 K. 196, 198.

Act for keeping of insane persons by certain relatives, valid. *The State v. Bateman*, 110 K. 546, 548.

Section cited in considering liability of county for paving assessments. *City of St. John v. Stafford County*, 111 K. 128, 130.

Provisions relating to taxation of United States bonds, unconstitutional. *Lantz v. Hanna*, 111 K. 461; *Insurance Co. v. Lyons, County Assessor*, 112 K. 384.

Method of levying taxes for support of high schools, valid. *The State, ex rel., v. French*, 111 K. 820, 827.

Lands of united tribes of Shawnee Indians, not taxable. *The Kansas Indians*, 72 U. S. 737, 759.

"Assessment" means valuation of property by proper officers, for taxation. *Western Union Telegraph Co. v. Howe*, 180 Fed. 52.

§ 2. Taxable property. The legislature shall provide for taxing the notes and bills discounted or purchased, moneys loaned, and other property, effects, or dues of every description, (without deduction) of all banks now existing, or hereafter to be created, and of all bankers; so that all property employed in banking shall always bear a burden of taxation equal to that imposed upon the property of individuals.

Banker pay taxes on average deposits used in his business. *Knox v. Comrs of Shawnee Co.*, 20 K. 596, 598.

Powers and duties of legislature under this section commented on. *Dutton v. National Bank*, 58 K. 440, 454.

Discrimination in valuation intentionally made against bank, collecting excess em'ion'd. *Bank v. Lyon County*, 83 K. 376, 379.

Section discussed in connection with registration fees for real-estate mortgages. *Wheeler v. Weightman*, 96 K. 69.

Section cited in considering tax on banks and investment companies. *Bank v. Geary County*, 102 K. 334, 339, 352.

§ 3. Revenue for current expenses. The legislature shall provide, at each regular session, for raising sufficient revenue to defray the current expenses of the state for two years.

Nota.—This section was submitted by the legislature at the session of 1875 (Laws 1875, ch. 140), and was adopted by the people at the general election held November 2, 1875. Original section 3 was as follows:

"§ 3. The legislature shall provide, each year, for raising revenue sufficient to defray the current expenses of the state."

Annotation to original section:

Section is directory; issuance of bonds for legislative expenses, unconstitutional. *The State, ex rel., v. School Fund*, 4 K. 261.

Section makes legislative duty, presumption lies that duty is done. *The State, ex rel., v. Ewing*, 22 K. 708, 714, 715.

Legislature limited to two years; levy requiring gross sum discussed. *The State, ex rel., v. Bailey*, 56 K. 81. (Permanent tax for educational institutions permitted by later amendment. See art. 6, sec. 10.)

§ 4. Object of tax. No tax shall be levied except in pursuance of a law, which shall distinctly state the object of the same; to which object only such tax shall be applied.

Judgment against city, mandamus to compel levy of tax, discussed. *Stevens v. Miller*, 2 K. A. 192, 199.

Additional levy to pay delinquent tax in all counties, valid. *Railway Co. v. Williamson*, 8 K. A. 711; *Clark v. Railway Co.*, 8 K. A. 722. (Reversed in part, affirmed in part, *Railway Co. v. Clark*, 90 K. 631.)

Act February 26, 1863, object of tax not stated, void. *The State, ex rel., v. Leavenworth County*, 3 K. 61, 67.

Section does not apply to license taxes in cities. *City of Leavenworth v. Booth*, 15 K. 627, 634.

Levy must be based on law stating object of tax. *A. T. & S. F. Rld. Co. v. Woodcock, Treasurer*, 18 K. 29, 22.

Act attempting to divert general tax to railroad bonds, void. *National Bank v. Barber, Treasurer*, 24 K. 534, 546.

Statute authorizing license taxes partly valid under this section. *McGrath v. City of Newton*, 29 K. 368, 369.

Act authorizing levy and assessment to build jail, valid. *Washburn v. Comm'rs of Shawnee Co.*, 37 K. 217.

Act prescribing payment by county to encourage agriculture, held valid. *Fair Association v. Myers*, 44 K. 132, 134.

City funds not taxes; designation of depository, considered. *National Bank v. Ferguson*, 48 K. 732, 735, 738.

Section applies to city taxes levied under legislative authority. *The State v. City of Emporia*, 57 K. 710.

Taxes for city building cannot be diverted to other use. *The State v. City of Emporia*, 57 K. 710.

Additional levy to pay delinquent tax in all counties, valid. *Railway Co. v. Clark*, 60 K. 831.

How penalties and interest on delinquent taxes shall be distributed. *Sedgwick County v. Wichita*, 62 K. 704, 709.

Authorizing use of general fund in erection of courthouse, unconstitutional. *Smith v. Haney*, 73 K. 506, 509.

Act appropriating surplus funds to erection of county buildings, valid. *The State v. Butler County*, 77 K. 527, 535.

Acts validating elections under Barnes high-school law, held valid. *The State v. Pauley*, 83 K. 456, 464.

Statute charging all rebates to county fund, valid. *Kansas City v. Stewart*, 90 K. 846, 855.

Township levy for "other purposes" applied to judgment for damages. *Super v. Modell Township*, 94 K. 402, 405.

"Reserve fund" under commission government, simply authorization to set apart. *Railway Co. v. City of Topeka*, 95 K. 747, 750.

Statute providing for improvement of county roads, valid hereunder. *The State, ex rel., v. Raub*, 106 K. 196, 203.

Fund raised for other purpose, cannot be applied on bonds. *Trust Co. v. Grant County*, 111 K. 104.

§ 5. State debts; annual tax proceeds. For the purpose of defraying extraordinary expenses and making public improvements, the state may contract public debts; but such debts shall never, in the aggregate, exceed one million dollars, except as hereinafter provided. Every such debt shall be authorized by law for some purpose specified therein, and the vote of a majority of all the members elected to each house, to be taken by the yeas and nays, shall be necessary to the passage of such law; and every such law shall provide for levying an annual tax sufficient to pay the annual interest of such debt, and the principal thereof, when it shall become due; and shall specifically appropriate the proceeds of such taxes to the payment of such principal and interest; and such appropriation shall not be repealed nor the taxes postponed or diminished, until the interest and principal of such debt shall have been wholly paid.

Legislative and current expenses are not "extraordinary expenses." *The State, ex rel., v. School Fund*, 4 K. 261, 269.

Bond issue, bought by school funds, is "creation of debt." *The State, ex rel., v. School Fund*, 4 K. 261, 270.

Unpaid warrant is not a "debt" within meaning of section. *The State, ex rel., v. School Fund*, 4 K. 261, 271.

Section construed with other sections limiting and regulating state indebtedness. *Hicks v. Davis*, 97 K. 312, 315.

State may borrow money to defend in time of war. *The State, ex rel., v. Davis*, 113 K. 4, 6.

State has power to contract debt to pay soldiers' compensation. *The State, ex rel., v. Davis*, 113 K. 4, 6.

§ 6. Election on indebtedness. No debt shall be contracted by the state except as herein provided, unless the proposed law for creating such debt shall first be submitted to a direct vote of the electors of the state at some general election; and if such proposed law shall be ratified by a majority of all the votes cast at such general election, then it shall be the duty of the legislature next after such election to enact such law and create such debt, subject to all the provisions and restrictions provided in the preceding section of this article.

Debt within meaning of the constitution, discussed. *The State, ex rel., v. School Fund*, 4 K. 261.

Bond issue for legislative and current expense, held unconstitutional. *The State, ex rel., v. School Fund*, 4 K. 261, 272.
 State has power to contract debt to pay soldiers' compensation. *The State, ex rel., v. Davis*, 118 K. 4, 6.

§ 7. Borrowing money by state. The state may borrow money to repel invasion, suppress insurrection, or defend the state in time of war; but the money thus raised, shall be applied exclusively to the object for which the loan was authorized, or to the repayment of the debt thereby created.

Section referred to, showing the general financial system of state. *The State v. School Fund*, 4 K. 261, 272.
 State may borrow money to defend in time of war. *The State, ex rel., v. Davis*, 118 K. 4, 6.
 State has power to contract debt to pay soldiers' compensation. *The State, ex rel., v. Davis*, 118 K. 4, 6.

§ 8. Internal improvements. The state shall never be a party in carrying on any works of internal improvement except to aid in the construction of roads and highways and the reimbursement for the cost of permanent improvements of roads and highways, constructed after March 1, 1919; but such aid and reimbursement shall not be granted in any county for more than 25 per cent of the cost of such road or highway, nor for more than ten thousand dollars per mile, nor for more than one hundred miles in any one county; except, that in counties having an assessed valuation of more than one hundred million dollars such aid and reimbursement may be granted for not more than one hundred fifty miles of road or highway; and the restrictions and limitations of sections 5 and 6 of article XI of the constitution, relating to debts and internal improvements, shall not be construed to limit the authority retained or conferred by this amendment.

NOTE.—This amendment was submitted by the legislature of 1919, under the title of "The good roads amendment to the state constitution," and was adopted at the general election November 2, 1920. The original section was, "§ 8. The state shall never be a party in carrying on any works of internal improvement."

Annotations to original section:

Section applies to state in sovereign capacity, not to counties. *Leavenworth County v. Miller*, 7 K. 479, 490.

Statutes authorizing counties to issue bonds aiding railroads, held constitutional. *Leavenworth County v. Miller*, 7 K. 479; *The State, ex rel., v. Nemaha County*, 7 K. 542; *Morr v. Morris County*, 7 K. 576.

Construction, operation, etc., of oil refinery is "work of internal improvement." *The State v. Kelly*, 71 K. 811, 836.

Laws of 1903, ch. 478, appropriates money for "works of internal improvement." *The State v. Kelly*, 71 K. 811, 836.

Section construed with other inhibition sections. *The State v. Lawrence*, 79 K. 234, 281.
 Laws of 1907, ch. 285, authorizing bonds aiding railroads, not repugnant hereto. *Railroad Co. v. Nation*, 82 K. 345, 350.

Improvement of county roads, valid; state not party to improvement. *The State, ex rel., v. Raub*, 106 K. 196, 201.

Laws Relating to Assessment and Taxation.

(Revised Statutes, 1923.)

1.—PROPERTY SUBJECT TO TAXATION.

79-101. What property taxable. That all property in this state, real and personal, not expressly exempt therefrom, shall be subject to taxation in the manner prescribed by this act. [L. 1876, ch. 34, § 1; March 11.]

Laws exempting property from taxation, to be strictly construed. *National Council v. Shawnee County*, 68 K. 799, 803.
Final clause, deals with method, not subjects of taxation. *The State v. Holcomb*, 81 K. 879, 886.

79-102. Definitions. That the terms "real property," "real estate," and "land," when used in this act, except as otherwise specifically provided, shall include not only the land itself, but all buildings, fixtures, improvements, mines, minerals, quarries, mineral springs and wells, rights and privileges appertaining thereto. The term "personal property" shall include every tangible thing which is the subject of ownership, not forming part or parcel of real property; also the capital stock, undivided profits and all other assets of every company, incorporated or unincorporated, and every share or interest in such stock, profit, or assets, by whatever name the same may be designated, provided the same is not included in other personal property subject to taxation or listed as the property of individuals; and also every share or interest in any vessel or boat used in navigating any of the waters within or bordering on this state, whether such vessel or boat shall be within the jurisdiction of the state or elsewhere; and also all "property" owned, leased, used, occupied or employed by any railway or telegraph company or corporation within this state, situate on the right of way of any railway. That the term "property," when used alone in this act, shall mean and include every kind of property subject to ownership. The term "money" or "moneys" shall mean and include gold and silver coin, United States treasury notes, and bank notes. The words "personal property," when used in this act in their general sense, shall include all taxable property other than real property, as hereinbefore defined. The words "town" or "village," when used in this act, shall include every place laid out in lots and blocks other than incorporated cities. The word "cities" shall include only such places as are incorporated cities. The words "he," "his," or "him," when so used as to refer to a female, shall be held to mean "she," "her," or "hers"; and when so used as to refer to more than one person, "they," "their," or "them," as the sense may require. [L. 1876, ch. 34, § 2; L. 1907, ch. 408, § 1; July 1.]

Annotations to L. 1876, ch. 34, § 2:

Status of judgment for purposes of taxation, domicile of owner. *Dykes v. Mortgage Co.*, 2 K. A. 317, 332.

Note transferred as collateral security; payee still liable for taxes. *Gibbons v. Adams*, 5 K. A. 90, 94.

Right to patrol is sufficient to subject lands to taxation. *Kansas Pacific Rly. Co. v. Culp*, 9 K. 22. (Reversed, *The State v. Tawney*, 83 K. 603.)

Word "credit" defined herein, does not include national bank stock. *Dutton v. National Bank*, 53 K. 440, 452; *National Bank v. Ayres*, 53 K. 463. (Affirmed, *First National Bank of Garnett v. Ayres*, 109 U. S. 660.)

- Judgments owned by nonresidents not subject to taxation. *Kingman Co. v. Leonard*, 57 K. 531, 532.
- Tax-sale certificates owned by nonresidents not subject to taxation. *Mearney v. Caskey*, 66 K. 412.
- Legislature may classify property for purposes of taxation. *Railway Co. v. Miami County*, 67 K., 434, 436.
- Evidences of debt kept in foreign state subject to taxation. *Johnson County v. Hewitt*, 76 K. 816.
- Finished product of manufacturer subject to taxation. *The State v. Holcomb*, 81 K. 879.
- Effect of clause, "in the manner prescribed by this act." *The State v. Holcomb*, 81 K. 879, 886.
- Debt owing on contract of sale of land, personal property. *Williams v. Osage County*, 84 K. 508.
- Foreign corporation; stock held by resident owner is personal property. *Hunt v. Allen County*, 82 K. 824, 826; *Weis v. Stubbiefield*, 85 K. 199, 200.
- Corporations; amount of capital stock assessable as personal property. *Gas Co. v. Spaeth*, 83 K. 191, 194.
- Prepaid stock in building and loan association not a credit. *Abrahams v. Medlicott*, 86 K. 106, 108.
- Bond for deed taxable to vendor. *Golden v. Munsinger*, 91 K. 820.
- Contract for sale of land taxable to vendor. *Golden v. Munsinger*, 91 K. 820.
- Sale notes sent into Kansas for payment, not taxable. *Kimball Co. v. Shawnee County*, 99 K. 302, 304.
- Definition of "credits" stricken from statute, normal meaning restored. *Ritchie v. Ahlstedt*, 105 K. 739, 740.

2.—PROPERTY EXEMPT FROM TAXATION.

79-201. Property exempt. That the property described in this section, to the extent herein limited, shall be exempt from taxation:

First. All buildings used exclusively as places of public worship, as public schoolhouses, or both, with the furniture and books therein contained and used exclusively for the accommodation of schools and religious meetings, together with the grounds owned thereby, not exceeding in any one case ten acres, if not leased or otherwise used with a view to profit; and also any parsonage or dwelling owned by any church society and occupied by its pastor as a residence, together with the ground on which it is situated, not exceeding in any one case one-half acre; and all that portion of any building and the ground upon which such building stands, belonging to any literary, educational, scientific, religious, benevolent or charitable corporation, organization, or society, situated under any lodge, audience or assembly-room used by such corporation, organization, or society, or the antechambers, halls, passages or other compartments designed for and used as appurtenances of such lodge, audience or assembly-room, as well as said rooms and appurtenances, shall be wholly exempt from taxation when the portion of said buildings so situated is leased or rented for legitimate purposes, and the net rents or earnings thereof are applied exclusively to literary, educational, scientific, religious, benevolent or charitable purposes.

Second. All lands used exclusively as graveyards.

Third. All buildings and parts of buildings belonging to scientific, literary and benevolent associations, used exclusively for scientific, literary or benevolent purposes, together with lands not exceeding five acres owned and occupied by such institutions and attached thereto, if not leased or otherwise used with a view to profit; and all books, papers, furniture, apparatus and instruments belonging to such associations, and used exclusively for scientific, literary and benevolent purposes.

Fourth. All moneys and credits belonging exclusively to universities, colleges, academies or public schools of any kind, or to religious, literary, scientific or

benevolent and charitable institutions or associations, appropriated solely to sustain such institutions or associations, not exceeding in amount or in income arising therefrom the limit prescribed by the charter of such institution or association.

Fifth. All property belonging exclusively to this state or to the United States.

Sixth. All property belonging exclusively to any county, city, town or school district, except lands bid off for counties or cities at tax sales.

Seventh. All works, machinery and fixtures belonging to and owned by any town, city, or village, and used exclusively for conveying water to such town, city or village.

Eighth. All fire engines and other implements used for the extinguishment of fires, with the buildings used exclusively for the safe-keeping thereof, and for the meeting of fire companies, whether belonging to any town, city, or village, or to any fire company organized therein.

Ninth. Personal property to the amount of two hundred dollars for each family.

Tenth. The wearing apparel of every person.

Eleventh. All public libraries.

Twelfth. Family libraries and school books of every person and family not exceeding in value in any one case of fifty dollars.

Thirteenth. The reserve or emergency funds of fraternal beneficiary societies authorized to do business under the laws of the state of Kansas. [L. 1876, ch. 34, § 3; L. 1889, ch. 249, § 1; L. 1907, ch. 408, § 2; July 1.]

Annotations to L. 1876, ch. 34, § 3:

Lands under Kickapoo treaty not taxable before patents issued. *Parker v. Winsor*, 5 K. 362.

"Exclusive use," not mere "ownership," is test of exemption. *Washburn College v. County of Shawnee*, 8 K. 344; *Vail v. Beach*, 10 K. 214; *St. Mary's College v. Crowl, Treasurer, etc.*, 10 K. 442; *Stahl v. Educational Assoc'n*, 54 K. 542.

Agricultural college lands held under contracts of purchase are taxable. *Oswalt v. Hallowell*, 15 K. 164.

Property coming into possession of agricultural college exempt from taxation. *Board of Regents v. Hamilton, Treasurer*, 28 K. 376.

Property owned by county is exempt from taxation. *Durkee v. Comm'rs of Greenwood Co.*, 29 K. 697.

Property of United States exempt from taxation by federal constitution. *Van Brocklin v. State of Tennessee*, 117 U. S. 161.

Annotations to L. 1889, ch. 249, § 1:

Valuation of property exempt to head of families. *Stanfield v. Boyd*, 10 K. A. 265, 272.

Person or corporation claiming immunity must come clearly within exemption. *Stahl v. Educational Assoc'n*, 54 K. 542.

Mutual life association not entitled to exemption of property. *National Council v. Shawnee County*, 63 K. 799.

Waterworks plant owned and operated by city held exempt. *Sumner County v. Wellington*, 66 K. 690.

Only property used exclusively for benevolent and charitable purposes exempt. *Mason v. Zimmerman*, 51 K. 799.

Benevolent and charitable use renders property exempt regardless of value. *Masonic Home v. Sedgwick County*, 51 K. 859.

Property of Odd Fellows lodge not exempt; rent received not exempt. *Odd Fellows v. Spaeth*, 51 K. 894.

Property of Missouri municipality located in Kansas not exempt. *The State v. Holcomb*, 85 K. 178.

Constitutional exemptions cannot be curtailed by the legislature. *Ottawa University v. Stratton*, 86 K. 246.

Legislature cannot limit amount of ground exempt; provision held unconstitutional. *Ottawa University v. Stratton*, 86 K. 246.

Residence of Episcopal bishop not exempt from taxation. *Griswold v. Quinn*, 97 K. 611, 612.

Museums exempt from taxation. *Gray v. Craig*, 103 K. 199, 201.

County property within corporate city limits liable for paving assessments. *City of St. John v. Stafford County*, 111 K. 123, 139.

79-202. Military club house or memorial hall. All real estate not exceeding one-half ($\frac{1}{2}$) acres in extent, and the buildings thereon situate, owned and used exclusively by any organization of honorably discharged soldiers, sailors and marines of the United States army or navy, or auxiliary of any such organization, as a club house, a place of meeting or a memorial hall or for more than one of said purposes, if not leased or otherwise used with a view to profit, and all books, papers, furniture, apparatus, instruments and other personal property belonging to any such organizations or to any auxiliary of any such organization shall be exempt from taxation. [L. 1895, ch. 157, § 1; L. 1921, ch. 258, § 1; March 5.]

79-203. Property of college or university society. All real estate not exceeding one-half acre in extent and the buildings thereon situate, and used exclusively by any college or university society as a literary hall or as a dormitory, if not leased or otherwise used with a view of profit, and all books, furniture, apparatus and instruments belonging to such society, shall be exempt from taxation. [L. 1905, ch. 501, § 1; March 17.]

Building used by students as literary hall and dormitory exempt. *Kappa Kappa Gamma v. Pearcy*, 92 K. 1020.
Use not ownership governs; immaterial where legal title placed. *Kappa Kappa Gamma v. Pearcy*, 92 K. 1020.

79-204. Property of Christian associations. The real and personal property belonging to any Young Men's Christian Association or Young Women's Christian Association, which is used exclusively for the moral, physical, intellectual and religious improvement of men or women or for religious, Bible tract, missionary, hospital, dormitory, and recreative purposes as aids to moral and mental improvement, shall be exempt from taxation: *Provided*, That neither the real nor personal property of any such association shall be exempt from taxation if any officer, member or employee thereof shall receive or may be lawfully entitled to receive any pecuniary profit from the operation thereof, except reasonable compensation for services in effecting one or more of such purposes: *Provided further*, That the exemption herein stated shall apply only to the premises used as the home or headquarters of such association; nor shall any real property of such association be exempt from taxation if rented for business purposes. [L. 1909, ch. 253, § 1; March 12.]

79-205. Waterworks plants at Kansas City exempted from taxation. Laws 1921, chapter 304, included by reference. [Exempts from taxation of any kind the portion of the waterworks plant of the municipality of Kansas City, Missouri, located in this state; also grants the right of eminent domain to the state of Missouri and this state for the purpose of acquiring property rights for waterworks plants. This is a mutual arrangement between the two states and the two cities.]

17-1058. Credits on such shares exempt from taxation. The amount to the credit of such rural-credit shares shall be exempt from taxation. [L. 1915, ch. 96, § 7; March 2.]

40-813. Exemptions. The money or other benefit to be paid, provided or rendered by any corporation or association authorized to do business under this act and the reserve or emergency fund of such association shall not be liable to attachment by trustees, garnishee, or other process, and shall not be seized, taken, appropriated or applied, by any legal or equitable process or by

operation of law, to pay any debt or liability of a certificate-holder or of any beneficiary named in the certificate, or any person who may have a right thereunder, and shall be exempt from all taxes. [L. 1907, ch. 228, § 13; March 9.]

40-714. Exemptions. The money or other benefit, charity, relief or aid to be paid, provided or rendered by any association authorized to do business under this act and the reserve or emergency fund of such association shall not be liable to attachment by trustee, garnishee, or other process, and shall not be seized, taken, appropriated or applied by any legal or equitable process or by operation of law, to pay any debt or liability of a certificate-holder or of any beneficiary named in the certificate, or any person who may have a right thereunder, and shall be exempt from all taxes. [L. 1898 (Special Session), ch. 23, § 11; L. 1901, ch. 66, § 1; May 7.]

Funds from beneficiary certificate deposited in bank, held exempt. *Emmert v. Schmidt*, 65 K. 81.

Building of fraternal beneficiary society not exempt from taxation. *Annuity Assoc. v. Shilling*, 86 K. 290, 291.

Special fund for payment of certificates, exempt from creditor's claims. *Jackson v. Insurance Co.*, 101 K. 388, 387.

60-3506. Taxes. Nothing in this act shall be construed as exempting any personal property from taxation or sale for taxes under the laws of this state. [G. S. 1868, ch. 38, § 5; Oct. 31.]

17-207. Mining corporations; mining defined. The term "mining," as used in this and all other statutes, shall be held to mean the prospecting for and obtaining of all metallic and mineral substances, and in addition thereto, coal, clay, stone, petroleum and natural gas, and any and all other valuable products formed or existing beneath the earth's surface. [L. 1903, ch. 360, § 1; June 1.]

Intent of section to include oil and gas companies. *Hollingsworth v. Berry*, 107 K. 544, 547, 548.

Oil or gas well not a "mine" under compensation law. *Hollingsworth v. Berry*, 107 K. 544, 547, 548.

17-1314. Exemption of property from taxation, attachment or execution. That all the lands held by said corporation for cemetery purposes, whether platted or not, and all lots sold for burial purposes, and all vaults or other improvements for such purposes, shall be exempt from public taxation while so held; and every lot sold and conveyed in such cemetery shall be held by the proprietor for the purpose of sepulture only, and shall not be subject to attachment or execution, but such proprietor or purchaser shall not be a stockholder or member of said corporation by reason of his being such purchaser and proprietor. [L. 1901, ch. 102, § 8; March 22.]

17-1318. Property of such corporation exempt from taxation; lots not subject to attachment or execution; purchaser not a member. That all lands held by such corporation for cemetery purposes, whether platted or not, and all lots sold for burial purposes, and all vaults and other improvements, shall be exempt from public taxation while so held; and every lot sold and conveyed in such cemetery shall be held by the proprietor for the purpose of sepulture only, and shall not be subject to attachment or execution; but such proprietor or purchaser shall not be a stockholder or member of said corporation by reason of his being such purchaser and proprietor. [L. 1903, ch. 72, § 3; May 29.]

17-1409. Taxation of such plant. If any such institution as is named in the first section of this act shall erect or maintain such electric plant, and furnish light, heat or power for pay, the value of such plant in excess of one sufficient to supply the needs of the institution only shall be subject to taxation in the same manner as though it were the property of a private person or corporation. [L. 1903, ch. 236, § 2; June 1.]

19-1711. Exemption from taxation. That the property of a county free public library established under the provisions of this act shall be exempt from taxation as is other public property. [L. 1921, ch. 152, § 11; May 25.]

72-1723. Property exemptions. All property held by the board of education for the use of public schools shall be exempt from taxation, and shall not be taken in any manner for any debt due from the city. [L. 1876, ch. 122, art. 10, § 23; April 7.]

School property not exempt from special assessments for improvements; action. *City of Wichita v. Board of Education*, 92 K. 967, 968.

3.—LISTING OF PROPERTY FOR TAXATION.

79-301. Lists generally; property to be listed. Every person of full age and sound mind, accounting officer, or other person designated by any person, company or corporation, shall list at its true value in money all personal property subject to taxation of which such person, company or corporation is the owner, lessee or occupant, having any interest in or exercising any control over any personal property, including all moneys in his possession, or subject to his order, check or draft, and all credits due or to become due from that person, company or corporation, whether in or out of the county or state in which such person may reside or such company be located, except as herein otherwise provided. [L. 1876, ch. 34, § 4; L. 1909, ch. 251, § 1; March 13.]

Annotations to L. 1876, ch. 34, § 4:

Taxation of leased rolling stock of railroad; by whom listed. *Comm'n's of Shawnee County v. Equipment Co.*, 26 K. 363, 364.

County commissioners as board of equalization cannot list additional property. *Coal Co. v. Emlen*, 44 K. 117.

Personal-property statement, when not to be changed by assessor. *Gibbins v. Adamson*, 44 K. 203, 205.

79-302. Money collected by agent. Money collected by any agent for any person, company or corporation which is to be transmitted immediately to such person, company or corporation, shall not be listed by such agent; but such agent shall, if required by the assessor, state under oath the amount of money in his hands and to whom the same is to be transmitted. [L. 1876, ch. 34, § 5; March 11.]

Agent need not list money collected to be immediately transferred. *The State v. Huff*, 96 K. 635.

79-303. Who to list property; deduction of debts. The property of every ward shall be listed by his guardian; of every minor by his father, if living and of sound mind; but if his father be not living, or be of unsound mind, by his mother; and if neither father nor mother is living, by the person having such property in charge. Any property held in trust for the benefit of another shall be listed by the trustee. The property of the estate of every deceased person shall be listed by the executor or administrator. The property of persons,

companies or corporations whose assets are in the hands of receivers shall be listed by such receivers, and the property of every other corporation subject to taxation under this act shall be listed by some person designated by said corporation; and the property of any company or firm shall be listed by an agent or partner thereof. Merchants' and manufacturers' stock, moneys and credits shall be listed under two separate heads—merchants' and manufacturers' stock forming one item, and moneys and credits forming another item in the statement required to be delivered to the assessor. Debts owing in good faith by any person, company or corporation may be deducted from the gross amount of credits belonging to such person, company or corporation: *Provided*, Such debts are not owing to any person, company or corporation as depositors in any bank or banking association, or with any person or firm engaged in the business of banking in this state or elsewhere; and the persons, company or corporation making out the statement of personal property to be given to the assessor, claiming deductions herein provided for, shall set forth both the amount and nature of the credits and the amount and nature of his debts sought to be deducted; but no person, company or corporation shall be entitled to any deduction on account of any bond, note or obligation given to any mutual insurance company, or deferred payment or loan for a policy of life insurance, nor on account of any unpaid subscription to any religious, literary, scientific or benevolent institution or society: *Provided*, That in deducting debts from credits no debt shall be deducted where said debt was created by a loan on government bonds or other taxable securities. [L. 1876, ch. 34, § 6; March 11.]

Agent need not list money collected to be immediately transferred. *The State v. Huff*, 96 K. 632, 636.

Notes sent into Kansas for payment; taxed at owner's domicile. *Kimball Co. v. Shawnee County*, 99 K. 302, 304.

Debts secured by liens on real estate are not credits. *Gibbins v. Adamson*, 5 K. A. 90, 94. Stock in building and loan association not a credit; deductions. *Abrahams v. Medlicott*, 86 K. 106.

"Credit" clause not illegal discrimination against national bank shareholders. *First National Bank of Garnett v. Ayers*, 160 U. S. 660.

79-304. Place of listing. Every person required to list property in behalf of others shall list such property in the same township, school district or city in which said property is located; but he shall list such property separate and apart from his own, specifying the name of the person, estate, company or corporation to which the same may belong. All toll bridges shall be listed in the township or ward where the same are located; and if located in two wards or townships, then one-half in each of such wards or townships. And all personal property shall be listed and taxed each year in the township, school district or city in which the property was located on the first day of March, but all moneys and credits not pertaining to a business located shall be listed in the township or city in which the owner resided on the first day of March. The property of banks, bankers, brokers, merchants, and of insurance or other companies (except of mutual fire insurance companies) shall be listed and taxed in the county, township, city and school district where their business is usually done, and manufactories and mines in the county, township, city and school district where the manufactory or mine is located. Animals and farming implements shall be listed and taxed where usually kept; but, when animals and farming implements shall have been removed from the place where

formerly kept to another taxing district and shall have been kept therein for sixty days prior to the first day of March, they shall be held to have acquired a tax situs in such taxing district. In case animals and farming implements are temporarily outside the limits of the state, then said animals and implements shall be listed and taxed in the county, township and school district where the owner resided on the first day of March. All animals and farming implements that do not have their tax situs in accordance with the preceding provisions of this section or as provided in other statutes shall be assessed and taxed in the taxing district wherein the owner has his domicile. The assessment of animals which under any provision of law have their tax situs in a pasture whose area embraces several taxing districts shall be apportioned among the taxing districts in proportion to the acreages of land in the said several taxing districts. Personal property in transit shall be listed in the taxing district where the owner resides: *Provided, however,* That if such property is intended for a particular business, it shall be listed at the place where the business is to be transacted. [L. 1876, ch. 34, § 7; L. 1881, ch. 34, § 1; L. 1919, ch. 302, § 1; March 15.]

Annotations to L. 1881, ch. 34, § 1:

- Nonresident's cattle taxable in county where kept. *Hudson v. Miller*, 10 K. A. 532, 534.
- Cattle, where listed; collection of tax, not enjoined. *Graham v. Comm'rs of Chautauqua Co.*, 31 K. 473, 476.
- Provision taxing cattle driven into state for pasture, invalid. *Graham v. Comm'rs of Chautauqua Co.*, 31 K. 473.
- Animals in another county taxed at domicile of owner. *McCandless, Treas., v. Carlisle*, 32 K. 365, 366, 367.
- Time deposit of money is a credit, subject to taxation. *Hall v. Comm'rs of Greenwood Co.*, 22 K. 37, 40.
- Conditional sale not subject to taxation. *Brown v. Thomas, Sheriff*, 37 K. 282, 286.
- Cattle improperly listed for taxation; proper place for listing considered. *Smith v. Mason*, 48 K. 586, 588.
- Taxation of judgments owned by nonresident, not authorized by statute. *Kingman Co. v. Leonard*, 57 K. 531, 533.
- Tax-sale certificates held by nonresidents, not subject to taxation. *McCartney v. Caskey*, 66 K. 412.
- Taxation of property brought into state after March 1, discussed. *Lingenfelter v. Ferguson*, 71 K. 154, 157.
- Evidence of debt kept in another state, subject to taxation. *Johnson County v. Hewitt*, 76 K. 816, 821.
- Personal-property statements admissible in evidence to show fraud; section construed. *Chapman v. Farrell*, 96 K. 659, 665.
- Legislature may fix situs of property whenever it sees fit. *Freedom Township v. Douglas*, 176 U. S. 178.

79-305. Personal property of stage, mail or express companies and telegraph lines. All the stock, coaches, wagons, harness and other personal property belonging to any stage, mail or express company, telegraph lines and instruments within the respective counties along the line of their respective routes, shall be held as personal property within such counties, and assessed accordingly: *Provided,* This shall not be held to include any telegraph lines and instruments belonging to railroad companies. [L. 1876, ch. 34, § 8; March 11.]

79-306. Statement of all personal property; oaths. Every person required by this act to list property when called upon by the county assessor, or by any deputy assessor of his city or township, shall make out and verify by his oath a statement of all personal property which by this act he is required to list, either as the owner thereof or as parent, guardian, trustee, executor, administrator, receiver, accounting officer, partner or agent, as the case may be, and deliver the same to the county assessor or to the deputy assessor of the proper township or city. County assessors and deputy assessors are hereby

empowered to administer any oath required by the law to be taken by any person in connection with the assessment of property, and in case the deputy assessor shall knowingly and willfully fail to require every person of full age and sound mind in his taxing district, whether owning property or not, to take and subscribe to the oath herein provided for, for each such failure the said deputy assessor, upon conviction thereof in a court of competent jurisdiction, shall be fined in any sum not less than ten nor more than twenty dollars. [L. 1876, ch. 34, § 9; L. 1909, ch. 243, § 1; March 5.]

Annotations to L. 1876, ch. 34, § 9:

Property should be listed at true value for all purposes. *Stanfield v. Boyd*, 10 K. A. 366, 272.

Stock of goods properly listed in county where owners reside. *Griffith v. Carter*, 8 K. 565. Person listing simply called upon to give item and amount. *Gillett v. Treasurer of Lyon Co.*, 80 K. 166, 168.

Animals properly listed and taxed in township where usually kept. *Graham v. Comm'rs of Chautauqua Co.*, 81 K. 478.

Cattle listed by agent formerly in control; collection not restrained. *Graham v. Comm'rs of Chautauqua Co.*, 81 K. 478.

Provision concerning cattle driven in after March first held invalid. *Graham v. Comm'rs of Chautauqua Co.*, 81 K. 478.

Personal property in hands of mortgagor taxable; credit not allowed. *Fields v. Russell, Sheriff*, 88 K. 720.

Determination of place where cattle usually kept. *Smith v. Mason*, 48 K. 566.

Judgments owned by nonresidents not taxable in this state. *Kingman Co. v. Leonard*, 67 K. 531.

Evidences of debt kept in foreign state subject to taxation. *Johnson County v. Hewitt*, 76 K. 616.

Stock in building and loan association held not a credit. *Abrahams v. Medicott*, 86 K. 106. Admissibility of property statements to prove ownership statements, considered. *Chapman v. Farrell*, 96 K. 669, 666.

79-307. Contents of such statement. Such statement shall truly and distinctly set forth: 1. Horses, six months old and over; 2. Neat cattle, six months old and over; 3. Mules and asses, six months old and over; 4. Sheep, six months old and over; 5. Hogs, six months old and over; 6. Goats, six months old and over; 7. Farming implements; 8. Wagons; 9. Pleasure carriages, of every description; 10. Gold watches; 11. Silver watches; 12. Plate and jewelry; 13. Piano fortes; 14. Other musical instruments; 15. All interest on bonds of the United States; 16. All bonds and interest on bonds of any state, county, district or municipality; 17. All other bonds, not exempt from taxation; 18. Stocks in any company or corporation; 19. Moneys; 20. Credits \$—, legal deductions \$—, balance taxable; 21. Average value of merchants' stock for preceding year; 22. Average value of merchants' moneys and credits for preceding year; 23. Average value of manufacturers' stock for preceding year; 24. Average value of manufacturers' moneys and credits for preceding year; 25. Aggregate value of all other personal property. [L. 1876, ch. 34, § 10; March 11.]

Return made to county clerk by assessor; alteration unauthorized. *Gibbins v. Adamson*, 44 K. 303, 305.

Taxation of judgment owned by nonresident, not authorized. *Kingman Co. v. Leonard*, 57 K. 531, 532.

Building and loan association stock; taxation; not a credit. *Abrahams v. Medicott*, 86 K. 106, 106.

79-308. Statement of number of school district. The personal-property statement required by Laws 1876, chapter 34, section 10 shall truly set forth the number of the school district or districts in which such property was situated on the first day of March. [L. 1885, ch. 198, § 1; March 13.]

Note.—For "section 10" referred to, see preceding section.

79-309. Time of listing and valuation. All property shall be listed and valued as on the first day of March in the year in which the same is assessed, and the transfer or sale of any taxable personal property subsequently to the first day of March shall not authorize any person to omit the same from his list, although such list be not made until after the sale or transfer of such property; but all such property shall be listed for taxation in the same manner as if no sale or transfer thereof had been made. But where bonds of the United States have been purchased by any person during the year prior to the first day of March, where property is required to be listed as of that day, the value of such bonds in money shall be divided by twelve, and the quotient shall be multiplied by the number of months or fractional parts of months remaining after deducting the time which such bonds were owned, and such product shall be listed as money on hand on the first day of March by the party. [L. 1876, ch. 34, § 11; March 11.]

Personal property transferred after March first, taxable to vendor. *Howell v. Scott*, 44 K. 247, 249.

This section is general rule for listing of property. *The State v. Holcomb*, 81 K. 879, 886.
Provision relating to taxation of United States bonds unconstitutional. *Lantz v. Hanna*, 111 K. 461, 462; *Insurance Co. v. Lyons, County Assessor*, 112 K. 384.

79-310. Listing of capital stock; deductions. That no person shall be required to include in the list of personal property any portion of the capital stock of any company or corporation which is required to be listed by such company or corporation; but all incorporated companies, except such companies and corporations as are specially provided for by statute, shall be required to list by their designated agent in the township or city where the principal office of said company is kept, the full amount of stock paid in and remaining as capital stock, at its true value in money, and such stock shall be taxed as other personal property: *Provided*, That such amount of stock of such companies as may be invested in real or personal property which, at the time of listing said capital stock, shall be particularly specified and given to the assessors for taxation, shall be deducted from the amount of said capital stock: *Provided*, That mortgages owned by any such company on property, real or personal, in any other state, shall not be deducted: *Provided further*, That real or personal property in any other state, or county in this state, shall be deducted if it be made to appear that the same has been duly listed for taxation in such other state or county in this state. [L. 1876, ch. 34, § 12; L. 1885, ch. 197, § 1; L. 1908, ch. 80, § 1; Feb. 12.]

Norm.—Section originally read that corporations “shall be required to list by their designated agent in the township or state.” The word “state” has been changed to “city” to conform to the context.

Annotation to L. 1876, ch. 34, § 12:

Excess valuation of stock over tangible property taxable. *Ryan v. Comm'rs of Leavenworth Co.*, 30 K. 185, 187.

Taxation of corporate stock where principal office not within state. *Hunt v. Allen County*, 82 K. 324, 326; *Weis v. Stubblefield*, 85 K. 199, 200.

Amount of capital stock assessable to corporation as personal property. *Gas Co. v. Speath*, 88 K. 191, 194.

Foreign corporation having principal office within state; taxation of stock. *Patterson v. Wilson County*, 88 K. 234, 225.

Actual value of outstanding stock taxed, valuation specific property deducted. *Building Co. v. Saline County*, 98 K. 732, 733.

Property of insurance company; situs for taxation; power of legislature. *Freedom Township v. Douglas*, 99 K. 176, 177.

Shares of stock assessable at true value; proper deductions therefrom. *Bank v. Geary County*, 102 K. 334, 346, 347, 354.

79-311. Report by person having no property. Every person of full age and sound mind, who shall have no property which by this act he is required

to list, either on his own account or on behalf of others, shall set forth such fact by filling out each blank in the form left with him by the assessor, stating that he had none of the property specified therein on the first day of March of said year, and shall make oath to the truth thereof. [L. 1876, ch. 34, § 13; March 11.]

79-312. Change by assessor of value of items listed. It shall be the duty of the assessor, and he is empowered and authorized, to increase or diminish the value of any or all items of personal property as listed by any person, company or corporation, if he is satisfied that said property has been returned below or above its true value in money; but said change in value shall be made at the time the return is made to the assessor. [L. 1876, ch. 34, § 14; March 11.]

Power of county board to raise or lower assessments considered. *Gillett v. Treasurer of Lyon County*, 30 K. 166, 168.
County board cannot add additional property not already listed. *Coal Co. v. Emlen*, 44 K. 117, 120.

79-313. Personalty of decedents. It shall be the duty of every judge of the probate court in each county in this state to certify to the several township trustees of their counties, on the 1st day of March of each and every year, a written list of every administrator, executor, executrix, and guardian, and of every other person legally in charge and control of any estate in the probate court, together with the amount of funds in the hands of such administrator, executor, executrix, and guardian, as shown by the last report filed in the probate court, and the probate judge shall receive as fees therefor the sum of ten cents for each estate so certified, to be paid by the county; and thereafter, and upon such certification, it shall be the duty of the several township trustees to take from each administrator, executor, executrix, guardian and every other person legally in charge and control of any estate in such probate court a list of the personal property belonging to such estate and to assess the same according to law. [L. 1901, ch. 183, § 1; May 1.]

Compensation is for services rendered beyond those coming under jurisdiction. *Randall v. Butler County*, 65 K. 20, 22.

79-314. Personal property in county after first of March. When any personal property shall be located in any county in this state after the 1st day of March of any year which shall acquire an actual situs therein before the 1st day of September, such property is taxable therein for that year, and shall be assessed and placed on the tax roll and the tax collected as provided by this act. [L. 1899, ch. 248, § 1; April 1.]

Cattle brought into state after March first by resident; taxable. *Hull v. Johnson*, 10 K. A. 565, 566. (Reversed, *Hull v. Johnson*, 64 K. 170.)

Section not applicable where property previously listed under general laws. *Hull v. Johnson*, 64 K. 170.

Such property not taxable when purchased with money previously listed. *Lingenfelter v. Ferguson*, 71 K. 154.

Statute valid; does not deny nonresident equal protection of laws. *Mealy v. Greenwood County*, 28 K. 591, 596.

Property taxed in foreign state, brought into Kansas, taxable here. *Mealy v. Greenwood County*, 28 K. 591, 596.

79-315. Live stock in state for grazing. Whenever any live stock shall be located in this state for the purpose of grazing, it shall be deemed to have acquired an actual situs therein as contemplated by this act. [L. 1899, ch. 248, § 2; April 1.]

79-316. Assessors to return property brought into county after first day of March. When any person, association or corporation shall settle or organize in any county in this state, and bring personal property therein after the 1st day of March and prior to the 1st day of September in any year, it shall be the duty of the assessors to list and return such property for taxation that year, unless the owner thereof shall show to the assessors, under oath, and by producing a copy of the assessment, duly certified to by the proper officers of state or county in which said property was assessed, that the same property has been listed for taxation for that year in some other county in this state or in some other state or territory of the United States in which property is required to be listed for taxation on or before March 1 in each year. If such property is brought within any county after the assessor has made his returns for that year to the county clerk, the assessor shall at once assess such property and return the same to the county clerk, and the same shall be entered by the county clerk on the tax books and collected as in other cases. The persons so assessed shall have the right, if assessed after the first Monday in June, to appear before the county clerk at any time before the taxes become due, and the county clerk shall equalize such person's taxes, as provided by Laws 1913, chapter 323, section 1. [L. 1899, ch. 248, § 3; L. 1901, ch. 364, § 1; March 15.]

NOTE.—Section originally referred to L. 1897, ch. 158, art. 7, sec. 93, which has been amended by L. 1911, ch. 317, sec. 2, further amended by L. 1913, ch. 323, sec. 1. See § 79-1602.

Such property not taxable when purchased with money previously listed. *Lingenfelter v. Ferguson*, 71 K. 154.
Property taxed in foreign state, brought into Kansas, taxable here. *Mosby v. Greenwood County*, 98 K. 594, 596.

79-317. Sale of personal property before tax paid. If any person in this state, after his personal property is assessed and before the tax thereon is paid, shall sell all of the same to any one person, and not retain sufficient to pay the taxes thereon, the tax for that year shall be a lien upon the property so sold, and shall at once become due and payable, and the county treasurer shall at once issue a tax warrant for the collection thereof, and the sheriff shall forthwith collect it as in other cases. The one owing such tax shall be civilly liable to any purchaser of such property for any taxes he owes thereon, but the property so purchased shall be liable in the hands of the purchaser or purchasers for such tax: *Provided, however*, if the property be sold in the ordinary course of retail trade it shall not be so liable in the hands of the purchasers. [L. 1899, ch. 248, § 4; April 1.]

Statute fixes lien on property transferred; enforcement of such lien. *Witschy v. Seaman*, 83 K. 634, 635.

Lien not defeated by possession of other property within state. *Lumber Co. v. Chandler*, 90 K. 561, 562.

Sheriff acting in good faith not liable for damages. *Kasperek v. Throop*, 98 K. 551.

79-318. Payment of taxes on property seized on legal process. If the property of any taxpayer be so seized by legal process as not to leave sufficient amount exempt from levy and sale to pay the taxes, then the taxes on the property of such taxpayer shall at once fall due, and be paid from the proceeds of the sale of the property so taken on such process, in preference to all other claims against it. [L. 1899, ch. 248, § 5; April 1.]

79-319. Removal of property. That when any person is about to remove his property from the county, after the same has been assessed and before the

taxes thereon have been paid, without leaving sufficient remaining for the payment of the taxes thereon, the tax shall at once become due and payable, and the county treasurer shall forthwith issue a tax warrant for the collection of the same, and it shall be enforced as in other cases. [L. 1899, ch. 248, § 6; L. 1919, ch. 803, § 1; March 17.]

Annotation to L. 1899, ch. 248, § 6:
Sheriff acting in good faith not liable for damages. *Kasperek v. Throop*, 98 K. 551, 552.

79-320. Collection of tax on attempted sale, levy of attachment or removals. It shall be the duty of all township trustees, assessors, sheriffs, constables and city councilmen to at once inform the county attorney of the making or attempted making of sales, levy of attachments or removals provided for in this act, and it shall be the duty of the county attorney to forthwith proceed with the collection of the tax as in this act provided, when such facts become known to him in any manner. [L. 1899, ch. 248, § 7; April 1.]

79-321. Proceedings where property sold, seized, or removed. If property subject to taxation be sold, seized, or attempted to be removed or sold, as in this act provided, before the assessor has made his return, or before the county clerk has turned over the tax rolls for that year to the county treasurer, then, if the assessors' books be in his hands, he shall furnish the county treasurer the assessment of that person; but if the party has been assessed and the assessors' books be in the hands of the county clerk, then the county clerk shall furnish to the county treasurer the assessment of that person, and the county treasurer shall at once levy upon the property so returned to him the percentage of tax levied in that county for the previous year, and collect the same as in this act provided. Should the percentage thus collected exceed the rate levied for the current year, such excess shall be returned to the person entitled thereto by the county treasurer, upon the order of the board of county commissioners. If the tax books for that year have come into the possession of the county treasurer, then, if such property be not listed therein, the county clerk shall enter the same on the tax books, and levy thereon the same percentage of tax that is levied in that county for that year, and the treasurer shall then collect the taxes so levied as in other cases. [L. 1899, ch. 248, § 8; April 1.]

79-322. Listing of bridge on state line. That all persons, companies or corporations owning, controlling or operating any highway or railroad bridge over any stream or river forming the boundary line between this and any other state shall be required to list the same for taxation, and the same shall be assessed and taxed at its true value in money, as personal property; and in arriving at such value, if such bridge is constructed over a navigable stream, the value of the same to the center of the channel of such stream, together with all rights, privileges and franchises connected therewith or belonging thereto, shall be taken into consideration in ascertaining the true value of such bridge property for taxation; and it shall be the duty of the president, vice president or superintendent of such bridge to make return to the proper assessor, giving the dimensions of said bridge in the county where it is located and its earning capacity, together with a full statement of all of its rights, privileges, and franchises, and the same shall be returned by the assessor, as by law in such cases made and provided. [L. 1898, ch. 37, § 1; Jan. 11, 1899.]

79-323. Failure to pay tax on such bridge. If any person, company or corporation owning, controlling or operating any highway or railroad bridge over any stream or river which forms the boundary line between this and any other state shall neglect, fail or refuse to pay the tax assessed against such property within thirty days after the same shall become due and payable, on application to the district court by petition, in the name of the state of Kansas, of the board of county commissioners, or of the governing body of any city, or the officer of any municipal township interested in such tax, it shall be the duty of the district court to appoint a receiver of such bridge property, rights, privileges, and franchises; and such receiver shall hold, possess, manage and control such bridge property under the orders of the court until the termination of the litigation in relation to such taxes, or until such tax is paid, by proper decree to declare a forfeiture of its charter. [L. 1898, ch. 37, § 2; Jan. 11, 1899.]

79-324. Property of life insurance companies. The property of all life insurance companies organized and operating under the laws of this state shall be subject to taxation for state, county, municipal and school purposes, as provided in the general revenue laws of this state. Each such company or association shall make returns: *First*, of all the real estate held or controlled by it; *second*, of the net value of all its other assets or values in excess of the legally required reserve necessary to reinsure its outstanding risks, and of any unpaid policy claims, which net value shall be assessed and taxed as the property of individuals: *Provided*, That nothing herein shall operate to exempt from such taxation the paid-up capital stock of such companies. [L. 1909, ch. 250, § 1; March 16.]

79-325. Permanent or fixed capital stock in building and loan association. Stockholders in any building and loan association doing business in this state owning shares of permanent or fixed capital stock in said association shall be assessed and taxed on the true value of such shares in the city or township where such company is located, and the president, secretary, cashier or other managing officer thereof shall, under oath, return to the assessor, on demand, a list of the names of such holders of permanent or fixed capital stock and the amount of and value of such stock held by each, including the value of any undivided profits or surplus; and such building and loan association shall pay the tax assessed upon such capital stock and undivided profits or surplus and shall have a lien thereon until the same is satisfied; but if, from any cause, the tax so levied upon such capital stock of such company shall not be paid by such corporation the property of the individual stockholders shall be held liable therefor: *Provided, however*, That if any portion of such capital stock shall be invested in real estate to which the corporation holds a title in fee simple, the assessed value of said real estate shall be deducted from the original assessment of such capital stock of such corporation, and such real estate shall be assessed as other lands or lots are assessed. [L. 1909, ch. 242, § 1; March 10.]

79-326. Assessment of loan association not having permanent and fixed capital stock; deduction of value of real estate. Every building and loan association doing business in this state without permanent and fixed capital stock shall return for assessment and taxation the actual value in money of

its office furniture and fixtures, and also the values of its assets in excess of the cash surrender value of the withdrawable shares outstanding on the first day of March, deducting therefrom the assessed value of any real estate to which said building and loan association holds the title in fee simple in which its surplus assets may be invested, and such real estate shall be assessed as other lands and lots are assessed. [L. 1909, ch. 242, § 2; March 10.]

79-327. Shareholder in loan association to list cash withdrawal value of shares. Every shareholder in any building and loan association doing business in this state shall individually list for taxation, with his other personal property, the cash withdrawal value of all withdrawable shares of stock held by him on the first day of March, except shares upon which there is an indebtedness to the building and loan association secured by mortgage on real estate or by shares of stock pledged as collateral, which shares shall be listed at the withdrawal value thereof less any *bona fide* indebtedness secured thereby. [L. 1909, ch. 242, § 3; March 10.]

Prepaid stock not a credit within meaning of tax laws. *Abrahams v. Medicott*, 86 K. 106, 108.

79-328. Improvements on leased lands not part of realty. That all improvements put on leased lands that do not become a part of the realty shall be assessed to the owner of such improvements as personal property, and the taxes imposed on such improvements shall be collected by levy and sale of the interest of such owner, the same as in all other cases of the collection of taxes on personal property. [G. S. 1868, ch. 55, § 31; Oct. 31.]

79-329. Oil and gas property as personalty. That for the purpose of valuation and taxation, all oil and gas leases and all oil and gas wells, producing or capable of producing oil or gas in paying quantities, together with all casing, tubing or other material therein, and all other equipment and material used in operating the oil or gas wells are hereby declared to be personal property and shall be assessed and taxed as such. [L. 1917, ch. 323, § 1; March 13.]

79-330. Valuation of wells. That in valuing for taxation, oil or gas properties consisting of one or more leases and oil or gas wells, there shall, in addition to the value of all oil- or gas-well material in or upon the leasehold properties, be made such valuation of the oil or gas wells as would make a reasonable and fair value of the whole property: *Provided*, That such portion of the valuation of the oil or gas wells as represents the lessor's interest, or royalty interest, therein shall be assessed to the owner thereof and the remaining portion or working interest therein shall be assessed to the owner of the lease, together with the other property assessed in connection therewith. [L. 1917, ch. 323, § 2; March 13.]

79-331. Determination of such value. That in determining the value of oil and gas wells or properties the assessor shall take into consideration the age of the wells, the quality of oil or gas being produced therefrom, the nearness of the wells to market, the cost of operation, the character, extent and permanency of the market, the probable life of the wells, the quantity of oil or gas produced from the wells, the number of wells being operated, and such other facts as may be known by the assessor to affect the value of the property. [L. 1917, ch. 323, § 3; March 13.]

79-332. Failure to list oil or gas property. When any person, corporation or association owning oil and gas leases or engaged in operating for oil or gas shall refuse or neglect to make and deliver to the county assessor of every county wherein the property to be assessed is located, a full and complete statement relative to said property as required by blank forms prepared for the purpose by the tax commission to elicit the information necessary to fix the valuation of the property as herein provided, such assessor shall list the property and shall from any information obtainable assess the same at its full value. [L. 1917, ch. 323, § 4; March 13.]

79-333. False lists thereof. That the assessor at any time shall have the right and power to examine the books and accounts of any person, company or association owning oil and gas leases or engaged in operating for oil and gas in order to verify the statement made by such person, company or association, and if from such examination or other information he finds such statement or any material part thereof willfully false he must assess the property in the same manner as if no statement had been made and delivered. [L. 1917, ch. 323, § 5; March 13.]

79-334. Verification of oil and gas lists; perjury. The statement required herein shall be made under oath and any person knowingly or willfully swearing to any false statement contained therein, shall be guilty of perjury and shall be prosecuted and punished as provided by law in other case of perjury. [L. 1917, ch. 323, § 6; March 13.]

79-1407. Taxation of bonds. No person shall be required to list for taxation any state, county, city, school-district and municipal bonds of the state of Kansas, or other evidences of indebtedness of municipal corporations of this state. [L. 1907, ch. 408, § 15; July 1.]

Bonds of the United States are not taxable. *Lantz v. Hanna*, 111 K. 461, 463.

4.—LISTING AND VALUATION OF REAL ESTATE

79-401. Manner of assessment. The real property of this state shall be listed, valued, returned and equalized in the manner provided in this act and in other laws applicable. [L. 1911, ch. 316, § 1; May 22.]

79-402. Year of assessment. All real property in this state liable to assessment and taxation shall be assessed in the years 1916 and 1918, and in every fourth year after 1918: *Provided*, That in cities of the first and second classes the governing body may, by ordinance, order an assessment of real estate in any city for any year when real estate is not generally assessed as herein provided, and all the provisions of this act or of other acts relating to the assessment and equalization of real estate shall apply to any assessment so ordered for any such city in so far as the same are applicable: *Provided*, That all expense of assessors in making any such assessment shall be paid by the city which has ordered the assessment. Immediately after its passage, the city clerk shall transmit to the tax commission a certified copy of any ordinance which orders an assessment as herein provided; that the board of county commissioners in any county may by resolution order an assessment of real estate for such county for any even year. [L. 1911, ch. 316, § 2; L. 1915, ch. 356, § 1; May 22.]

79-403. List and valuation of real property becoming subject to taxation since previous listing; buildings. Each deputy assessor shall annually, at the time of taking the list and valuation of personal property, also take a list of all real property situated in his assessment district that shall have become subject to taxation since the last previous listing of property therein, with the value thereof estimated according to the rules prescribed for the listing and assessing of real estate, and of all new buildings or other structures of any kind, if over three hundred dollars in value, the value of which shall not have been previously added to or included in the value of the land on which such structures have been erected, and shall make return thereof through the county assessor to the county clerk at the same time he is required by law to make his return of personal property, in which return he shall give a description of the tract of land or town lot on which such structures shall have been erected, the kind of structures so erected, and the true value added to such parcel of land or town lots by the erection thereof; and the additional sum it is believed the land or town lot on which such structure is erected would sell at private sale in consequence thereof shall be considered the value of such structure, and taxed thereafter at such value until the next assessment; and in case of destruction by fire, flood or otherwise of any building or other structure of any kind over one hundred dollars in value, which shall have been erected previous to the last valuation of the land on which the same shall have stood, or the value of which shall have been added to any former valuation of such land, the assessor shall determine as far as practicable how much less such land would sell for at private sale in consequence of such destruction, and make return thereof through the county assessor to the county clerk as in this section provided, and thereafter said land shall be taxed on the said decreased value till the next assessment of said land. [L. 1911, ch. 316, § 3; May 22.]

79-404. Tracts taken into city. If, between the first days of March and May, the corporate boundaries of any city shall be extended so as to take into the city tracts described by metes and bounds of the size of lots usually platted in such city, or old or new platted lands adjoining the city, such real estate shall be assessed by the proper officer as town lots within such city for the current year; but if such extension of the boundaries of the city shall occur after May 1, then the real estate so taken into the city shall not be assessed as town lots until the first day of March following, and the value which has been placed upon the real estate in the assessment of March 1 of the current year shall be, by the county clerk, divided *pro rata* according to surface measurement among the tracts or lots so taken into the city; but the said lots shall not be charged with the city tax levies for the current year. [L. 1911, ch. 316, § 4; May 22.]

Annexation after July fifth not taxable for current year. *City of Hutchinson v. Stewart*, 106 K. 743, 746.

79-405. Plat of subdivisions. Whenever any subdivision of land of forty acres or less, or any lot or subdivision, is owned by two or more persons in severalty, and the description of one or more of the different parts or parcels thereof cannot be made sufficiently certain and accurate for the purpose of assessment and taxation without noting the metes and bounds of the same, the county clerk shall cause to be made and recorded, a plat of such tract or

lot, with its several subdivisions, as hereinbefore provided. [L. 1911, ch. 316, § 5; May 22.]

79-406. Failure to execute and record plat. Whenever any subdivision of land, as specified in the preceding section, shall have been divided and is owned in severalty by two or more persons, and the owners thereof have failed and neglected to execute and file for record a plat thereof, the county clerk shall by mail notify all of such owners residing within this state and demand the execution and recording of a plat. If such owners, when so notified, fail and neglect for thirty days after the issuance of such notice to execute and file a plat for record, the county clerk shall cause one to be made, making any survey necessary therefor. Said plat shall be signed and acknowledged by the county clerk, who shall certify that he executed it by reason of the failure of the owners named to do so, and file it for record, and when so filed it shall have the same effect as if executed, acknowledged and recorded by the owners. A correct statement of the cost and expense of such plat, survey and record, verified by oath, shall be by the county clerk laid before the board of county commissioners, who shall allow the same and order the same paid out of the current expense fund of the county, and the county clerk shall at the same time assess the amount *pro rata* upon the several subdivisions of said tracts, lots or parcels so subdivided, which amounts shall become a lien upon the several tracts and shall be collected in the same manner as general taxes, and when paid shall go to the current expense fund of the county. [L. 1911, ch. 316, § 6; May 22.]

79-407. Appeal from action of county clerk. Any person aggrieved by the action of the county clerk in ordering a survey and plat of any subdivision of land, as hereinbefore provided, may within ten days appeal therefrom to the board of county commissioners, by giving notice thereof in writing to the board, and thereupon no further proceedings shall be taken by the county clerk. At its next regular session after the filing of the notice aforesaid the county commissioners shall hear and determine said matter, and direct whether the plat shall be executed and filed. If the county commissioners shall upon hearing find that such plat should be executed and filed, the owner or owners thereof shall within thirty days execute and file for record a plat thereof; and upon failure of the owner or owners to make and record such plat, the county clerk shall proceed to have said subdivision surveyed and platted as hereinbefore directed. Such plat made by the county clerk or by the owners of any such subdivision shall describe said tract, and any other subdivisions or the smallest subdivision of which the same is part, numbering them by progressive numbers, setting forth the courses and distances the number of acres, and such other memoranda as are necessary, and the description of such lots or subdivisions according to the number and designation thereon, and said plat shall be deemed sufficient for all purposes of assessment and taxation. [L. 1911, ch. 316, § 7; May 22.]

79-408. Real estate assessment rolls. The county clerk shall make out all real estate assessment rolls that may be required for the several assessment districts in his county. Such assessment rolls shall contain a correct and pertinent description of each piece, parcel or lot of real property in numerical order as to lots and blocks, sections or subdivisions, in the respective town-

ships or cities, as the case may be. In making up such assessment rolls, the county clerk shall consult the transfer record in his office, the records and plats in the office of the register of deeds, reports from United States land offices, and may require the owner or occupant of a particular property to furnish a proper description thereof: *Provided*, That in making said rolls for assessment he shall deduct the acreage of all lands used for railway right of way or interurban railway right of way. The board of county commissioners shall furnish the county clerk with the clerical help needed to make up the said assessment rolls. After the county clerk shall have completed the assessment rolls, he shall deliver them to the county assessor in no case later than the fifteenth day of February. The county assessor shall then furnish each deputy assessor with a field book, in form to be prescribed by the tax commission, which field book shall have perforated leaves, and shall contain full and complete legal descriptions of all real estate subject to assessment and taxation in the assessment district to which any such deputy assessor has been assigned for assessment work and shall provide for the gathering and reporting of such facts in relation to real estate and real estate values as the tax commission may require. The deputy assessor daily or at such time or times as he may be required by the county assessor but in no case later than May first, shall transmit by mail or otherwise to the county assessor, the leaves of the said field book upon which his assessment has been entered and upon receipt of the same the county assessor shall transfer the assessed values so returned to him, to the assessment rolls and when the work is completed and the said rolls are verified and signed by the respective deputy assessors, the county assessor shall deliver all such assessment rolls to the county clerk in no case later than the last business day in May. The county assessor shall be provided by the board of county commissioners with the clerical help needed to have the work properly done or may assign a deputy assessor to aid the county assessor in such work. [L. 1911, ch. 316, § 8; May 22.]

79-409. Survey when owner fails to furnish description. If the owner or occupant of any lot or tract of land shall neglect or refuse to furnish the description required by section eight when demanded by the county clerk, the county surveyor shall ascertain the boundaries and quantity of such property, and such description shall be held to be valid for all purposes of taxation; and the expense of such survey shall be returned to the county clerk of the county in which such property is located, and by such county clerk shall be added to the tax upon such property and made a part thereof, and when collected the county treasurer shall be required upon warrants drawn by the county clerk on the orders of the board of county commissioners to pay the expenses of said survey. [L. 1911, ch. 316, § 9; May 22.]

79-410. Incorrect or irregular descriptions. If during the assessment it shall appear to the deputy assessor that any description of real estate on the assessment roll is incorrect or irregular in any manner, or that any tract of land described on said roll has been subdivided and should appear upon the roll in more than one description, he shall at once notify the county clerk, and the county clerk shall immediately correct any error in said roll, so that all tracts of real estate in the respective assessment districts owned in severalty shall be properly described upon said assessment rolls. [L. 1911, ch. 316, § 10; May 22.]

79-411. Valuation of real property. The deputy assessor from actual view, from consultation with the owner or agent thereof if expedient, and from such other sources of information as are within his reach, shall determine as nearly as is practicable the actual value in money of all taxable real property within his township or city, as the case may be. Whenever the deputy assessor has completed the assessment of real estate in the taxing district assigned to him and has made report thereof to the county assessor as provided in section eight, it shall be the duty of the county assessor to immediately mail to the last known post-office address of each owner of real estate residing in such taxing district, a notice upon a form to be prescribed by the tax commission, which notice shall contain a description of the real estate assessed and of the amount of the assessment: *Provided, however,* The failure of any person to receive such notice shall in no manner invalidate any tax proceedings or otherwise affect the same. [L. 1911, ch. 316, § 11; May 22.]

79-412. Valuation of buildings and improvements. It shall be the duty of the assessor to examine all such buildings and other improvements as are not expressly exempt from taxation and shall separately value the land and improvements; but the value of the land and the improvements thereon shall be entered on the assessment roll in a single aggregate. [L. 1911, ch. 316, § 12; May 22.]

79-413. Lands acquired from government before first day of March. Lands entered or acquired from the government of the United States or the state of Kansas on or before the first day of March in each year shall be subject to taxation for that year. [L. 1911, ch. 316, § 13; May 22.]

79-414. Lands entered after first day of March of preceding year. It shall be the duty of the county clerk to procure from the land office of the proper district, or districts, an abstract of the lands entered subsequently to the first day of March of the previous year, and all such lands as shown by said abstract not appearing on the tax rolls shall be entered upon said roll by the county clerk as soon as the abstract shall be received. [L. 1911, ch. 316, § 14; May 22.]

79-415. Oath of deputy assessor. Each deputy assessor shall take and subscribe an oath, which shall be certified by the officer administering the same, and attached to his assessment roll before the same is returned to the county clerk by the county assessor in the following form, to wit:

"I, _____, deputy assessor of the _____ of _____ do solemnly swear that the foregoing assessment and valuation to which this is attached contains a correct description of each piece, parcel or lot of real property, and the name of the owner, as far as I have been able to ascertain the same, and that the value attached to each piece, parcel or lot in said assessment is, as I verily believe, the true value thereof in money. _____ Deputy Assessor."

[L. 1911, ch. 316, § 15; May 22.]

79-416. Correction by clerk of errors in description or quantity of land. The county clerk shall correct any errors in the description or quantity of land contained in the list of real property in his county on the tax roll, before or after the same has been delivered to the county treasurer; but he shall make no deduction from the valuation of any piece, parcel or lot of real property except as provided in this act. [L. 1911, ch. 316, § 16; May 22.]

79-417. Lands omitted from rolls. It shall be the duty of the county clerks in all cases where lands in their respective counties for any reason have not been assessed for taxation or have escaped taxation for any former year or years when the same were liable to taxation, to place the same upon the assessment and tax rolls, and charge up or carry out taxes against said lands equal to and in accordance with the tax levies that would have been charged against said lands had they been properly listed and assessed at the time they should have been assessed under the provisions of the general laws governing the assessment and taxation of land: *Provided*, That no lands shall be assessed under the provisions of this section, where the same have changed ownership other than by will, inheritance or gift. [L. 1911, ch. 316, § 17; May 22.]

Annotations to L. 1876, ch. 24, § 54:

Tax deed not invalid because taxes for preceding year included. *Walker v. Douglass*, 2 K. A. 706.

Injunction not allowed where taxes for preceding years properly entered. *Harris v. Drought, Tress., etc.*, 24 K. 524.

79-418. Taxes under preceding section. All taxes charged up under the provisions of section 17 of this act shall be exempt from any back penalties or interest, and shall be collected in the same manner as other taxes levied upon real estate. [L. 1911, ch. 316, § 18; May 22.]

79-419. Land in partition. It shall be the duty of the clerk of the district court of each county of this state, when any lots or land have been partitioned by order of any such court, to certify to the county clerk a description of the lots or land partitioned, and also a description of each piece or parcel into which the same has been divided, together with the name of the owner; and it shall be the duty of the clerk to enter on the tax roll the description of the several pieces of land into which any such lots or land have been partitioned, and such description shall be held to be valid for all purposes, and to apportion the tax charged to any such lots or lands to each tract, so that the proper proportion or proportions of the taxes upon said tract originally listed for taxation shall be subject to their proper share of the tax; and whenever any lands so held by tenants in common shall be sold upon proceedings in partition, or shall be taken by the election of any of the parties to such proceedings, or where any real estate shall be sold at judicial sale, or by administrators, executors, guardians or trustees, the court shall order all taxes and penalties thereon against such lands to be discharged out of the proceeds of such sale. [L. 1911, ch. 316, § 19; May 22.]

Annotations to L. 1876, ch. 24, § 56:

Taxes should be first paid from proceeds of mortgage sale. *Kerr v. Hoskinson*, 5 K. A. 193.

All taxes not having ripened into tax deed are included. *Kerr v. Hoskinson*, 5 K. A. 193.

Purchaser at foreclosure sale entitled to have tax-sale certificate redeemed. *Cade v. Jeffers*, 6 K. A. 61, 62.

Holder of tax-sale certificate purchasing land at sheriff's sale; merger. *Gibson v. Greene*, 6 K. A. 196, 199.

Duty of administrator to pay taxes; section not repealed. *Brown v. Evans, Adm'r*, 15 K. 88, 92.

Foreclosure of mortgage; court should order taxes paid from proceeds. *Opytko v. Crawford*, 19 K. 604, 608.

Allegation in foreclosure petition concerning unpaid taxes; effect of decree. *Harris v. McCrossen*, 31 K. 402, 404.

Taxes paid subsequent to judgment do not constitute separate lien. *McCrossen v. Harris*, 35 K. 178, 180.

Payment of subsequent taxes condition to setting aside sale. *Capital Bank v. Hanson*, 35 K. 577, 590.

Court should require taxes paid from proceeds of foreclosure sale. *Ekkblad, Adm'r, v. Hanson*, 35 K. 541, 547.

Collateral attack on sheriff's deed cannot be maintained. *Clark v. Tandy*, 101 K. 338, 339.

79-420. Separate ownership of surface and minerals. That where the fee to the surface of any tract, parcel or lot of land is in any person or persons, natural or artificial, and the right or title to any minerals therein is in another or in others, the right to such minerals shall be valued and listed separately from the fee of said land, in separate entries and descriptions, and such land itself and said right to the minerals therein shall be separately taxed to the owners thereof respectively. The register of deeds shall furnish to the county clerk, who shall furnish on the first day of March each year to each assessor where such mineral reserves exist and are a matter of record, a certified description of all such reserves: *Provided*, That when such reserves or leases are not recorded within ninety days after execution, they shall become void if not listed for taxation. [L. 1911, ch. 316, § 20; May 22.]

Annotations to L. 1897, ch. 244, § 1:

Section construed as part of general tax law; enforcement. *Mining Co. v. Crawford County*, 71 K. 276.

79-421. Violation of preceding section. Any register of deeds or county clerk knowingly or willfully failing to perform the duty as prescribed in above section shall forfeit his office, and upon petition of the county attorney or the attorney-general shall upon summary proceedings be removed therefrom. [L. 1911, ch. 316, § 21; May 22.]

79-422. Property of utilities. That all fixed mains, flumes, aqueducts, reservoirs, receptacles, standpipes, purifiers, regulators, lamps, lamp-posts, meters, shackle-rods, plugs, tanks, wires and all other property, whether herein enumerated or not, used as part of a system and employed in leading, conducting or distributing heat, light, power, oil, gas, water or other commodity between the place of generation, production or supply and the place of distribution, consumption, use, manufacture, market, or further shipment shall be listed and taxed by the city, town, school district, township or county in which said property or any part thereof is located, and in the same manner returned as is provided by law for real estate. [L. 1911, ch. 316, § 22; May 22.]

Annotation to L. 1905, ch. 503, § 1:

Deductions from capital stock of gas company considered. *Gas Co. v. Spaeth*, 83 K. 191, 194.

79-423. Property within city organized since regular biennial assessment. When any city shall be organized at any time during the biennial period following the regular biennial assessment of real estate in the even-numbered year, the governing body of such city, at the expense of the city, may order an assessment of the property within the limits of the city, which assessment, if lands have been platted and subdivided into lots, blocks and streets, shall be of the lots, blocks and undivided tracts and shall be the basis for all tax levies of such city for the current tax year; but no such assessment shall be ordered after the first day of August of the current tax year; and immediately upon the making by the said governing body of such order of assessment the city clerk of such city shall transmit to the tax commission and to the county clerk of the county in which the city is situated a certified copy of the order, and the county clerk shall at once call upon the county assessor to make the said assessment which shall be made and fully completed by such county assessor within ten days thereafter. The county assessor shall have power to appoint all assistants or deputies necessary to enable him to make the said assessment in an expeditious manner, and shall report the said assessment to

the county clerk at or before the close of the ten-day period herein limited for the work. After the assessment shall have been made and returned to the county clerk, such officer shall at once advise the county board of equalization, which board shall convene not later than three days after the completion of the assessment, for the purpose of hearing complaints of aggrieved persons, and for the purpose of equalizing the said assessment with the assessment of all other property in the county. Said county board of equalization shall not be in session more than two days. After the completion of the said assessment and the adjournment of the county board of equalization, the county clerk shall at once certify to the tax commission the values as finally fixed by said assessment and equalization. In such cases there shall be no appeal from the action of the county board of equalization to the state board of equalization, but no right of appeal to the state board of equalization otherwise provided for in the statutes shall be affected by this provision. [L. 1915, ch. 359, § 1; April 10.]

Annexation after July 5, not taxable for current year. *City of Hutchinson v. Stewart*, 105 K. 743, 746.

79-424. Tract platted after regular biennial assessment. When a tract of land within the limits of any city, which has been assessed as a tract, and likewise any tract outside of a city which has been taken into the city by an extension of the boundaries of the city after the regular biennial assessment as heretofore set forth, has been platted into lots, blocks and streets, an assessment of the same may be ordered and had under like conditions and proceedings as is provided in the preceding section. [L. 1915, ch. 359, § 2; April 10.]

Annexation after July 5, not taxable for current year. *City of Hutchinson v. Stewart*, 105 K. 743, 746.

79-425. Division of tract after regular biennial assessment. When a tract of land which was assessed at the regular biennial assessment of real estate in the even-numbered year shall have been thereafter divided into tracts owned by different persons, any one or more of such persons upon ten days' notice to the other owners may make application to the county assessor of the county for an apportionment of the assessment among the several tracts, and the said county assessor is hereby authorized to apportion the assessment among the owners according to the value of their respective interests as shown by proof introduced by them at a time to be designated by the said county assessor; and upon the apportionment of the said assessment and the extension of the taxes against the tracts respectively the county treasurer shall upon payment thereof receipt to each and every owner of a tract for the taxes charged against such particular tract, and upon nonpayment thereof the tracts as so separately charged with taxes shall be sold for the delinquent taxes in the manner now provided by law for the general sale of real estate for delinquent taxes. If taxes are delinquent which were legally extended before the division of the tract, any one or more of the owners may have his portion released from the lien of the tax by paying to the county treasurer his *pro rata* share of the tax according to the apportionment of the assessment so made as aforesaid by the county assessor. Any grievance arising under the provisions of this section may within ten days after it has arisen be appealed to the tax commission for consideration, and the commission shall have power to grant

a remedy in all cases where a real grievance is shown, by substituting an apportionment of its own for that made by the county assessor. [L. 1915, ch. 359, § 3; April 10.]

79-426. Land owned by several persons jointly. When land owned by two or more persons shall be assessed jointly, and any one or more of them shall not pay the proper portion of the tax due in such cases, any such owner paying the whole tax or who has redeemed the whole tract after it has been sold for delinquent taxes shall have a lien on the interest of the owner who was delinquent to the extent of the tax justly owing by such delinquent, and may sue and recover the amount advanced with interest and costs. [L. 1915, ch. 359, § 4; April 10.]

79-427. Apportionment of special tax or assessment on lot or tract in city of second class. On demand of the county clerk or of any owner of any part of a lot or tract, as herein stated, or of any obligee of a bond or other contract to convey any part of a lot or tract within any city of the second class, it shall be the duty of the city clerk to divide any special tax or assessment on said lot or tract in such proportion as the value of each part, exclusive of buildings or improvements, shall bear to the value of the entire lot or tract, exclusive of buildings or improvements, and thereupon and thereafter such special tax or assessment shall be carried upon the books of the city clerk as apportioned, and be so certified to the county clerk for listing upon the tax rolls of the county. [L. 1911, ch. 114, § 1; May 22.]

5.—RULES FOR VALUING PROPERTY.

79-501. Rules for valuing real and personal property. Each parcel of real property shall be valued at its true value in money, the value thereof to be determined by the assessor from actual view and inspection of the property; but the price at which such real property would sell at auction or forced sale shall not be taken as the criterion of such true value. All the real property belonging to religious, literary, scientific, benevolent or charitable institutions or societies, as well as all school or university lands leased or held for profit, shall be valued at such price as the assessor believes such estate would command in money. Personal property shall be valued at the usual selling price in money at the place where the same may be held; but if there be no selling price known to the person required to fix the value thereon, it shall be valued at such price as is believed could be obtained therefor in money at such time and place. Current money, whether in possession or on deposit, subject to be withdrawn on demand or within one year from the date of deposit, shall be entered in the statement at the full amount thereof. Depreciated bank notes shall be entered in the statement at their current value. [L. 1876, ch. 34, § 15; March 11.]

Method of valuation of personal property for assessment and taxation. *Stanfield v. Boyd*, 10 K. A. 265, 272.

Effect of illegal agreement among assessors as to valuations. *Adams v. Beman, Treasurer*, 10 K. 37; *Challis v. Rigg*, 49 K. 119, 130.

Cases of *Adams v. Beman* and *Challis v. Rigg*, distinguished. *C. B. & Q. Rld. Co. v. Comm'rs of Atchison Co.*, 54 K. 781, 787.

Improper valuation: collection of illegal excess restrained by injunction. *C. B. & Q. Rld. Co. v. Comm'rs of Atchison Co.*, 54 K. 781, 787.

Rule for valuing capital stock of corporation considered. *Gas Co. v. Spaeth*, 88 K. 191, 195. Assessor competent to testify to value of real property. *Hamilton v. Railway Co.*, 95 K. 868, 868.

79-1406. Basis of valuation; deduction of exemption. All property, real or personal, shall be valued at its actual value in money, and from the gross valuation of the personal property there shall be deducted the two hundred dollars exemption, as provided by the constitution of the state of Kansas. [L. 1907, ch. 408, § 14; July 1.]

6.—RAILROADS AND RAILROAD CORPORATIONS.

79-601. Time for assessment. The property of railroads and railroad corporations shall be assessed annually in the manner prescribed in this act. [L. 1876, ch. 34, § 25; March 11.]

Railroad lands in cities subject to assessment for local improvements. *A. T. & S. F. Rld. Co. v. Peterson*, 8 K. A. 108, 107. Assessments against railroad lands collected by tax warrant. *A. T. & S. F. Rld. Co. v. Peterson*, 8 K. A. 108, 107. Rolling stock to be listed by railroad using same. *Comm'rs of Shawnee County v. Equipment Co.*, 26 K. 368, 364.

79-602. Annual statement or schedule by railroads. On or before the 20th day of March, in each year, the person, company or corporation owning, operating or constructing any railroad in this state shall, by its president, secretary, or principal accounting officer, return to the tax commission a sworn statement or schedule, as follows: (1) Of the right of way, track and roadbed, giving the entire length of the main track in this and other states, and showing the proportion in each city, township and county, and total in this state. (2) The length of each side or second track and turn-out, and aggregate length of such second or side-tracks and turn-outs, together with the name of the city, township and county in which such second or side-tracks and turn-outs are each located. (3) A complete list, giving size, location (as to city, township and county), material and value, of all depots, station-houses, machine shops or other buildings, situated wholly or in part on right of way together with all platforms, fuel and water stations, and the machinery and tanks connected therewith. (4) Showing the number of ties in track per mile, the weight per yard of iron or steel rails used in main or side-tracks, what joints or chairs are used in track, the ballasting of road—whether with rock, gravel, gumbo, dirt, or other material—the length of time iron has been used, and the length of time the road has been built. (5) A full list of the rolling stock belonging to or operated by the person, company or corporation, which shall distinctly set forth the number, class and value of all locomotives, passenger cars, sleeping cars, dining cars, express cars, mail cars, baggage cars, horse cars, cattle cars, coal cars, platform cars, wrecking cars, pay cars, and all other kinds of cars owned or leased by said company. (6) A statement or schedule showing, *first*, the amount of capital stock authorized, and the number of shares into which such capital stock is divided; *second*, the amount of capital stock paid up; *third*, the market value of such stock, or if no market value, then the actual value of the shares of stock; *fourth*, the amount of outstanding bonded indebtedness and market value thereof. (7) A correct detailed inventory of the number, kind and value of all tools and

materials for repairs, and of all other personal property. [L. 1876, ch. 34, § 29; L. 1909, ch. 243, § 2; March 5.]

Annotation to L. 1876, ch. 34, § 29:

Rolling stock need be listed only by railroad using same. *Comm'rs of Shawnee County v. Equipment Co.*, 26 K. 868, 864.

Land used in operation of railroad assessable by tax commission. *Railway Co. v. Wyandotte County*, 101 K. 618, 620.

Land converted to railroad uses, assessed annually. *Railway Co. v. Wyandotte County*, 101 K. 618, 620.

79-603. Failure to make such statements or schedules. In case of failure to make such statements or schedules to the tax commission, such person, company or corporation so failing to make returns shall forfeit as a penalty not less than one thousand dollars for each offense, to be recovered in any proper form of action in the name of the people of the state of Kansas and paid into the state treasury for the use of the general school fund, and a refusal of each or any item shall be considered as a separate offense. [L. 1876, ch. 34, § 31; L. 1909, ch. 243, § 4; March 5.]

79-604. Valuation of railroad property. That the return of the railroads, companies or corporations shall not be held to be conclusive as to the value of said property. But the board of railroad assessors may make such assessment of such property as it may deem just and equitable. The board of railroad assessors shall have power to require the attendance of any president, secretary, receiver, accounting officer, servant or agent of any railroad company having any portion of its railway in this state; and any such officer who shall refuse to attend before the board of assessors when it is his duty, or he is required to do so, or refuses to submit to the inspection of said board any books or papers of such railway company in his possession, custody or control, or shall refuse to answer such questions as shall be put to him by said board or its order touching the business, property, money and credits, and the value thereof of said railway company, shall be guilty of a misdemeanor, and on conviction thereof before any court of competent jurisdiction be fined in any sum not exceeding five hundred dollars and costs. Any president, secretary, receiver, accounting officer, servant or agent of any railway company who shall knowingly make any false answer to any question put to him by such board or by its order touching the business, property, money and credits and value thereof of said railroad company, shall be guilty of perjury, and it shall be the duty of the president of such board to prosecute any person liable to the penalties of this section immediately upon the accruing of the liability to such prosecution. [L. 1876, ch. 34, § 32; March 11.]

79-605. Return by tax commission to county clerk of railroad assessment. The tax commission, after having valued and assessed all the railroad property in this state in accordance with the provisions of this article, shall, through the tax commission, make returns to the county clerk of each and every county in which any portion of said railroad property as designated in this article may be located. [L. 1907, ch. 408, § 34; L. 1909, ch. 243, § 5; March 5.]

79-606. Form of such returns. Such returns shall be as follows:

First. Number of miles of track located in each city and township in the county, and the total length in the county.

Second. The average valuation per mile, such valuation to include the following items: Track, right of way, franchise, roadbed, rolling stock, telegraph

lines and instruments connected therewith, material on hand, supplies and tools, and all other property used in the operation of the road, and all moneys and credits.

Third. The average valuation per mile of all other personal property enumerated in this act.

Fourth. The amount of valuation that shall be placed to the credit of each city and township in the county, as heretofore provided for in this act. [L. 1907, ch. 408, § 36; July 1.]

79-607. Returns to include list of sidetracks and buildings. Such returns shall include a full list, with city and township where located, of all second or side-tracks, turn-outs, depots, station houses, machine shops, or other buildings, situated wholly or in part on the right of way, platforms, fuel and water stations, with the machinery and tanks connected therewith, giving the length of each second or side-track or turn-out and the assessed value of each item in the list. [L. 1907, ch. 408, § 36; July 1.]

79-608. Time for return by commission. The tax commission shall make the return contemplated in this article on or before the 30th day of May in each year. [L. 1907, ch. 408, § 37; L. 1909, ch. 243, § 6; March 5.]

79-609. Certification of assessment by county clerk to cities, townships and school districts; entry on tax rolls. The county clerk, as soon as he shall have received the return of railroad assessment from the tax commission, shall certify to the proper officers of the different school districts, cities and townships in his county in or through which any portion of the railroad is located the amount of such assessment that is to be placed on the tax roll for the benefit of such school district, city or township; and he shall at the proper time place such assessment on the proper tax roll of such county, subject to the same per cent of levy for different purposes as in other property. [L. 1907, ch. 408, § 38; L. 1909, ch. 243, § 7; March 5.]

7.—TELEGRAPH, TELEPHONE, PIPE-LINE AND ELECTRIC POWER COMPANIES.

79-701. Definition of companies. That for purposes of assessment and taxation any person or persons, or any joint-stock association or corporation, wherever organized or incorporated, engaged in the business of transmitting to, from, through or in this state telegraphic messages, shall be deemed a telegraph company; any person or persons, or any joint-stock association or corporation, wherever organized or incorporated, engaged in the business of transmitting to, from, through or in this state telephonic messages, shall be deemed a telephone company; and any person or persons, or any joint-stock association or corporation, wherever organized or incorporated, engaged in the business of transporting gas or oil in pipes or pipe lines through or in this state, or owning pipes or pipe lines for such purpose in this state, shall be deemed a pipe-line company; and any person or persons, or any joint-stock association or corporation, wherever organized or incorporated, engaged in the business of generating, conducting or distributing electric power to, from, through or in this state between the place of generation, production or supply

and the place of distribution or consumption, shall be deemed an electric power company. [L. 1919, ch. 304, § 1; June 17.]

79-702. Annual statements by companies. Every telegraph, telephone, pipe-line and electric power company defined in section 1 of this act doing business in this state, shall annually, between the 1st and 20th days of March, under the oath of the person constituting such company, if a person, or under the oath of the president, secretary, treasurer, superintendent or chief officer in this state of such association or corporation, make and file with the tax commission, in such form as the commission may prescribe, a statement containing the following facts: (1) The name of the company. (2) The nature of the company, whether a person or persons, or association, or corporation, and under the laws of what state or country organized. (3) The location of its principal office. (4) The name and post-office address of the president, secretary, auditor, treasurer and superintendent or general manager. (5) The name and post-office address of the chief officer or managing agent of the company in Kansas. (6) The par value of its shares of stock. (7) A detailed statement of the real estate owned by the company in Kansas, where situated, and the value thereof as assessed for taxation. (8) The whole length of its lines within the state of Kansas, which lines shall include what said telegraph, telephone, pipe-line or electric power company controls and uses under lease or otherwise, and the number of miles of line in each county; also a full and correct inventory of all other personal property owned by the company in Kansas on the 1st day of March, where situated, and the value thereof. (9) The total gross receipts for the year ending the 1st day of January, from whatever source derived, and the portion of same derived within the state of Kansas. (10) The amount of operating expenses for the year ending on the 1st day of January, itemized or divided as may be required by the commission. (11) The amount paid in dividends and the rate per cent of such dividends. (12) Every pipe-line company shall also state the length, size and value of its line or lines, its tanks and the capacity thereof, and all other property owned by said company, or under its management or control, as owner, lessee or otherwise, and the number of miles or parts of a mile in each county, and the size thereof, giving the diameter of the pipe, together with such other information as to the character, location and value of its property of any kind as the tax commission may require. Blanks for making the above statement shall be prepared and on application furnished any company by the tax commission. [L. 1919, ch. 304, § 2; June 17.]

79-703. Board of appraisers. The tax commission as created by section 3 of chapter 408 of the Session Laws of 1907 is hereby constituted a state board of appraisers, and the secretary of the tax commission shall keep full minutes of the proceedings of said board. [L. 1919, ch. 304, § 3; June 17.]

NOTE.—For L. 1907, ch. 408, § 3 referred to, see chapter 74, on "State Boards and Commissions," § 74-2401.

79-704. Assessment by board. Said tax commission shall meet at its office annually, on the second Monday in April, as the state board of appraisers, for the purpose of assessing the property of telegraph, telephone, pipe-line and electric power companies in Kansas, except as hereinafter provided. When so convened the board shall proceed to ascertain and assess the

value of all the property of said telegraph, telephone, pipe-line and electric power companies in Kansas, and may adjourn its meeting from time to time as may become necessary. [L. 1919, ch. 304, § 4; June 17.]

79-705. Investigations by board. In case any company fails or refuses to make the statement as required by law or to furnish the board any information as requested, the board shall inform itself as best it may on the matters necessary to be known in order to discharge its duties with respect to the assessment of the property of such company. [L. 1919, ch. 304, § 5; June 17.]

79-706. Appearances before board. At any time after the meeting of the board on the second Monday in April, and before the assessment of the property of any company is determined, any company or person interested shall have the right, on written application, to appear before the board and be heard in the matter of the valuation of the property of any company for taxation. [L. 1919, ch. 304, § 6; June 17.]

79-707. Correction of valuations. After the assessment of the property of any company for taxation by the board, and before the certification by the tax commission of the apportioned valuation to the several counties, as provided in section 9 of this act, the board may, on the application of any interested person or company, or on its own motion, correct the assessment of valuation of the property of any company in such manner as will in its judgment make the valuation thereof just and equal. [L. 1919, ch. 304, § 7; June 17.]

79-708. Failure of company to file annual statement. In case any company required to file a statement under the provisions of section 2 fails to make and file such statement on or before the 20th day of March, unless for good cause shown the time for making said return shall be extended or any part thereof be waived by the tax commission, such company shall be subject to a penalty of not to exceed five hundred dollars, and an additional penalty of not to exceed one hundred dollars for each day's omission after the 20th day of March to file such statement; said penalty to be recovered by action in the name of the state, and on collection to be paid into the state treasury to the credit of the state school fund: *Provided*, That for good cause shown the tax commission may extend the time in which to make and file such statement. The attorney-general, on request of the tax commission, shall institute such action against any company so delinquent, in the district court of any county having jurisdiction. The state board of appraisers shall have power to require the president, secretary, treasurer, receiver, superintendent or managing agent of any telegraph, telephone, pipe-line or electric power company to attend before the board and bring with him for the inspection of the board any books or papers of such company in his possession, custody or control, and to testify under oath touching any matter relating to the business, property, money or credits, and the value thereof, of such company. Any member of the board is authorized and empowered to administer such oath. Any officer, employee or agent of such company who shall refuse to attend before the board when required to do so, or who shall refuse to bring with him and submit for the inspection of the board any books or papers of such company in his possession, custody or control, or who shall refuse to answer any questions put to him by the board or by any member thereof touching the business, property, moneys

and credits, and the values thereof, of such company, shall be guilty of a misdemeanor, and on conviction thereof before any court of competent jurisdiction shall be fined not more than five hundred dollars, or imprisoned not more than thirty days, or both. [L. 1919, ch. 304, § 8; June 17.]

79-709. Apportionment of assessment. After the completion of the assessment by the state board of appraisers the amount of the assessment shall be apportioned by the tax commission among the several counties, townships, cities, school districts and other taxing districts through or into which the lines of said telegraph, telephone, pipe-line or electric power companies run in the following manner: *First.* There shall be assigned locally the values assessed against all real estate and all personal property which had a fixed situs on March 1 of the current tax year, including the value of poles and wires; and the remaining part of the assessment, if any, shall be distributed among the several taxing districts so that each district shall be apportioned such a part thereof as is proportionate to the length of the lines owned by the company in the said taxing districts respectively. [L. 1919, ch. 304, § 9; June 17.]

79-710. Certification and entry of assessment. The tax commission shall, on or before the 30th day of May, certify to the county clerk of each county the amount apportioned to his county. The county clerk, as soon as he shall receive the returns of such assessments from the tax commission, shall certify to the proper officers of the different school districts, cities and townships in his county, in or through which any portion of the property of the telegraph, telephone, pipe-line or electric power company is located, the amount of such assessments that is to be placed on the tax roll for the benefit of such school district, city or township, and he shall at the proper time place such assessments on the proper tax roll of his county, subject to the same per cent of levy for different purposes as is laid upon other property. [L. 1919, ch. 304, § 10; June 17.]

79-711. Property in single county. The assessment of the property of the companies hereinbefore defined which is situated entirely within the limits of a single county shall be assessed by the county assessor annually. Between the 1st and 31st days of March annually the owner or managing officer of each such company shall make and file with the county assessor of the county in which the property of such company is situated a statement giving such information and in such form as may be prescribed by the tax commission. It shall be the duty of the county assessor to apportion the value of all telephone lines, oil pipe lines, gas pipe lines and electric power lines to the various taxing districts in which such property is found in proportion to the amount of such property as found by him in such districts respectively. [L. 1919, ch. 304, § 11; June 17.]

79-712. Municipalities. This act shall not apply to or include any municipal corporation engaged in the business of owning, maintaining, or operating any of the various lines of business hereinbefore enumerated and described. [L. 1919, ch. 304, § 12; June 17.]

8.—EXPRESS COMPANIES.

79-801. Express company defined. That any person or persons, joint-stock association or corporation, wherever organized or incorporated, engaged in the business of conveying to, from or through the state of Kansas, or any part thereof, money, packages, gold, silver, plate or other articles by express, not including the ordinary lines of transportation of merchandise and property in this state, shall be deemed to be an express company. [L. 1909, ch. 246, § 1; March 10.]

79-802. Annual statement. Every express company defined in section 1 hereof, doing business in the state of Kansas, annually, between the 1st and 31st days of May, under the oath of the person constituting such company, if a person, or under the oath of the president, secretary, treasurer, superintendent or chief officer in this state, if an association or corporation, shall make and file with the tax commission a statement, in such form as the tax commission may prescribe, containing the following facts: (1) The name of the company. (2) The nature of the company, whether a person or persons, or association or corporation, and under the laws of what state or country organized. (3) The location of its principal office. (4) The name and post-office address of the president, secretary, auditor, treasurer and superintendent or general manager. (5) The name and post-office address of the chief officer or managing agent of the company in Kansas. (6) The entire receipts (including all sums earned or charged, whether actually received or not) for business done within this state of such company doing business in this state (giving the name of the office and agent and the amount received by him) for the year ending the 1st day of May for and on account of such company, including its proportion of gross receipts for business done by such company within this state in connection with other companies; also, the total amount of such receipts for business done within this state. (7) An itemized statement of the amounts actually paid by such express company, for the year ending the 1st day of May, to the railroads within this state, for the transportation of its freight within this state, showing the amount paid to each railroad company. (8) The entire receipts of the company for business done within the state of Kansas, as defined in item 6, after deducting the amount paid for transportation of freight, as defined in item 7. (9) Such other facts and information as the tax commission may require in the form of return prescribed by it. All blanks for making the above statement shall be prepared, and, on application, furnished any express company by the tax commission. [L. 1909, ch. 246, § 2; March 10.]

79-803. Delay in filing statement. In the case of the failure or refusal of any express company to make the statement prescribed by section 2 hereof, on or before the 31st day of May, the tax commission shall notify the local agents of such company of such default, by letter mailed and addressed, in each instance, to the agent of such express company at the post-office address of said agent, inclosing the form of return to be made out by such agent, and thereupon it shall be the duty of each local agent of such express company within the state of Kansas, on or before the 15th day of June, to make out and file with the tax commission a statement, verified by the oath of the agent,

containing such of the facts prescribed in section 2 as the tax commission may require; but the statement of gross receipts and deductions therefrom defined in items 6 and 7 of section 2 shall be confined to the gross receipts and deductions therefrom of his agency. [L. 1909, ch. 246, § 3; March 10.]

79-804. Determination of gross receipts. The tax commission shall meet annually on the first Monday in June, and thereupon shall proceed to ascertain and to determine, on or before the second Monday in July, the entire receipts of express companies for business done in the state of Kansas, as defined in item 6 of section 2 hereof, after deducting the sums paid for transportation of freight, as defined in item 7 of section 2 hereof, and the amounts thus ascertained by said board shall, in each instance, be held and deemed to be "the gross receipts of such express company for business done within the state of Kansas" for the year under consideration. The commission may adjourn from time to time until the business before it is finally disposed of. In case of the failure or refusal of any company and its agents to make the statement required by law, or to furnish the commission the information requested by it, the commission shall inform itself as best it may on the matters necessary to be known in order to discharge its duty under this act. At any time after the meeting of the commission on the first Monday in June, and before the gross receipts of any company for business done within the state of Kansas are determined, any company or person interested shall have the right, on written application, to appear before the commission and be heard in the matter of such determination. After the determination of the amount of the gross receipts of any company for business done within the state of Kansas, the commission may, at any time previous to the first Monday in August, on application of any person or company interested, or on its own motion, review and correct its finding in such manner as may seem to it to be just and proper. [L. 1909, ch. 246, § 4; March 10.]

79-805. Failure of company to file statement. In case any company required to file a statement under the provisions of section 2 hereof fails to make and file such statement on or before the 31st day of May, such company shall be subject to a penalty of five hundred dollars, and an additional penalty of one hundred dollars for each day's omission after the 31st day of May to file such statement; said penalty to be recovered by action in the name of the state, and on collection paid into the state treasury to the credit of the general school fund. The attorney-general, on the request of the tax commission, shall institute such action against any company so delinquent, in any court of competent jurisdiction in Shawnee county, or of any county in which such company does business. In case any local agent of any express company required to file a statement under the provisions of section 3 hereof fails to make and file such statement on or before the 15th day of June he shall be deemed guilty of a misdemeanor, and on conviction shall be fined in any sum not less than twenty-five dollars nor more than one hundred dollars. Each day's failure after the 20th day of June to make and file such statement shall constitute a new offense. The tax commission shall have power to require the president, secretary, treasurer, receiver, superintendent or managing agent, or other officer or employee or agent, of any express company to attend before the commission, bring with him, for the inspection of the commission, any books or papers of such company in his possession or control, and to testify under oath

touching any matter relating to the organization or business of such company. Any member of the commission is authorized and empowered to administer such oath. Any officer, employee or agent of such company who shall refuse to bring before the commission, when required to do so, or shall refuse to bring with him and submit for the inspection of the commission any books or papers of such company in his possession, custody or control, or shall refuse to answer any question put to him by the commission, or any member thereof, touching the organization or business of such company, shall be deemed guilty of a misdemeanor, and on conviction shall be fined not more than five hundred dollars, or imprisoned not more than thirty days, or by both such fine and imprisonment. [L. 1909, ch. 246, § 5; March 10.]

79-806. Report of gross receipts to auditor; collection of taxes. The tax commission shall, on the first Monday in August, report to the auditor of state the amount of the gross receipts of express companies for business done within the state of Kansas for the year ending the 1st day of May. It shall be the duty of the auditor of state, annually, in the month of December, to charge and collect from each express company doing business in the state of Kansas a sum, in the nature of an excise tax, to be computed by taking four per cent of the amount fixed by the tax commission as the gross receipts of such company for business done within the state of Kansas for the year ending the 1st day of May and certified to the auditor of state: *Provided*, Nothing contained in this act shall exempt or release express companies from the assessment and taxation of their tangible property in the manner authorized and provided by law. All taxes collected by the auditor of state under the provision of this act shall be paid into the state treasury, and be credited to the general revenue fund. If any express company fails or refuses to pay said tax during the month of December, the auditor of state shall add to the tax due a penalty of twenty per cent thereon, and shall forthwith proceed to collect the tax and penalty by means provided by law for the collection of taxes by county treasurers. It shall be the duty of the attorney-general or any prosecuting attorney, on request of the auditor of state, to prosecute any proceeding for the collection of such tax, and such officer shall be allowed for his services five per cent on the total amount collected, to be retained and paid to him by the auditor of state. The balance of the amount collected shall be paid into the state treasury. Suit for the collection of such tax may be brought in the name of the state in the county of Shawnee or in any county in which such express company is doing business. [L. 1909, ch. 246, § 6; March 10.]

9.—CAR COMPANIES AND OWNERS.

79-901. Annual statement. The president or chief officer of every foreign or domestic car company, of every foreign or domestic joint-stock company, of every foreign or domestic mercantile company, or of any other foreign or domestic corporation, the capital stock and assets of which are represented by shares of stock other than a railroad company operating its own or leased lines, and a member of every partnership, and every individual which or who owns any passenger, sleeping, parlor, observation, dining and freight cars, or either, which are used in connection with the transportation of pas-

sengers or freight within, into or through the state of Kansas, shall on or before the 20th day of April, 1913, and on or before the same date in each year thereafter make a report in writing to the tax commission stating specifically:

1. Total authorized capital stock.
2. Total authorized number of shares of common stock.
3. Number of shares of common stock issued.
4. Total authorized number of shares of preferred stock.
5. Number of shares of preferred stock issued.
6. Par value of each share of common stock.
7. Par value of each share of preferred stock.
8. Amount paid into the treasury on each share of common stock.
9. Amount paid into the treasury on each share of preferred stock.
10. Total amount of capital paid in.
11. Amount of capital on which the last annual dividend was declared.
12. Date of each dividend declared during the year ending with the first day of March next preceding.
13. Rate per centum of each dividend declared.
14. Amount of each dividend declared during the year ending with the first day of March next preceding.
15. Total amount of bonded indebtedness existing on the 1st day of March next preceding.
16. Gross earnings during the year.
17. Net earnings during the year.
18. Amount of surplus.
19. Amount of profit added to sinking fund during said year.
20. Highest price of sales of stock during the month of February next preceding.
21. Highest price of sales of stock during the preceding year.
22. The total mileage made by the rolling stock of said company over railroads within the state during the year ending with the 31st day of December next preceding the return.
23. The total mileage made by the rolling stock of said company over railroads in other states and territories during the year ending with the 31st of December next preceding.
24. Average price of sales of stock during the preceding year.
25. The report shall contain an itemized statement of the assets and liabilities of the company under the following heads:

ASSETS.		LIABILITIES.	
Real estate	_____	Capital stock	_____
Cars	_____	Accounts payable	_____
Operating supplies	_____	Reserves for depreciation, etc.	_____
Cash	_____	Surplus	_____
Manufacturing department invest- ment account	_____		
Securities	_____		
Accounts receivable	_____		
(Any other items.)	_____	(Any other items.)	_____
Total	_____	Total	_____

The statement of assets and liabilities so furnished shall be in such detail as to enable a clear ascertainment therefrom of the proportion of the capital stock of the company that represents the different investments in: (a) Car ownership and operation; (b) manufacturing; or (c) other operations. The

information to be furnished under this subnumber shall be such as may be required by the tax commission. And in every case any individual personally, a partnership by a member, and a joint stock company or corporation by its president, chairman, secretary and treasurer, or any two of them, after having been sworn or affirmed to act with fidelity and according to the best of his or their knowledge and belief, shall, between the 1st and 20th days of April, 1913, and within the same period in each succeeding year, estimate and appraise, if an individual or partnership, the value of his or their property wheresoever situated which is then used in connection with his or their car line business, and if a joint stock company or corporation, the capital stock of the said company at its actual value in cash, such valuation to be in the sum, however, not less than the total value of all the shares of outstanding stock as such value shall be ascertained by multiplying the total number of outstanding shares of stock by the average price at which said stock sold during the preceding year, and not less than the price or value indicated or measured by net earnings or by the amount of profit made and either declared in dividends or carried into surplus or sinking fund, and when the same shall have been so truly estimated and appraised, they shall forthwith forward to the tax commission a written statement of their estimate and appraisal accompanied by an oath or affirmation signed by them and attested by the signature and seal of a notary public or other person duly qualified to administer oaths: *Provided*, That if the tax commission be not satisfied with the valuation and appraisal so returned to it, or if a full and complete return as above provided for be not filed, or if being filed such return does not contain all the information above designated, the commission, acting as the board of railroad assessors, is hereby authorized and empowered in making its assessment of the property of the said company to base such assessment upon any information within the possession of the members of said commission, from whatever source derived; and in the event of the neglect or refusal of any person, partnership, joint stock company or corporation to make and file the report and appraisal as hereinbefore required for a period of sixty days after the 30th of April as aforesaid, it shall be the duty of the tax commission, acting as the board of railroad assessors, and it is hereby authorized and empowered when it has ascertained for assessment purposes as herein provided the value of the property of any such company, to add fifty per cent additional value as a penalty for such neglect and failure to file the report herein required. [L. 1911, ch. 318, § 1; L. 1913, ch. 320, § 1; March 6.]

79-902. Assessments and levies. On or before the first day of September, after the filing of such report, the tax commission, acting as the board of railroad assessors, shall assess the property of such company in the state of Kansas, in accordance with the following rule: It shall determine the value of all the property of any such company, both within and without the state of Kansas, including its franchises, and shall then assess against the property of the said company within the jurisdiction of the state of Kansas such a percentage of the total value of all assets of the said company which are involved in the ownership and operation of cars over its entire system—including proportionate intangible assets—as shall equal the percentage which the mileage made by the rolling stock of the said company over railroads within

the state during the year ending with the 31st day of December next preceding the return, is of the total mileage made by the rolling stock of said company over railroads in all states and territories during the said year ending with the 31st day of December next preceding the said return: *Provided*, That if for any reason information is not furnished the commission upon which to proceed as hereinbefore required, then the commission may ascertain the actual earnings of the said company from the operation of its cars in, through or across the state of Kansas, or in the absence of proper information upon the subject may estimate such earnings and may then proceed to assess the property of the said company within the state of Kansas at an amount which at the average rate of taxation in the state for the year preceding on all property in the state will produce a tax equal to four per cent of the gross earnings of the said company as so ascertained or estimated; and upon any assessment made under the provisions of this section the tax commission is hereby authorized and empowered each year to make a levy for purposes of taxation against the value assessed and determined to exist in the state as aforesaid at a rate which shall equal the average rate of levy for all purposes in the several taxing districts of the state for the preceding year. [L. 1913, ch. 320, § 2; March 6.]

79-903. Notice and certification of assessment and levy; payment. When the rate of levy, shall have been determined, according to the provisions of section one of this act, the tax commission shall cause to be sent to each owner of property a statement of the amount of the valuation or assessment, the rate of the levy and the amount of the tax, which tax so found and notified is hereby required to be paid by the owners of property into the state treasury for the use of the general revenue fund of the state within the time provided for the payment of general taxes. It is hereby made the duty of the tax commission to certify to the state treasurer and to the auditor of state the amount of taxes levied under the provisions of this act. [L. 1911, ch. 318, § 2; March 15.]

Note.—"Section 1 of this act" referred to is L. 1913, ch. 320, sec. 1, which amended L. 1911, ch. 318, sec. 1. (§ 79-901.)

79-904. Penalty for nonpayment of tax. In the event that any tax levied under the provisions of this act shall not have been paid on or before the 20th day of December of the year in which same is levied, a penalty of ten per cent must be added to the total of said tax by the state treasurer and a ten per cent penalty shall be charged, as of the date last mentioned, by the auditor of state against the treasurer of the state. [L. 1911, ch. 318, § 3; March 15.]

79-905. Collection of delinquent taxes. If the taxes contemplated by this act remain unpaid on the 15th day of January next following their levy, it shall be the duty of the attorney-general of the state, and he is hereby empowered to bring action and to recover the amount of such delinquent taxes and penalties in the district court of any county within the state of Kansas in which service can be had upon the individual, copartnership, joint stock company or corporation to which such delinquent taxes are assessed, or in which the property of such delinquent being a nonresident of the state can be seized under attachment proceedings. [L. 1911, ch. 318, § 4; March 15.]

10.—MERCHANTS AND MANUFACTURERS.

79-1001. Annual statements by merchants. Every person, company or corporation who shall own or hold, subject to his control, any personal property within this state, which shall have been purchased with a view of being sold at an advanced price or profit, or which shall have been consigned to him for the purpose of being so sold, shall be held to be a merchant; and when such person shall be required, according to the provisions of this act, to make and deliver to the assessor a statement of his personal property he shall include in such statement the value of the personal property appertaining to his business as a merchant, including all bills receivable, obligations or credits arising from the business of such merchant and in estimating the value of such property, bills receivable, obligations and credits, he shall estimate the average value thereof which he had in his possession or under his control during the year next preceding the first day of March preceding the time of making such statement or during that portion of said year which he may have been engaged in said business. [L. 1876, ch. 34, § 16; L. 1917, ch. 320, § 1; Feb. 8.]

Annotation to L. 1876, ch. 34, § 16:

Stock sold after first of March; taxes payable by vendor. *Howell v. Scott*, 44 K. 247, 250.

79-1002. Method of arriving at average value of such property; property consigned for forwarding. In order to arrive at the average value of such property, he shall estimate the amount on hand as nearly as may be in each month in the preceding year, or such portion thereof as he may have been engaged in such business, then add the several monthly estimates, and divide the aggregate by the number of months he may have been engaged in business. No consignee shall be required to list for taxation any property consigned to him for the mere purpose of being forwarded. [L. 1876, ch. 34, § 17; March 11.]

Stock of goods properly listed in county where owner resides. *Griffith v. Carter*, 8 K. 565.

Stock sold after the first of March; taxes payable by vendor. *Howell v. Scott*, 44 K. 247, 250.

79-1003. Commencement of business between March and November. Every person, company or corporation who shall commence merchandising, trading or freighting in any town, city or village in this state after the first day of March and before the first day of November in any year, and the value of whose personal property so employed shall not have been listed for taxation in any other county in this state, shall report under oath to the clerk of the county in which such person, company or corporation is engaged in business the probable amount of the average value of personal property intended by such person, company or corporation to be so employed; and such amount shall be entered by said clerk on the assessment roll of the county in which such business may be carried on, and such property shall be taxed the same as if the same had been returned by the proper assessor. [L. 1876, ch. 34, § 18; March 11.]

79-1004. Violation of preceding section. If any person, company or corporation shall commence merchandising, trading or freighting, as designated in the foregoing section, and shall not within one month thereafter report in accordance with the requirements of section sixteen of this act, such person,

company or corporation shall forfeit and pay four per cent on the value of the personal property by him or them so employed; and the value of such property shall be ascertained by the testimony of witnesses called by the treasurer of the county in which such business may be carried on. And the said forfeiture shall be collected by such treasurer by a suit before any justice of the peace or court having jurisdiction thereof; and when such forfeiture shall be collected, the amount shall be distributed in the same proportion as other taxes: *Provided*, It shall be the duty of said treasurer to notify such merchant of the above requirement of law at least ten days before the commencement of such suit. [L. 1876, ch. 34, § 19; March 11.]

NOTE.—"Section 16" referred to is L. 1917, ch. 320, sec. 1, which amended L. 1876, ch. 34, sec. 16. (§ 70-1001.)

79-1005. Annual statements by manufacturers. Every person, company or corporation who shall hold or purchase personal property for the purpose of adding to the value thereof by any process of manufacturing, refining or by the combination of different materials, shall be held to be a manufacturer; and when such person, company, or corporation shall be required to make out a statement of their personal property for taxation, he or they shall state the average amount of all articles purchased or held for the purpose of being used in such process of manufacturing, refining or combining which he or they shall have had on hand during the year next preceding the first day of March preceding the time of making such statement and all manufactured articles and all bills receivable, obligations or credits arising from such business, which he or they shall have had in his possession or under his control during said year, which amount shall be ascertained by establishing the amount of such property on hand or under his control in each month of the preceding year or such portion thereof as he or they may have engaged in such business, including all bills receivable, obligations or credits arising therefrom; then add the several monthly estimates and divide the aggregate by the number of months he or they have been engaged in such business; and such statement shall be verified on oath as required in other cases: *Provided*, That the property so listed shall not be valued or assessed at any higher rate than other property. [L. 1876, ch. 34, § 20; L. 1881, ch. 33, § 1; L. 1917, ch. 320, § 2; Feb. 8.]

Annotation to L. 1881, ch. 33, § 1:

Finished product of manufacturer subject to taxation. *The State v. Holcomb*, 81 K. 879, 887.

79-1006. Tax situs of property. The tax situs of the property of merchants and manufacturers shall be the taxing district where such business or manufacturing is carried on and in case any such merchant or manufacturer shall have more than one place of business in the state of Kansas each such place of business shall be so taxed in the taxing district in which it is situated. All merchants or manufacturers who are nonresidents, or foreign corporations, shall be assessed upon the same basis as residents of this state or domestic corporations, and the situs for taxation of all personal property of such merchant and manufacturers used in connection with or created by the business, including bills receivable, obligations or credits, is hereby declared to be in the place where such business is carried on. The business of an elevator, whether individually or separately owned, or by a parent company owning several elevators located at different points, shall be considered as a mer-

chandising business and all grain or other commodities purchased or handled by the owner or management of an elevator shall have their tax situs in the taxing district where the elevator is located through which the business is transacted: *Provided*, That the taxing situs of grain, owned by a resident of this state, held in storage by warehouse, on which warehouse receipt has been issued, shall be taxed at the place of residence of the owner of such receipt. [L. 1917, ch. 320, § 3; L. 1921, ch. 289, § 1; March 1.]

79-1007. Manufacturer to list value of all engines, tools and machinery not forming part of real property used in manufacturing. Every manufacturer shall list the value of all engines, tools and machinery of every description, not forming part of any parcel of the real property used or designated to be used in any process of manufacturing as defined in this act. * [L. 1876, ch. 34, § 21; March 11.]

Finished product of manufacturer subject to taxation. *The State v. Holcomb*, 81 K. 279, 687.

11.—BANKS, BANKERS, LOAN AND TRUST COMPANIES.

79-1101. Assessment of stock of banks and loan and trust companies. Shares of stock issued by national banks and by state banks and savings banks, or other banking organizations, and by loan and trust companies, located in this state, shall be assessed to the individual shareholders at the place where the particular bank, or loan and trust company is located. The president, cashier or other managing officer of each and every institution of the kind named herein which has issued shares of stock shall furnish to the assessing officer upon demand during the month of March of each year a list of all the shareholders and of the number of shares owned by each shareholder, and the assessing officer shall list to each shareholder for taxation purposes the assessable value of such shares as hereinafter provided. To aid the assessor in fixing the value of such shares the returning officer shall furnish to the assessor under oath a statement correctly showing the amounts of capital stock, surplus and undivided profits as of March first of the current tax year. By undivided profits is meant all earnings of the institution which have not been carried to surplus or paid out in dividends under whatever account carried, whether as undivided profits, exchange, interest, stockholders' accounts. The assessing officer shall list to each shareholder for taxation purposes the assessor from such statement shall base his valuation upon the capital, surplus and undivided profits, the latter ascertained as provided herein, unless an investigation shall show incorrect returns, in which case he shall determine what returns should have been made to correspond with the facts disclosed by the investigation, and shall revise the returns and use such revised returns as the basis of the assessment: *Provided*, That if any portion of the capital stock of any such institution shall be invested in real estate and the institution shall hold a title in fee simple thereto, the assessed value of said real estate to the extent of one-third of the combined capital and surplus owned as a banking home shall be deducted from the original gross valuation of the shares of stock and such real estate shall be assessed as other real estate; also, there

shall be deducted the assessed value of real estate owned by the institution to which it has a fee simple title other than the banking home to the extent of one-third of the combined capital and surplus unless it shall have been owned more than five years, in which event it shall not be deducted; but the assessed value of real estate owned outside of the state of Kansas shall not be deducted. The net assessment when so ascertained shall be divided among the shareholders proportionately according to the number of shares owned by each shareholder. Any such institution shall pay the tax assessed upon the shares of stock and shall have a lien thereon until the same is satisfied: *Provided*, That if for any reason the taxes levied upon the shares of stock shall not be paid by the institution, the property of the individual shareholders shall be held liable therefor. [L. 1919, ch. 306, § 1; March 12.]

12.—MUTUAL FIRE AND LIFE INSURANCE COMPANIES.

79-1201. **Assessment of mutual insurance companies.** That the property of all mutual life insurance companies, of stock and mutual fire insurance companies organized and operating under the laws of this state shall be subject to taxation for state, county, municipal and school purposes, as provided in the general revenue laws of this state. Each such company or association shall make returns: (1) Of all the real estate held or controlled by it; (2) of the net value of all its other assets or values in excess of the legally required reserve necessary to reinsure its outstanding risks, and of any unpaid policy claims, which net value shall be assessed and taxed as the property of individuals: *Provided*, That nothing herein shall operate to exempt from taxation the paid-up capital stock and surplus of incorporated fire insurance companies. [L. 1919, ch. 306, § 2; L. 1921, ch. 290, § 1; May 25.]

40-434. **Bond of treasurer and secretary; property to be listed for taxation.** The treasurer and secretary shall each give bonds to the company for the faithful performance of their duties in such amount as shall be prescribed by the board of directors, and all moneys, notes or other property belonging to such company and in the hands of the treasurer shall be listed by him for taxation in the county, township and school district in which he resides, and all other property belonging to the company shall be listed by the secretary in the county, township and school district in which he resides. [L. 1885, ch. 132, § 13; L. 1905, ch. 276, § 1; March 21.]

Property must be listed where treasurer resides. *Freedom Township v. Douglas*, 99 K. 176; *Kimball Co. v. Shawnee County*, 99 K. 302, 307.

13.—ENUMERATION AND TAXATION OF DOGS.

79-1301. **Dogs as personalty; killing.** A dog which has been listed and valued as personal property, and the tax upon such valuation and per capita tax upon such dog having been paid, if due, shall be considered as personal property and have all the rights and privileges and be subject to like lawful restraints as other live stock. A recovery shall not be had for the malicious and unlawful killing of such dog in excess of double the amount for which it is so listed. [L. 1913, ch. 331, § 1; April 30.]

79-1302. Listing of dogs. It shall be the duty of the assessor in each township annually, at the time he shall assess the property in his township, to make diligent inquiry as to the number and sex of all dogs owned, harbored or kept in his township, and it is hereby made the duty of the owner or harbored of each dog to make sworn report of the number and sex of each dog owned, harbored or kept by him, to said assessor at that time, and said assessor shall at the time he makes his annual report, report the number and sex of each dog in his township, and the owner and harbored thereof, to the officer to whom it is his duty to report: *Provided*, That any person harboring a dog on his premises, and disclaiming ownership thereof, shall forthwith and in the presence of the assessor, kill such dog. [L. 1913, ch. 331, § 2; April 30.]

79-1303. Rate, collection and distribution of levy. That the officer to whom such report shall have been made, shall levy against the owner or harbored thereof one dollar on each male or spayed female dog, and two dollars on each unspayed female dog: *Provided*, That such dogs are more than three months old on the preceding March 1. All taxes derived from this act, shall be collected at the same time and in the same manner as other personal taxes and turned into the general school fund of the county, to be distributed back to the school district from which it was obtained. [L. 1913, ch. 331, § 3; April 30.]

79-1304. False report. Any person who shall make a false report, as required in section 2 of this act, to the assessor, of the number or sex of the dogs owned, harbored or kept by him shall be guilty of a misdemeanor, and on conviction shall be fined not more than one hundred dollars. [L. 1913, ch. 331, § 4; April 30.]

79-1305. City taxes; dogs used for exhibition purposes; actions for damages to domestic animals. This act shall not be construed to prevent the various cities of this state from assessing and collecting a dog tax, nor shall it be construed to cover dogs kept exclusively for exhibition purposes, nor shall it be construed to prevent any person from bringing or maintaining an action or actions against any person who shall own, harbor or keep any dog which shall kill or injure any sheep or other domestic animal of said claimant. [L. 1913, ch. 331, § 5; April 30.]

79-1306. Prosecutions. It shall be the duty of the county attorney to prosecute any and all persons who shall violate the provisions of this act. [L. 1913, ch. 331, § 6; April 30.]

14.—ASSESSORS AND ASSESSMENT DISTRICTS.

19-401. County assessor. First. At the general election in November, 1914, and at each biennial election thereafter, there shall be elected one county assessor in each county of the state, having a population of over fifty-five thousand, who shall possess the powers and perform the duties hereinafter specified, and such county assessor shall have been a resident and taxpayer of the county in which elected for not less than four years previous to the date of such election, and shall hold his office for two years from the second Monday in January following such election: *Provided*, That in any county having

fifty-five thousand population or less the county clerk shall be *ex officio* the county assessor, and shall receive such additional compensation therefor as shall be allowed by the board of county commissioners of such county, and shall have all the powers and perform all the duties of the office of county assessor, and shall be subject to all the penalties of the laws provided for non-feasance or malfeasance in performing the duties of his office. No county assessor shall be eligible to, or hold, any other public office during any term for which he may be chosen as county assessor. All county assessors elected under the provisions of this section shall qualify as provided in section 2, chapter 320, Laws of 1911, and shall perform such duties and receive such compensation as shall be provided by law. Whenever it shall be made to appear to the board of county commissioners of any county by evidence satisfactory to said board that the county assessor of such county has failed or neglected to properly perform the duties of his office, by reason of incompetency or for any other cause, the board of county commissioners shall enter upon its journal an order suspending the county assessor from his office, which order shall state the reasons for such suspension, and upon the services of any such order upon the county assessor so suspended he shall at once be divested of all power as county assessor and shall immediately deliver to any person appointed to discharge the duties of the office in his stead all books, records and papers pertaining to the office. The board of county commissioners may appoint another person to temporarily discharge the duties of the office of county assessor, and such person so appointed shall take the oath of office and file the bond required by law, and thereupon such person shall be invested with all the powers and duties of the office. *Second.* At the time of the suspension of any county assessor as hereinbefore provided, the board of county commissioners making such suspension shall fix a time, not later than ten days thereafter, when a hearing concerning the same may be had by the tax commission at the county seat of such county. At the hearing the commission shall make careful inquiry as to all facts connected with such suspension, and if after said inquiry is made the commission shall determine that the county assessor so suspended should be removed permanently and his office declared vacated, then the commission shall make and enter upon the record of its official proceedings an order removing said county assessor, a copy of which order, duly certified by the secretary under the seal of the commission, shall be sent to the board of county commissioners, who shall cause the same to be recorded in full upon the journal of the board; and immediately upon the making of such order by the commission said office of county assessor shall be vacant, and the board of county commissioners shall appoint a suitable person as county assessor to fill such vacancy, who shall qualify as provided by law in such cases. Should the person so appointed be other than a person appointed to discharge the duties of the office temporarily, the person so discharging the duties of the office temporarily shall immediately transfer to the person appointed to fill the vacancy all the books, records and files of the office. *Third.* Whenever the tax commission shall of its own motion conclude, after careful inquiry, that the county assessor of any county has failed or neglected to discharge his duties as required by law, and that the interest of the public service will be promoted by the removal of such county assessor, the commission may enter upon its journal an order removing said county assessor from his said

office, and from and after the date of such order the person so removed shall be divested of all power as such county assessor and the office shall be vacant until the vacancy shall be filled by the board of county commissioners of such county duly appointing some person to fill the vacancy. *Fourth.* In any county of fifty-five thousand population or less in which the county clerk is *ex officio* the county assessor under the provisions of this act, the board of county commissioners of the county upon the petition of ten per cent of the voters who voted for secretary of state at the last general election shall submit to the voters at the general election ensuing after the filing of the said petition the question of electing a county assessor for such county. The question shall be submitted under the general election laws in form as follows: "Shall the county of (naming the county in question) elect a county assessor?" and if a majority of the votes cast shall be in favor of the proposition, the board of county commissioners shall appoint a county assessor to serve until the next general election, at which election his successor shall be elected as are other county officers. [L. 1907, ch. 408, § 18; L. 1909, ch. 251, § 3; L. 1913, ch. 321, § 1; Oct. 1, 1914.]

County cannot employ other agency in collection of tax. *The State v. Dickinson County*, 77 K. 640.
 Construed in connection with "old soldiers' preference law." *James v. Haynes*, 79 K. 608.

19-402. Assessors in counties having 200 or more oil wells. That in any county in the state in which there may be 200 or more producing oil wells, and having an assessed valuation of \$100,000,000 or more, the county commissioners may, by resolution duly passed and recorded, appoint a county assessor, who shall be a resident and taxpayer of the county in which appointed, and shall hold his office for the term of two years, unless sooner removed by the appointing power, for cause. Such county assessor shall perform the duties of his office as required by law, and may receive a salary fixed by the board of county commissioners not exceeding twenty-four hundred dollars per annum. [L. 1923, ch. 120, § 1; Feb. 12.]

19-225. Supplies for county officers; official seals. The board of commissioners of their respective counties shall, at the expense of the county, furnish annually and in due season, to the assessor of the county, suitable blank assessment rolls for the several townships, prepared in accordance with the provisions of law, and shall also provide suitable books and stationery for the use of each of the county officers of their county, together with appropriate cases and other furniture for the safe and convenient keeping of all the books, documents and papers belonging to each of said officers, and also official seals for each of said officers, where the same are required by law. [G. S. 1863, ch. 25, § 32; Oct. 31.]

79-1411. Assessment districts; deputy assessor. From and after the passage of this act each incorporated city of the state of Kansas, whether of the first or second class, shall comprise a separate assessment district, and in each of said assessment districts the county assessor, or county clerk where the clerk acts as assessor, between the second Monday in January and second Wednesday in February of each year, by and with the consent of the board of county commissioners of the county in which such city is located, shall appoint such number of deputy assessors as will be necessary to assess each such assessment district. All appointments of deputy assessors which have not

been made in accordance with the provisions of this section are hereby vacated and set aside, and the county assessor, or county clerk where the clerk acts as assessor, in all such assessment districts shall appoint deputy assessors as herein provided. The territory in each municipal township, exclusive of the territory in cities of the first and second class, shall constitute a separate assessment district, and the county assessor, on the second Monday in January, annually, shall appoint the township trustee of each township as deputy assessor for the assessment district in which he was elected: *Provided*, That the county assessor, or county clerk where the clerk acts as assessor, by and with the consent of the board of county commissioners, may subdivide the territory in any township, outside of cities of the first and second class, into two or more assessment districts when the territory is too large to be assessed by one deputy assessor within the time required by law, and shall appoint a deputy assessor for each of the subdivided districts except the one to which the township trustee appointed deputy assessor has been assigned. Whenever the county assessor, or county clerk where the clerk acts as assessor, of any county shall be convinced that the deputy assessor appointed for any single assessment district in his county cannot finish his work of assessment within the time appointed by law, the county assessor, or county clerk where the clerk acts as assessor, may assign to assist the said deputy assessor some other regularly appointed and qualified deputy assessor, or if no other deputy assessor is available for such assignment, he may appoint some person as deputy assessor to assist in finishing the work of assessment in said district, and said appointee shall qualify as a deputy assessor as required by law, any such appointment being subject to approval by the board of county commissioners, as the case may be. Any vacancy in the office of deputy assessor appointed as aforesaid shall be filled by the county assessor, or county clerk where the clerk acts as assessor, by the appointment of some person to the office for the unexpired term, subject to the approval of the board of county commissioners. Whenever the county assessor, or county clerk where the clerk acts as assessor, of any county shall conclude, from any evidence satisfactory to himself, that any duly appointed and qualified deputy assessor in his county has failed or neglected to properly discharge the duties of his office, by reason of incompetency or for any other cause, the said county assessor, or county clerk where the clerk acts as assessor, shall issue a written order, and enter the same of record in his office, suspending the said deputy assessor from his said office, which order shall state the reasons for the suspension, and upon the service of any such order upon the said deputy assessor so suspended he shall at once be divested of all power as deputy assessor, and shall immediately deliver to any person appointed to discharge the duties of said office in his stead all books, records and papers pertaining to the said office. The said county assessor, or county clerk where the clerk acts as assessor, may appoint another person to temporarily discharge the duties of the office of deputy assessor, and such person so appointed shall take the oath of office and file the bond required by the statute in regard to the office of deputy assessor, and thereupon such person shall be invested with the duties of such office, which, however, shall absolutely determine and cease whenever the county assessor, or county clerk where the clerk acts as assessor, shall so order. After the suspension of any deputy assessor as herein provided, the county

assessor, or county clerk where the clerk acts as assessor, making such suspension shall fix a time, not later than ten days after such suspension, when a hearing concerning the same may be held by the tax commission, or one or more members thereof, at the county seat of such county. At such hearing held by the tax commission, or one or more members thereof, careful inquiry shall be made as to all facts connected with such suspension. If, after such inquiry is made, the tax commission shall determine that the said deputy assessor so suspended should be removed permanently and his office declared to be vacated, the commission shall make and enter upon the record of its official proceedings an order removing said deputy assessor, a copy of which order, duly certified by the secretary under the seal of the commission, shall be sent to the board of county commissioners, who shall cause the same to be recorded in full upon the journal of the board; and immediately upon the making of said order by the commission said office of deputy assessor shall be vacant, and the said county assessor shall appoint a suitable person as deputy assessor to fill such vacancy, who shall qualify as provided by law in such cases. Should the person so appointed be other than a person appointed to discharge the duties of the office temporarily, such person so discharging the duties of the office temporarily shall immediately transfer to the person appointed to fill the vacancy all the books, records and files of the office. [L. 1908, ch. 76, § 1; L. 1909, ch. 251, § 4; L. 1911, ch. 320, § 1; Feb. 7.]

Annotation to L. 1908, ch. 76, § 1:

Apportionment of assessor validated by curative act; veterans' preference law. *James v. Haynes*, 79 K. 608.

79-1412. Duties and powers of county assessor; appeals. The county assessor shall have all the rights and powers given by law to deputy assessors for the examination of persons and property and the discovery and assessment of property and making lists and returns of the same: *Provided*, That he shall make no assessment of property which is required by law to be assessed by the deputy assessor until after the close of the assessment period, after which time he may assess any and all property which is found to have been omitted from the assessment roll of any deputy assessor during the assessment period. The county assessor shall obtain from the county clerk all necessary blanks and assessment rolls, and shall supply the same to the deputy assessors of the county. He may require the deputy assessors to transmit to him daily the personal-property statements of persons assessed, and may prepare, or cause to be prepared, in his office the assessment rolls by copying thereon the property returned to him as aforesaid by the deputy assessors upon the personal-property statements. At the close of the assessment period, upon the date provided by law, he shall make return to the county clerk of all the books returned to him by deputy assessors, and all other returns, lists and schedules pertaining to the assessment, except such files and records as he may be authorized by the tax commission to retain in his office. The county assessor is hereby authorized and required to advise and instruct all deputy assessors of his county as to their duties under the law, and for this purpose he shall visit each township assessor before the beginning of the assessment period; but if it shall be found inexpedient to make any such visit, he may assemble the deputy assessors at his office for the purpose of instructing them as to their duties. When the deputy assessors shall return to the county assessors any

assessment rolls, personal-property statements, or other lists or schedules pertaining to the assessment, it shall be the duty of the county assessor to carefully examine the same and correct all errors discovered therein, in order that the rolls may be properly footed and have proper descriptions of property assessed, so that they may be delivered to the county clerk in perfect condition for the use of the county board of equalization. Any failure of a deputy assessor to complete or return an assessment of property, real or personal, within the time required by law, or any informality or irregularity in making the assessment, or in the tax lists, or errors of any kind therein, shall not vitiate the same, but the same shall be as legal and valid as if completed and returned within the time required by law, and such informalities or irregularities may be corrected by the county assessor at any time before the returns are filed with the county clerk; but nothing herein shall be so construed as to release any deputy assessor from any penalty imposed upon him by law for his neglect or failure to make his return within the period prescribed by this act. In case it shall appear after the assessment and equalization of real estate in the year provided by law for such assessment and equalization, and after the taxes for that year have been levied, that any particular description of real estate has been placed upon the tax roll for such year in an amount in excess of its actual value in money, it shall be the duty of the county assessor and the county board of equalization, acting jointly, and they are hereby empowered to reduce the assessed value of any and all such descriptions of real estate to their actual value in money for the purposes of taxation for the succeeding odd-numbered year. For the purpose of granting relief in such cases the county assessor shall meet with the county board of equalization at its meeting in May of such year, to be held as now provided by law. In case relief is denied in any such case, an appeal may be taken within thirty days thereafter to the state board of equalization. [L. 1909, ch. 251, § 6; March 13.]

28-149. Compensation of county assessor and deputies. That in all counties having a county assessor, such assessor shall receive as compensation for his services the following sums: In counties having a population of 25,000 or less, \$5 per day for the time actually and necessarily employed. In counties of over 25,000 and less than 40,000, the county assessor shall receive a salary of \$1,200 per annum. In counties over 40,000 and less than 60,000, the county assessor shall receive a salary of \$1,300 per annum, and in counties of not less than 60,000 and not more than 100,000 such assessor shall receive the sum of \$1,800 per annum, and in counties having a population in excess of 100,000, such assessor shall receive the sum of \$2,000 per annum, all such salaries to be paid out of the county treasury in equal monthly installments. The compensation of deputy assessors shall be \$4 per day for the time actually and necessarily employed in the discharge of their duties within the corporate limits of any city of the first and second class, and \$5 per day for the time actually and necessarily employed in the discharge of their duties outside of the corporate limits of any such city. Vouchers for the amounts claimed by deputy assessor shall be approved by the board of county commissioners: *Provided, however,* In cities of the first class having a population in excess of 85,000 and an assessed valuation in excess of 100 million dollars, the com-

penensation of deputy assessors for the time actually and necessarily employed in the discharge of their duties shall be fixed by the board of county commissioners, not to exceed the sum of \$5 per day. The county commissioners may allow the claims of deputy assessors for their services at any regular meeting after the returns made by such deputy assessors have been duly verified and filed. [L. 1913, ch. 197, § 46; L. 1919, ch. 197, § 1; March 15.]

79-1414. Oath and bond of assessors. The county assessor, before entering upon the duties of his office, shall take and subscribe an oath to well, faithfully and impartially perform such duties, and execute a bond to the state of Kansas, with good and sufficient sureties, to be approved by the board of county commissioners of the county, in such sum as shall equal one and one-half per cent of the total taxes collected in such county during the preceding year; but in no case shall the amount of such bond be less than two thousand dollars; said bond to be conditioned for the faithful performance of all duties imposed by law. Each deputy assessor, before entering upon the duties of his office, shall take and subscribe an oath to well, faithfully and impartially perform such duties, and shall execute a bond to the state of Kansas, with good and sufficient sureties, to be approved by the county clerk, in such sum as the county commissioners shall fix, not less than three hundred dollars in any case; said bond to be conditioned for the faithful performance of all duties imposed by law. The state or any municipality aggrieved or injured by the willful neglect of duty of the county assessor or any of his deputies may recover upon such bond or bonds the amount lost to the state or any municipality on account of such neglect by the county assessor or his deputy, together with the costs of suit and a reasonable attorney's fee for the county attorney of the proper county for prosecuting such action, said fee to be fixed by the court rendering judgment in such action. The board of county commissioners shall require a surety-company bond from the county assessor whenever practicable; and if a surety-company bond be given, the expense thereof shall be assumed by the county; but this bond shall not be required of county clerk if he act as county assessor. [L. 1907, ch. 408, § 20; L. 1911, ch. 320, § 2; Feb. 7.]

79-1415. Compensation of assessors. The county assessor shall receive as compensation for his service the following sums: In counties having a population of twenty-five thousand or less, five dollars per day for the time actually and necessarily employed. In counties of over twenty-five thousand and less than forty thousand population, the county assessor shall receive a salary of nine hundred dollars per annum. In counties of over forty thousand the county assessor shall receive a salary of twelve hundred dollars per annum. The per diem and salaries of the county assessors shall be paid by the board of county commissioners at any regular meeting. The compensation of the deputy assessors shall be three dollars per day for the time actually and necessarily employed in the discharge of their duties. Vouchers for the amount claimed by deputy assessors as such compensation shall be approved by the county assessor of their county before the claims are allowed by the board of county commissioners. The board of county commissioners may allow the claims of deputy assessors for their services at any regular meeting after the returns made by such deputies have been duly verified and filed. The com-

pensation of county assessors and their deputies shall be paid from the treasury of their respective counties. [L. 1907, ch. 408, § 21; July 1.]

79-1416. Vacancy in office of county assessor. In case the office of county assessor in any county becomes vacant, the board of county commissioners shall appoint a person to fill such vacancy. The person so appointed shall qualify by giving such bond and taking such oath as is required in other cases, and shall fill the office for the unexpired term and until his successor is elected and qualified. [L. 1907, ch. 408, § 22; July 1.]

79-1417. Deputy assessor to list all property subject to taxation. Each deputy assessor shall be charged with the duty of listing and returning all property subject to taxation in the township, district, city or ward assigned him in the manner provided in this act. [L. 1907, ch. 408, § 23; July 1.]

79-1418. Neglect of duty by assessor. Any county or deputy assessor who shall willfully neglect or refuse in whole or in part to perform the duties required in this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum of not less than twenty nor more than one hundred dollars. [L. 1907, ch. 408, § 24; July 1.]

79-1419. Verification of returns by deputy assessors. Each deputy assessor shall take and subscribe an oath, which shall be certified by the officer administering the same and attached to the return which he is required to make to the county assessor of all lists and schedules of personal property and corporate property, which oath shall be in the following form:

I, _____, deputy assessor for the _____ of _____, county of _____, state of Kansas, do solemnly swear that I have demanded from every individual, copartnership and corporation within my assessing district the lists and schedules required by law, and have received such lists and schedules, according to law, from every person copartnership and corporation in my district. That I have carefully examined each of said lists and schedules as soon as the same were delivered to me, and have revised and corrected the said lists where necessary; that I have, to the best of my knowledge and ability, valued the personal property in said lists and schedules as required by law; that in no case have I knowingly omitted to demand a statement of the description and value of personal property in my said district, and that I have not knowingly omitted to perform any duty required of me by law, and have not in any way connived at any evasion or violation of any of the requirements of the law in relation to the listing and valuation of personal property. So help me God.

(Signed) _____, Deputy Assessor.

Subscribed and sworn to before me, this _____ day of _____,
 _____ (Title of officer.)

Which return and affidavit shall be kept in the office of the county clerk for public inspection. [L. 1907, ch. 408, § 25; L. 1908, ch. 77, § 1; Feb. 13.]

79-1420. Fraud by taxpayer. If any person or corporation shall knowingly give a false or fraudulent list, schedule or statement required by this act, or shall fail or refuse to deliver to the assessor, when called upon for that purpose, a list of the taxable property which under this act is required to be listed, or shall temporarily convert any part of such property into property not taxable, for the fraudulent purpose of preventing such property from being listed, or of evading the payment of taxes thereon, or shall transfer or transmit any property to any person with such intent, he or it shall be guilty of a misdemeanor, and subject to a fine of not less than fifty dollars nor more than five thousand dollars. Prosecutions under this act shall be brought by the county

attorney in the district court of the proper county, upon complaint made by any tax commissioner, county assessor, or deputy county assessor. A fee of twenty-five dollars shall be taxed as costs in each case in which a conviction is had, and said fee shall be paid to the county attorney for his services, to be taxed as costs in the case, but in no case shall the county be liable therefor. Executions may be issued for the collection of all fines and costs imposed under the provisions of this act. [L. 1907, ch. 408, § 27; July 1.]

79-1421. Report of offenses to county attorney. It shall be the duty of the tax commissioners, all county assessors and deputy assessors to notify the county attorney of the proper county of all willful violation of the provisions of this act relating to the listing and return of property for taxation, by persons or corporations, and to sign and verify complaints or information with respect thereto, when prepared by the county attorney. [L. 1907, ch. 408, § 28; July 1.]

79-1422. Refusal to deliver statement to assessor or to subscribe oath. In every case where any person shall refuse to make out and deliver to the proper deputy assessor the statement required under this act, or shall refuse to take and subscribe to any of the oaths or affirmations required, the deputy assessor shall proceed to ascertain the number of each description of the several enumerated articles of the property and the value thereof, and for this purpose he may examine on oath any person or persons whom he may suppose to have knowledge thereof; and such deputy assessor shall make a note of such refusal in a column opposite the person's name, and the county assessor shall add to such valuation, when returned by the deputy assessor, fifty per centum on the value so returned. [L. 1907, ch. 408, § 29; July 1.]

79-1423. Refusal to give evidence to assessor. If any person required by the deputy assessor to give evidence as provided in the preceding section, or in any case when interrogated by the assessor as to any property, real or personal, of himself or other, shall refuse to be sworn or affirmed, or if, having been sworn or affirmed, he shall refuse to answer the interrogatories hereinbefore set out, or any other questions touching the subject of inquiry, such person, upon conviction thereof, shall be fined in any sum not more than five hundred dollars nor less than ten dollars, to which may be added imprisonment in the county jail not exceeding six months. It shall be the duty of every deputy assessor and county assessor having knowledge of the violation of any of the provisions of this act for which a penalty is herein provided to immediately lay the facts concerning such violation before the county attorney of said county, and to verify the complaint before proper court for the purpose of prosecuting such violation, and shall furnish all necessary information to the county attorney; and it shall be the duty of the county attorney to prosecute all such violations so as aforesaid brought to his notice. The county attorney shall receive in such prosecution the same fees as allowed by law in other cases of misdemeanor, to be taxed as a part of the costs in said prosecutions. [L. 1907, ch. 408, § 30; July 1.]

79-1424. Production of bank records. No tax commissioner, assessor or deputy assessor shall have the power to compel the production of the books of any bank or to examine the same; nor shall any officer of any bank be compelled to testify as to the contents of any of the records of such bank, or

produce the same for the purpose of examination in any matter relating to assessment or taxation. [L. 1907, ch. 408, § 31; July 1.]

79-1425. Prevention of making statement by sickness or absence. When any person shall have been prevented from making and verifying his statement by reason of sickness or absence from the county during the sixty days succeeding the 1st day of March and the assessor shall have made a statement for him, he may, at any time before the assessment of taxes by the county clerk, make, verify and file with the county clerk the proper statement; but in such cases, before the county clerk shall receive such statement, the person making the same must add to the ordinary affidavit a statement to the effect that his failing to give to the assessor such statement was occasioned by his sickness or absence, and if from absence, that such absence was without design to avoid the listing of his property; and on the filing of such statement the county clerk shall correct the statement made by the assessor. [L. 1907, ch. 408, § 32; July 1.]

79-1426. Failure of officer to return or properly value property. Any county assessor or deputy, member of the tax commission, or member of any county board of equalization, and every other person whose duty it is to list, value, assess or equalize real estate or personal property for taxation, who shall knowingly or willfully fail to list or return for assessment or valuation any real estate or personal property, or who shall knowingly or willfully list or return for assessment or valuation any real estate or personal property at other than its true value in money, or who shall willfully or knowingly fail to equalize any real estate or personal property at its true value in money, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding five hundred dollars or imprisonment in the county jail for a period not exceeding ninety days, and in addition thereto shall forfeit his office if an officer mentioned herein. [L. 1907, ch. 408, § 39; L. 1909, ch. 251, § 8; March 13.]

79-1427. Escaped assessments. That if the assessor shall discover that any personal property, which was subject to taxation in any year, has not been assessed, or for any cause any portion of any personal property has escaped taxation in any year or years, within five years next preceding, it shall be the duty of the assessor to list and value such property at twice its real value for each such year during which such property, or any portion thereof, was not taxed, and it shall be designated on his return as "Escaped Assessment" for the preceding year or years, and he shall indicate in his return the year or years for which such escaped assessment or assessments is made. If the owner of such property shall be deceased, then the taxes charged as herein provided shall be assessed against the estate of such deceased person for three years only preceding his death, and shall be paid by the legal representative or representatives of such estate: *Provided*, That in the event that such escaped assessment is due to error of any assessor, or that any taxpayer was not afforded an opportunity to list his escaped property, then such escaped assessment shall be entered at its true value. [L. 1876, ch. 34, § 60; L. 1919, ch. 307, § 1; Feb. 24.]

79-1428. Assessor to enter number of the school district. That in preparing the list provided for by section sixty-five of chapter thirty-four of the

Session Laws of eighteen hundred and seventy-six, each assessor shall enter in a separate column, opposite the name of each person, the number of the school district or districts in which the personal property of such person was situated on the first day of March. [L. 1885, ch. 198, § 2; March 13.]

NOTE.—L. 1876, ch. 34, sec. 65 referred to, was repealed by L. 1907, ch. 408, sec. 40; the part of the section which appears operative is the latter part beginning with the words "each assessor."

79-1429. Maps of school districts. The county superintendent of public instruction of the several counties of the state shall on or before March first of each year furnish to each assessor within his county a map of the city or township of such assessor, showing the number and metes and bounds of every school district or part of school district within his township or city. [L. 1885, ch. 198, § 3; March 13.]

79-1430. Delivery of statements of property to county clerk; preservation. The assessors shall, at the time they are required to make their returns to the county clerk, deliver to said clerk all the statements of property received from persons, companies or corporations required to list the same, which statements shall be preserved by the clerk. [L. 1876, ch. 34, § 66; March 11.]

County board of equalization cannot add property to list. *Coal Co. v. Emlen*, 44 K. 117, 120. Admissibility in evidence of certified copies of personal-property statements, considered. *Bowersock v. Adams*, 55 K. 681, 688.

79-1431. Addition to valuation where owner fails to list personalty. It shall be the duty of the county clerk to add to the valuation of all personal property returned by the assessors which the owner or other person, company or corporation whose duty it was to list the same on behalf of the owner or other person, company or corporation, refused to list, or to the correctness of such statement, refused to swear as required by this act, fifty per centum of the value so returned. [L. 1876, ch. 34, § 68; L. 1877, ch. 43, § 1; March 2.]

79-1432. Correction of returns of assessor. The county clerk, or board of county commissioners, if he or they shall have reason to believe that any person, company or corporation has given to the assessor a false statement or has made no statement whatever of his personal property, money, credits, investments in bonds, stocks, joint-stock companies, corporations or otherwise, and that the assessor has not returned the full amount required to be listed in his city or township, or has omitted any personal property, moneys, credits, investments in bonds, stocks, joint-stock companies, corporations or otherwise, or has undervalued the same, which are by law subject to taxation, shall proceed at any time before the final settlement with the county treasurer to correct the returns of the assessor, and to charge such person, company or corporation on the tax roll with the proper amount of taxes; to enable him to do which, he is hereby authorized and empowered to issue compulsory process, and require the attendance of any person or persons whom he may suppose to have a knowledge of the value of such articles of personal property, moneys, credits, investments in bonds, stocks, joint-stock companies, corporations or otherwise, and examine such person or persons on oath or affirmation in relation to the statement or returns. And it shall be the duty of the said clerk in all such cases to give at least five days' notice to such person, company or corporation by the sheriff leaving a copy of the notice

with the person, if he resides in the county; and if the person does not reside in the county, then by putting a copy of said notice in the post office, properly directed to said person, and if a company or corporation, by leaving a copy of the notice at the nearest and usual place of business of said company or corporation, before entering the said increased valuation on the tax roll, that the said person, company or corporation may have an opportunity of showing that the statement or return to the assessor was correct. And if any person who may be summoned to appear before the clerk for examination as provided in this section shall willfully fail to appear, or, appearing, shall refuse to answer any question or questions propounded to him concerning the subject of such examination, such person shall be deemed guilty of a misdemeanor, and upon conviction thereof before a court of competent jurisdiction shall be fined in a sum not exceeding fifty dollars, and by imprisonment in the county jail not exceeding ninety days, or by both such fine and imprisonment. And the county clerk shall in all such cases file in his office a statement of the facts or evidence on which he made the correction, but he shall in no case reduce the amount returned by the assessor. [L. 1876, ch. 34, § 70; March 11.]

Notice required by this section is jurisdictional. *Dykes v. Mortgage Co.*, 2 K. A. 217, 221; *Comm'rs of Leavenworth v. Lang*, 8 K. 284.

Order hereunder not so conclusive as to prevent further inquiry. *Comm'rs of Lyon Co. v. Sergeant*, 24 K. 572, 573.

Board may equalize valuation without personal notice to owner. *Gillett v. Treasurer of Lyon Co.*, 30 K. 166, 168.

Board cannot add to statement property not already listed. *Coal Co. v. Emlen*, 44 K. 117, 121.

Valuation increased without notice, injunction maintained. *City Bly. Co. v. Roberts*, 45 K. 360, 362.

Arbitrary increase of valuation without notice, etc., unauthorized; taxes illegal. *Water Supply Co. v. Roberts*, 45 K. 363, 365.

Location of property in specific taxing district essential. *Dykes v. Mortgage Co.*, 57 K. 416, 419.

Entering omitted property without notice to taxpayer void; tax illegal. *Dykes v. Mortgage Co.*, 57 K. 416, 419.

Section covers whole subject of inadequate listing of personal property. *Brown v. The State*, 73 K. 69, 74, 75.

Powers under sec. 19-314, *ante*, no more extensive than powers hereunder. *Douglas County v. Lane*, 76 K. 12.

Proceeding to tax personality improperly omitted in former years, void. *Douglas County v. Lane*, 76 K. 12.

Proceeding to list property not returned; correction of assessor's return. *Johnson County v. Hewitt*, 76 K. 816, 826.

Taxes wrongfully charged recoverable although some personal property not listed. *Jackson County v. Kaul*, 77 K. 715, 716, 717.

Mandamus to compel entering of property on the tax rolls. *The State v. Holcomb*, 81 K. 879, 881, 882, 884.

Property not listed; time of adding to tax rolls. *The State v. Holcomb*, 81 K. 879, 881, 882, 884.

79-1433. Duties of county attorney in correction of returns. In any investigation or examination which the county clerk or board of county commissioners are authorized and directed to make, it shall be the duty of the county attorney to appear and examine witnesses, or in any other manner aid in correcting any false or fraudulent return of any person, company or corporation listing his or their property for taxation. [L. 1876, ch. 34, § 71; March 11.]

Order of county commissioners does not prevent further inquiry. *Comm'rs of Lyon Co. v. Sergeant*, 24 K. 572, 573.

79-1434. Tax on merchandise of transient dealers. Whenever any person, firm or corporation shall, subsequent to the first day of March of any year, bring or send into any county from outside of the state any stock of goods

or merchandise, to be sold or disposed of in a place of business temporarily occupied for their sale, without the intention of engaging in permanent trade in such place, the owner, consignee, or person in charge of such goods or merchandise shall immediately notify the city, township or county assessor, and thereupon the assessor shall at once proceed to value the stock of goods or merchandise at its true value and upon such a valuation the said owner, consignee, or person in charge, shall pay to the county treasurer a tax at the rate assessed for state, county, local and other municipal purposes in the taxing district in the year then current if the levies have all been determined; but if the levies have not been determined, then the rate of tax chargeable shall be the rate in such district for all purposes for the preceding year; and it shall not be lawful to sell or dispose of any such goods or merchandise as aforesaid in such taxing district until the assessor shall have been so notified as aforesaid and the tax assessed thereon paid to the county treasurer; and in case any such owner, consignee, or person in charge of such stock of goods or merchandise shall fail to notify the assessor, or to pay the said tax as herein required or shall proceed to sell or dispose of said stock, or any portion thereof, before the payment of any tax levied on account thereof, the owner of such goods or merchandise shall forfeit to the county for the use of the taxing district entitled to such tax a sum equal to twice the amount of tax levied as aforesaid on account of such stock. Should the person, firm or corporation owning or managing the said stock of goods or merchandise refuse to pay the tax hereinbefore provided for upon demand by the assessor, the county treasurer shall at once issue a tax warrant to the sheriff of the county, which warrant shall include as the amount to be collected both tax and penalty and the sheriff shall immediately upon receipt of such warrant proceed to collect said taxes and penalty the same as upon execution and shall return such warrant within sixty days from the date thereof. Every person, firm, or corporation, bringing into any county of this state from outside of the state goods or merchandise after the first day of March shall be deemed subject to the provisions of this section. No mistake in the name of the owner of the said goods or merchandise shall affect the right to recover such penalty. [L. 1915, ch. 367, § 1; May 29.]

19-314. Assessment of property which assessor failed to assess. It shall be the duty of the county clerk to assess, at a fair value, the property of any person liable to pay taxes which the county assessor has failed to assess, and to place the same on the tax roll, and the county treasurer shall collect the taxes on the same as in other cases; and it shall further be the duty of the county treasurer to notify the county clerk of any such property which may come to his knowledge, and the county clerk, for the purpose of assessing the same, is authorized to administer oaths to the owner of such property, or to any other person, touching the value of the same; but the county clerk is not required to see such property in person. [G. S. 1868, ch. 25, § 53; Oct. 31.]

Duty of clerk in making assessment. *Kansas Pacific Rty. Co. v. Russell*, 8 K. 558, 562.
Section construed in connection with Laws of 1876, chapter 34, section 70. *Douglas County v. Lane*, 76 K. 12, 14.
Clerk may enter property on tax roll, when. *The State v. Holcomb*, 81 K. 879, 881.

15.—COUNTY BOARD OF EQUALIZATION.

79-1601. Composition of board; clerk. The board of county commissioners of each county shall constitute a county board of equalization, and the county clerk shall be clerk of said board. [L. 1876, ch. 34, § 73; March 11.]

Board cannot arbitrarily raise valuation returned by assessor. *Stanfield v. Boyd*, 10 K. A. 265, 273.

Board cannot add additional property not already listed. *Coal Co. v. Emlen*, 44 K. 117, 121. Mistake of bank officer; taxes levied; collection not enjoined. *Bank of Santa Fe v. Buster*, 50 K. 255, 260.

Board of equalization; record of county clerk construed. *Symms v. Graves*, 65 K. 628, 634. Methods and powers of board of equalization, considered. *Symms v. Graves*, 65 K. 628, 634.

79-1602. Meetings of board; changes in assessment of property. The county board thus constituted, or a majority of the members thereof, shall meet on the third Monday in May of each year, in the office of the county clerk, and shall then inquire into the valuation of the various classes of property in the respective assessment districts of the county, and shall make such changes in the assessment of property as shall be necessary in order to secure an assessment of all property at its actual value in money, and in so doing they shall be governed by the following rules, except as may be otherwise provided by law:

First. In each year when real estate is assessed, the board shall raise or lower the valuation of each tract or lot of real property which in its opinion is over-valued or under-valued to such valuation as the board believes to be the actual value in money of such property.

Second. In each year the board shall raise or reduce the valuation of any item of personal property of any individual which in its opinion is under-valued or over-valued to such valuation as the board believes to be the actual value in money of such property.

Third. The board shall equalize the valuation of the several assessment districts in the county, either by adding to or deducting from the value of real estate or any class or classes of personal property such percentage as may be necessary in order to make a just and equitable equalization among the assessment districts of the county so that all property in the county shall be equally assessed at its actual value in money.

Fourth. In all cases where it shall become necessary to increase the valuation of property, except where the valuation of an entire class of property is raised for the purpose of equalization, the county clerk shall mail or cause to be mailed a notice to the person to be affected thereby at his post-office address as shown by the assessment book, stating in substance that it is proposed to revise or correct the valuation of his property, and fixing the time and place when a hearing thereon will be had: *Provided*, That no notice need be sent to any taxpayer who was present at the meeting of the board and who thereby had knowledge of the action proposed to be taken by the board in increasing the value of the property of such taxpayer.

Fifth. The board shall hear and determine any complaint made by any taxpayer as to the assessment and valuation of any property in the county which may be made to the board by the owner of such property or his agent or attorney. The session of the board shall be limited in length to ten days, during which time the board may adjourn from time to time as may be neces-

sary, and after the expiration of the ten days the board shall adjourn to a time at least ten days after such adjournment, when it shall again reconvene for the purpose of hearing complaints from persons who have been notified by the county clerk of pending changes in their valuations, but such adjourned session shall not continue for more than three days, after which the board shall adjourn *sine die*, which adjournment must be taken on or before the 20th day of June, or if such days shall fall on Sunday then such final adjournment shall be taken on the 19th day of June and the board shall have no authority to be in session thereafter; and after such final adjournment the board shall not change the assessed valuation of the property of any person or reduce the aggregate amount of the assessed valuation of the taxable property of the county. [L. 1876, ch. 34, § 74; L. 1911, ch. 317, § 2; L. 1913, ch. 323, § 1; March 5.]

Annotations to L. 1876, ch. 34, § 74:

- Board cannot arbitrarily raise valuation returned by assessor. *Stanfield v. Boyd*, 10 K. A. 265, 273.
- Powers of county board in making equalization of personal property. *Gillett v. Treasurer of Lyon Co.*, 30 K. 166, 167, 169.
- Powers in equalizing valuation of real property; opportunity for hearing. *A. T. & S. F. Rld. Co. v. Wilson, Treas.*, 35 K. 175, 176.
- County board may raise or lower assessment of any township. *Fields v. Russell, Sheriff*, 38 K. 720, 721.
- Board cannot add additional property not already listed. *Coal Co. v. Emlen*, 44 K. 117, 121.
- Power to equalize assessments although assessments made under unlawful agreement. *Challis v. Rigg*, 49 K. 119, 129, 131.
- Meeting and adjournment of board; when work must be completed. *Challis v. Rigg*, 49 K. 119, 129, 131.
- County clerk's record; methods and powers of board of equalization. *Symms v. Graves*, 65 K. 628, 634.
- Equalization not subject to revision or control by the courts. *Electric Co. v. Jackson County*, 81 K. 6.
- Construction of record of proceedings; informal entry. *Electric Co. v. Jackson County*, 81 K. 6, 7.

79-1603. Notice of meetings; appearances. It shall be the duty of the county clerk to give notice, by publishing in the last week of April in each year and the two weeks next following in some newspaper having general circulation in his county, of the annual meeting of the county board of equalization; at which meeting all persons feeling themselves aggrieved can appear and have all errors in the returns and all excessive valuations corrected. The board of county commissioners shall not allow any bill for the publication of the notice provided for in this section until the person publishing such notice shall file with the county clerk a copy of the newspaper in which such notice is published, to which shall be attached his affidavit stating that such notice has been published in accordance with law. [L. 1876, ch. 34, § 75; L. 1913, ch. 323, § 2; March 5.]

Annotation to L. 1876, ch. 34, § 75:

- Power of county board to equalize assessment of realty; notice. *A. T. & S. F. Rld. Co. v. Wilson, Treas.*, 35 K. 175, 176.

79-1604. Abstract of assessment rolls. The county clerk, immediately after the board of equalization shall have completed its labors, shall prepare an abstract of the assessment rolls of his county and forward it to the tax commission on or before the 1st day of July. Said abstract shall be made upon forms prepared and furnished by the tax commission and shall give the information asked by the commission under the various subjects, fully and com-

pletely as required. [L. 1876, ch. 34, § 76; L. 1877, ch. 40, § 1; L. 1909, ch. 243, § 8; March 5.]

79-1605. Failure of clerk to prepare and file abstract. If any county clerk shall refuse or neglect to prepare an abstract of the assessment roll of his county and forward the same to the tax commission, as required by law, he shall forfeit to the state the sum of one hundred dollars, to be recovered in the name of the county commissioners by civil action before any court of competent jurisdiction; and the certificate of the tax commission, authenticated by the official seal of the commission, setting forth the failure of the clerk to comply with the provisions of said section, shall be *prima facie* evidence of such refusal or neglect, on the trial of such action. [L. 1876, ch. 34, § 77; L. 1909, ch. 243, § 9; March 5.]

16.—CORRECTION OF IRREGULARITIES.

79-170L. Correction by county clerk of errors in assessments. The county clerk at any time previous to November 1 may correct any clerical errors in the assessment and tax rolls for the current year in the description of property or extensions of values or taxes whereby a taxpayer is charged with unjust taxes; and errors which have caused improvements to be assessed upon a tract of real estate when no such improvements were in existence; and errors whereby improvements upon one tract or lot of ground have been assessed as being upon another tract or lot, in which case the correction shall be made by transferring the assessment of the improvements from the tract where wrongly placed to the tract having the improvements; and errors caused by the assessor through his failure to allow to the taxpayer entitled thereto the constitutional exemption of \$200 allowed to the family; and errors whereby taxes have been charged upon property which the constitution or the law specifically exempts from taxation: *Provided*, That no property shall be stricken from the roll as exempt until authority to so do is obtained from the tax commission; and errors whereby the taxpayer has been assessed in the same year for the same property in one or more assessment districts in the county; and errors whereby the assessment of either real or personal property has been assigned to a district in which the property did not have its taxable situs, in which case the correction shall be made by transferring the assessment of the property from the wrong district to the proper district. After the rolls have been delivered to the county treasurer on the 1st of November no errors of the kind herein mentioned shall be corrected except upon the order of the board of county commissioners, whose authority to order such corrections shall expire on the first day of February of the year following the year in which the property was assessed. If all grievances are not remedied as hereinbefore provided, previous to February 1, the tax commission is empowered at any time before June 20 of the year following the assessment year, pursuant to an application duly filed, to authorize the correction of all such errors, if it shall be made to appear that the taxpayer has been unjustly and unlawfully charged with taxes. The authority given in this section to correct errors shall carry with it the authority to issue or direct the issuance

of orders to refund taxes which shall have been shown to have been unlawfully charged and collected, and authority to cancel all such unpaid erroneous taxes. Valuations placed on property by the assessor or by the county board of equalisation shall not be considered under this section as erroneous assessments. [L. 1913, ch. 322, § 1; L. 1917, ch. 321, § 1; March 3.]

Duty of county clerk to correct and extend proper levies. Board of Education v. Barrett, 101 K. 568, 570.

79-1702. Correction of errors by tax commission. If any taxpayer shall have a grievance not remediable or which has not been remedied under section 1 of this act such grievance may be presented to the tax commission at any time prior to the first day of August of the year succeeding the year when the assessment was made and the taxes charged which are the basis of the grievance, and the said commission shall have full authority to inquire into the grounds of complaint, and if it shall be satisfied from competent evidence produced that there is a real grievance, it may direct that the same be remedied either by canceling the tax if uncollected, together with all penalties charged thereon, or if the tax has been paid, by ordering a refund of the amount found to have been unlawfully charged and collected. In all cases where the identical property owned by any taxpayer has been assessed for the current tax year in more than one county in the state, the tax commission is hereby given authority to determine which county is entitled to the assessment of the property and to charge legal taxes thereon, and if taxes have been paid in a county not entitled thereto, the tax commission is hereby empowered to direct the authorities of the county which has so unlawfully collected the taxes to refund the same to the taxpayer, with all penalties charged thereon. [L. 1913, ch. 322, § 1; L. 1917, ch. 321, § 2; March 3.]

Remedy hereunder cumulative; action may be maintained for invalidity. Railway Co. v. Greenwood County, 104 K. 818, 821.

79-1703. Release or remission of tax by officers. Except as provided in the preceding two sections and explicitly by other statutes, no board of county commissioners or other officers of any county shall have power to release, discharge, remit or commute any portion of the taxes assessed or levied against any person or property within their respective jurisdictions for any reason whatever. Any taxes so discharged, released, remitted or commuted may be recovered by civil action from the members of the board of county commissioners or such other officer and the sureties on their official bonds at the suit of the attorney-general, the county attorney or of any citizen of the county as the case may be, and when collected shall be paid into the county treasury. [L. 1913, ch. 322, § 3; March 5.]

Note.—For provision for refund of taxes on road projects abandoned, see chapter 68, on "Roads and Bridges," § 66-715.

17.—TAX COMMISSION—STATE BOARD OF EQUALIZATION.

74-2401. **Tax commission.** That there is hereby created a state board, to be designated and known as the tax commission, which board shall succeed and take the place of the present board of railroad assessors and the state board of equalization. The said tax commission is hereby clothed with all the powers and duties possessed and exercised by the state board of railroad assessors and the state board of equalization, and is hereby given such other and further powers and duties as hereinafter provided. The said tax commission shall be composed of three commissioners, who shall be appointed by the governor, by and with the advice and consent of the senate. Of such three persons, one shall be appointed and designated to serve for a term ending on the 30th day of June, 1909, and two for terms ending on the 30th day of June, 1911, each of said terms to begin upon the first day of July, 1907, and upon the qualification of the person appointed therefor. Upon the expiration of the terms of the three commissioners first to be appointed as aforesaid, each succeeding commissioner shall be appointed and shall hold his office for the term of four years, except in the case of a vacancy, as hereinafter provided, and each commissioner shall hold his office until his successor shall have been appointed and qualified. That after the appointment of said first three commissioners, and except when appointed to fill a vacancy, each commissioner shall be appointed on or before the last Monday in February during the biennial session of the legislature next preceding the commencement of the term for which he shall be appointed. In case of a vacancy, it shall be filled by appointment by the governor for the unexpired portion of the term in which such vacancy shall occur, subject to confirmation by the senate. If such appointment be made when the legislature is not in regular session, the appointee shall hold his office until the first Monday in February in the next biennial session of the legislature, when, if such appointment is not confirmed by the senate, the office shall become vacant, and, on or before the last Monday in the same month, the governor, by and with the advice and consent of the senate, shall appoint a suitable person to fill such vacancy for the remainder of such term. That the persons to be appointed as members of such commission shall be such as are known to possess knowledge of the subject of taxation and skill in matters pertaining thereto. No person appointed as such commissioner shall hold any other office under the laws of the United States nor any office under the laws of the state of Kansas. Each such commissioner shall devote his entire time to the duties of the office, and shall not hold any position of trust or profit, engage in any occupation or business interfering with or inconsistent with his duties, or serve on or under any committee of any political party. [L. 1907, ch. 408, § 3; July 1.]

NOTE.—For law relating to tax commission, see chapter 79 on "Taxation."

74-2402. **Salaries, bonds and oaths.** Said tax commissioners shall each receive as compensation for services the sum of three thousand dollars per annum, to be paid in the same manner as other state officers are paid: *Provided*, That the chairman of the commission shall receive in addition to the

salary allowed the commissioners the sum of five hundred dollars per annum as chairman of said commission. The member of said commission who has served longest as member of the tax commission shall be chairman of the commission. They shall qualify by taking the oath required of other state officers, and by giving bond to the state of Kansas in the sum of ten thousand dollars each, conditioned that they will well and truly perform their duties as tax commissioners, and will faithfully observe the laws regarding the assessment and equalization of property. [L. 1907, ch. 408, § 4; L. 1917, ch. 1, § 16; March 16.]

74-2403. **Employees.** That the state tax commission is hereby authorized to appoint a secretary at an annual salary of two thousand four hundred dollars; a chief clerk and inheritance tax clerk who shall receive an annual salary of eighteen hundred dollars, a clerk who shall be a stenographer, who shall receive an annual salary of fifteen hundred dollars. The commission may also employ such other persons as experts and assistants as may be necessary to perform the duties that may be required of the commission and fix their compensations. The secretary shall keep full and correct minutes of all hearings, transactions and proceedings of said commission and shall perform such other duties as may be required by the commission. The commission shall have power to make all needful rules, not inconsistent with law, for the orderly, methodical and effectual performance of its duties as a board of assessment or otherwise, and for conducting hearings and other proceedings before it. [L. 1907, ch. 408, § 11; L. 1919, ch. 284, § 31; L. 1921, ch. 1, § 15; March 30.]

74-2404. **Records; seal; copies in evidence; administration of oaths.** Said tax commission shall keep an accurate record of all its official proceedings, and shall also keep a seal, on which shall be the impression "Tax Commission, State of Kansas." (Scales representing equality.) All process or certificates issued or given by the commission shall be attested by said seal. Copies of the record of the commission, certified by the secretary and attested with the seal of the commission, shall be received in evidence with the like effect as copies of other public records. The secretary of the commission shall be the custodian of the seal and records and be authorized to affix the seal in all proper cases. The secretary or any member of the commission shall have the power to administer oaths in all matters concerning the proceedings of the tax commission or its official duties. [L. 1907, ch. 408, § 5; July 1.]

74-2405. **Offices.** The executive council shall provide suitable room or rooms in the state capitol for the use of said commission. [L. 1907, ch. 408, § 6; July 1.]

74-2406. **Quorum.** Two members of the tax commission shall constitute a quorum for the transaction of business. [L. 1907, ch. 408, § 7; July 1.]

79-1401. **Functions of tax commission; meeting of assessors.** The said tax commission shall provide a uniform method of keeping the tax rolls and books relating to taxation in each county of the state and in the office of the auditor of state and state treasurer. They shall formulate and send to the proper officer in each county all necessary forms not herein provided for, to be used in the listing, assessment, return of property, and collection of taxes. Said tax commissioners, or one of them, shall from time to time, as often as may be

necessary, visit each county in the state for the purpose of requiring the proper assessment and return of property, a uniform value thereof, and the use of forms and system of keeping accounts provided by law or by the tax commission. The tax commission shall have general supervision and direction of the county assessors in the performance of their duties, and shall regulate and supervise the due performance thereof. The tax commission shall, at least once in two years, require the county assessors of the state to meet with the commission at the state capitol, upon a day designated, for the purpose of considering matters relating to taxation, to secure a uniform valuation throughout the state, and to discuss and formulate any needed changes in the laws relating to taxation or the forms or methods of keeping the books and accounts thereof. The actual and necessary expenses of county assessors in attending said meeting shall be paid by their respective counties. [L. 1907, ch. 408, § 8; July 1.]

79-1402. General supervision of taxation by commission; report to legislature; records and publications. The tax commission shall have general supervision of the system of taxation throughout the state, shall have power to make a thorough investigation thereof, and shall report to the legislature on the first day of each regular session the result of its supervision and investigation, and shall formulate and recommend legislation for the improvement of the system and for the equalization of the taxation of the state. It shall keep in its office a public record of its acts and orders, and print from time to time, for general circulation, such information as it may deem proper. [L. 1907, ch. 408, § 9; July 1.]

79-1403. Reports by local officers to commission. In making any investigation, the tax commission shall have power to require local officers whose duties pertain to the assessment and collection of taxes, or to the disbursement of public funds, to report to it in form as by it prescribed; to call upon individuals and corporations for information bearing upon the subject of taxation; to examine books and papers; to summon witnesses to appear and testify, and to produce books and papers before it at a time and place to be appointed by it; and, in case of the refusal of any person to obey its summons, to report the same to the attorney-general, who shall thereupon institute proceedings in the proper court, to compel such obedience. In the discretion of the commission, fees may be allowed to witnesses, and, on the certificate of the chairman of the tax commission, duly audited, paid by the state treasury for attendance and traveling. And any person testifying falsely shall be guilty of and be punished for perjury. [L. 1907, ch. 408, § 10; July 1.]

79-1404. General duties and powers of commission. That it shall be the duty of the commission, and it shall have the power and authority:

First. To have and exercise general supervision over the administration of the assessment and tax laws of the state, over the township and city assessors, boards of county commissioners, county boards of equalization, and all other boards of levy and assessment, to the end that all assessments of property, real, personal, and mixed, be made relatively just and uniform and at its true and full cash market value; to require all township and city assessors, county commissioners and county boards of equalization, under penalty of forfeiture and removal from office as such assessors or boards, to assess all property of every kind and character at its actual and full cash market value.

Second. To confer with, advise and direct assessors, boards of commissioners, boards of equalization and others obligated under the law to make levies and assessments, as to their duties under the statutes of the state.

Third. To direct proceedings, actions and prosecutions to be instituted to enforce the laws relating to the penalties, liabilities and punishment of public officers, persons and officers or agents of corporations for failure or neglect to comply with orders of the commission, or with the provisions of the statutes governing the return, assessment and taxation of property; and to cause complaints to be made against township and city assessors, county commissioners, county boards of equalization, or other assessing or taxing officers, in the courts of proper jurisdiction, for their removal from office for official misconduct or neglect of duty.

Fourth. To require the attorney-general, or county attorneys in their respective counties, to assist in the commencement and prosecution of actions and proceedings for penalties, forfeitures, removals and punishments for violations of the laws of the state in respect to the assessment and taxation of property, or to represent the commission in any litigation in which it may become involved in the discharge of its duties.

Fifth. To require township, city, county, state or other public officers to report information as to the assessment of property, collection of taxes, receipts from licenses and other sources, the expenditure of public funds for all purposes, and such other information as may be needful or desirable in the work of the commission, in such form and upon such blanks as the commission may prescribe. Also, to make and prosecute such research and investigation as to the detailed properties of corporations, the business, income, reasonable expenditures and true values of the franchise and properties of all public service corporations doing business in this state, as will enable the commission to ascertain a fair and equitable basis of assessing the same and of making and recommending proper legislation to the legislature, from time to time, and to direct the local assessing and taxing officers in making such assessments.

Sixth. To require individuals, partnerships, companies, associations, joint stock companies and corporations to furnish information concerning their capital, funded or other debts, current assets and liabilities, value of property, earnings, operating and other expenses, taxes and other charges, and all other facts which may be needful or desirable to enable the commission to ascertain the value and relative burdens borne by all kinds of property in the state.

Seventh. To summon witnesses from any part of the state to appear and give testimony, and to compel said witnesses to produce records, books, papers and documents relating to any subject or matter which the commission shall have authority to investigate or determine, subject to the restrictions of section 31 of this act.

Eighth. To cause the deposition of witnesses residing within or without the state, or absent therefrom, to be taken, upon notice to the interested parties, if any, in like manner that depositions of witnesses are taken in civil actions pending in the district court, in any matter which the commission shall have authority to investigate and determine.

Ninth. To investigate the work and methods of local assessors, boards of county commissioners and county boards of equalization in the assessment,

equalization and taxation of all kinds of property, by visiting the counties of the state.

Tenth. To carefully examine into all cases where evasion or violation of the laws for assessment and taxation of property is alleged, complained of, or discovered and to ascertain wherein existing laws are defective, or are improperly or negligently administered, and to prepare and recommend measures best calculated to remedy the defects discovered.

Eleventh. To investigate the tax systems of other states and countries, and to formulate and recommend such legislation as may be deemed expedient to prevent evasion of assessment and tax laws, and to secure just and equal taxation and improvement in the system of taxation in the state.

Twelfth. To inquire into the system of accounting and auditing public funds in use in townships, cities, counties and state, and to devise and prescribe a uniform system of auditing and accounting of the receipts and disbursements of public funds in the municipalities of the state.

Thirteenth. To consult and confer with the governor and attorney-general of the state upon the subject of taxation, the administration of the laws in relation thereto, and the progress of the work of the commission, and to furnish the governor, from time to time, such assistance and information as he may require.

Fourteenth. To transmit to the governor and to each member of the legislature, thirty days before the meeting of the legislature, the report of the commission, covering the subject of assessment and taxation, the results of the investigations of the commission, its recommendations for improvements in the system of taxation in the state, together with such measures as may be formulated for the consideration of the legislature.

Fifteenth. To make appraisement and assessment of all railroads and the property of railroad corporations, excepting such real estate as is not used in the daily operation of its railroad, of all telegraph lines and property, of all telephone lines and property, the property of all express companies, sleeping car companies, and private car lines, doing business within the state of Kansas, of gas pipe-lines and property, of all oil pipe-lines and property, of all street railroads, electric lines and property, and all express company property, within and without corporate limits of cities, doing business in the state.

Sixteenth. To require any county board of equalization, at any time after its adjournment, to reconvene and to make such orders as the tax commission shall determine are just and necessary, and to direct and order such county boards of equalization to raise or lower the valuation of the property, real or personal, in any township or city, and to raise or lower the valuation of the property of any person, company, or corporation; and to order and direct any county board of equalization to raise or lower the valuation of any class or classes of property; and generally to do and perform any act or to make any order or direction to any county board of equalization or any local assessor as to the valuation of any property or any class of property in any township, city or county which, in the judgment of said tax commission, may seem just and necessary, to the end that all property shall be valued and assessed in the

same manner and to the same extent as any and all other property, real or personal, required to be listed for taxation. [L. 1907, ch. 408, § 12; July 1.]

NOTE.—"Section 31" referred to in the seventh subdivision of this section is L. 1907, ch. 408, sec. 31. (§ 79-1424.)

Excessive valuation; limit of time to make application for reduction. *Benn v. Slaymaker*, 98 K. 64, 67.

79-1405. Violation of laws and regulations by officers. The tax commission shall have the power and authority to prosecute any member of any board of county commissioners and any county, township or city assessor for a violation of any of the rules and regulations which may be prescribed, or the violation of any statute of this state relating to the assessment and valuation of property and the collection of taxes. [L. 1907, ch. 408, § 13; July 1.]

79-1408. Interrogatories and questions for taxpayers. The tax commission shall prepare all necessary interrogatories and questions to be answered by the taxpayers and persons of each county, and the form of the same, and the oath to be annexed thereto, and the same shall be correctly and duly answered by each and every person required to list property for taxation; and if any person shall knowingly answer any question or interrogatory so prepared and submitted to him falsely, he shall be deemed guilty of perjury, and upon conviction shall be sentenced to the penitentiary to hard labor for not less than one nor more than five years; and if any person shall willingly refuse to answer such questions and interrogatories and take and subscribe the oath annexed thereto, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail of not less than six months nor more than twelve months, or by both such fine and imprisonment, at the discretion of the court. [L. 1907, ch. 408, § 16; July 1.]

79-1409. Board of equalization; appeals; apportionment of state taxes; valuations as basis for levies. The tax commission as hereby created shall constitute a state board of equalization, and shall equalize the valuation and assessment of property throughout the state; and shall have power to equalize the assessment of all property in this state between persons, firms or corporations of the same assessment district, between cities and townships of the same county, and between the different counties of the state, and the property assessed by the said tax commission in the first instance. And any person feeling aggrieved by the action of the county board of equalization may, within thirty days after the decision of said board, appeal to the state board of equalization for a determination of such grievance. It shall be the duty of the tax commission to meet in its office on the second Wednesday in July of each year to perform the work of equalization as hereinbefore provided. Said tax commission shall apportion the amount of tax for state purposes as required by law to be raised in the state among the several counties therein, in proportion to the valuation of the taxable property therein for the year as equalized by said tax commission. Whenever the valuation of any taxing district, whether it be a county, township, city, school district or otherwise, is changed by the state board of equalization, the officers of such taxing district who have authority to levy taxes are required to use the valuation so fixed by the state board as a basis for making their levies for all purposes. [L. 1907, ch. 408, § 17; L. 1908, ch. 79, § 1; Jan. 29.]

Annotations to L. 1869, ch. 124, § 14:

Equalization by state and county boards; refusal to adopt equalization. Geary County v. Railway Co., 62 K. 168.

Board of equalization; record of county clerk construed. Symms v. Graves, 65 K. 628. Valuation raised by state board of equalization; levy by county. Railway Co. v. Miami County, 67 K. 434.

Annotations to L. 1907, ch. 408, § 17:

Apportionment by state board of equalization; duty of county clerk. Railway Co. v. Sumner County, 76 K. 618, 623.

Rate increased by county clerk; railway property included; illegal tax. Railway Co. v. Sumner County, 76 K. 618, 623.

Excessive valuation; limit of time to make application for reduction. Benn v. Slaymaker, 98 K. 64, 67.

79-1410. Abstracts of assessments. It shall be the duty of the tax commission to compile the abstracts of assessment received from county clerks into tabular statements convenient for the use of the commission when acting as the state board of equalization. It shall also be the duty of the tax commission to report the action of the state board of equalization to the several county clerks, under its official seal, immediately upon the completion of the work of said board. [L. 1876, ch. 34, § 80; L. 1909, ch. 243, § 10; March 5.]

NOTE.—For other law relating to county assessor, see chapter 19 on "Counties and County Officers," article 4, §§ 19-401, 19-402.

Annotation to L. 1876, ch. 34, § 80:

Apportionment by state board of equalization; duty of county clerk. Railway Co. v. Sumner County, 76 K. 618, 623.

79-1413. Reassessment of property. Whenever upon complaint made to the tax commission by the county assessor or by any deputy assessor, or by the board of county commissioners of any county, and a summary hearing in that behalf had, it shall be made to appear satisfactorily to the commission that the assessment of property in any assessment district in such county is not in substantial compliance with law, and that the interest of the public will be promoted by a reassessment of such property, said commission shall have authority, in its discretion, to order a reassessment of all or any part of the taxable property in such district to be made by one or more persons, to be appointed by the commission for that purpose, the expense of any such reassessment to be borne by the county in which is situated the district so reassessed: *Provided*, That the commission may, upon its own motion, order any such reassessment if it shall clearly appear that the public will be benefited thereby. Due notice of the time and place fixed for a hearing upon any complaint made as aforesaid shall be mailed, at least eight days before the time fixed for the hearing, to the city clerk if the taxing district be a city, and if it be a township, then to the township clerk. The person or persons so appointed to make such reassessment shall qualify without delay by severally taking and subscribing an oath or affirmation to support the constitution of the United States and the constitution of the state of Kansas, and to faithfully perform the duties imposed by any such order of reassessment to the best of their ability, and shall file the same with the tax commission. Any person or persons so appointed to reassess any district shall have all the power and authority given by law to deputy assessors, and shall perform all the duties and be subject to all restrictions and penalties imposed by law upon deputy assessors. They shall have access to all public records and files which may be needful or serviceable in the performance of the duty imposed, and while engaged in such duty shall be entitled to have the custody and possession of the assessment roll containing the original assessment in such district

and all property and other statements and memoranda relative thereto. A blank assessment roll and all property statements and other blank forms needful for the purpose of such reassessment shall be furnished by the county clerk, at the expense of the county. Any such reassessment shall, when completed, be treated exactly as an original assessment and be subject to equalization by the county board and to such appeals from the action of any officer having to do with said assessment as are now provided by law in the case of original assessments. [L. 1909, ch. 251, § 7; March 13.]

18.—LEGACIES AND SUCCESSIONS.

THE INHERITANCE TAX COMMISSION.

74-2407. Inheritance tax commission. From and after the passage of this act the tax commission shall constitute the inheritance tax commission of the state of Kansas, and shall, as such, be charged with the duty of administering all laws providing for the assessment and taxation of legacies and successions within this state, and all duties relative to legacy and succession taxes and assessment now imposed by law upon the tax commission shall be performed by said inheritance tax commission. The member of said commission who has served longest as member of the tax commission shall be chairman, and the secretary of the tax commission secretary of said inheritance tax commission. The words "tax commission" whenever and wherever used in chapter 357, Laws of 1915, and in acts amendatory thereof and supplemental thereto, shall be taken and held to mean inheritance tax commission. [L. 1917, ch. 319, § 1; March 26.]

Inheritance tax; a charge upon right to inherit property. *Trust Co. v. The State*, 110 K. 153.

Determination of tax on personal property of nonresident testator's estate. *Trust Co. v. The State*, 110 K. 154.

TAXATION OF LEGACIES AND SUCCESSIONS.

79-1501. Imposition of tax; classification of distributees; exemptions and rates. All property, corporeal or incorporeal, and any interest therein, within the jurisdiction of the state, whether belonging to the inhabitants of the state or not, which shall pass by will or by the laws regulating intestate succession, or by deed, grant or gift made in contemplation of death, or made or intended to take effect in possession or enjoyment after the death of the grantor, to any person, absolutely or in trust, except in case of a *bona fide* purchase for full consideration in money or money's worth; and except property to or for the use of literary, educational, scientific, religious, benevolent and charitable societies or institutions: *Provided*, Such use entitle the property so passing to be exempt from taxation; and except property to or for the use of the state, a county or a municipality for public purposes, shall be taxed as herein provided. Distributees of estates, whether they succeed to the ownership of their respective shares by reason of the provisions of a will or under the law of descents and distributions, or by deed, grant or gift made in contemplation of death, shall be classified as follows: Class A shall consist of the surviving husband or wife, the lineal ancestors, lineal descendants, adopted child or children, lineal descendants of any adopted child, the wife

or widow of a son, or the husband of a daughter of the decedent. Class B shall consist of the brothers and sisters of the decedent. Class C shall consist of relatives of all degrees of consanguinity, except those included in classes A and B, and shall include also strangers in the blood of the decedent. From the value of the shares, as ascertained under the provisions of this act and succeeded to by the several distributees, exemptions shall be allowed as follows: To the surviving wife, \$75,000; to each other member of class A, \$15,000; to each member of class B, \$5,000; and the tax herein provided for shall be charged only upon the excess value of the shares over and above the exemption herein declared: *Provided*, That when one or more of the shares of an estate shall consist of property within and property without the state only such percentage of the exemptions above named shall be allowed as is the percentage within the state of the total value of the shares: *And provided further*, That any gift, legacy, inheritance, transfer, appointment or interest which shall be valued, for the purposes of this act, after exemptions are allowed, at a less sum than \$200, shall not be subject to the tax hereby imposed.

Upon the value of shares succeeded to by members of class A in excess of the exemptions herein declared, the following rates of tax are hereby imposed: On the first \$25,000, or fraction thereof, one per cent; on the second \$25,000, or fraction thereof, two per cent; on the next \$50,000, or fraction thereof, three per cent; on the next \$400,000, or fraction thereof, four per cent; on all over \$500,000, five per cent: *Provided*, That upon the share of the estate passing to the wife, only one-half of the foregoing rates shall be charged. Upon the value of shares succeeded to by members of class B in excess of the exemptions herein declared, the following rates of tax are hereby imposed: On the first \$25,000, or fraction thereof, three per cent; on the second \$25,000, or fraction thereof, five per cent; on the next \$50,000, or fraction thereof, seven and one-half per cent; on the next \$400,000, or fraction thereof, ten per cent; on all over \$500,000, twelve and one-half per cent. Upon the value of shares succeeded to by members of class C, the following rates of taxes are hereby imposed: On the first \$25,000, or fraction thereof, five per cent; on the next \$25,000, or fraction thereof, seven and one-half per cent; on the next \$50,000, or fraction thereof, ten per cent; on the next \$400,000, or fraction thereof, twelve and one-half per cent; on all over \$500,000, fifteen per cent. All taxes herein provided for shall be for the use of the state; and administrators, executors and trustees, and any grantees under any such conveyance made during the grantor's life shall be liable for such taxes, with interest at the legal rate until the same shall have been paid. Property shall be deemed to have been transferred by grant or gift in contemplation of death under this act when such grant or gift shall have been executed within 90 days prior to the death of the grantor or donor. [L. 1915, ch. 357, § 1; L. 1919, ch. 305, § 1; March 29.]

Annotations to L. 1915, ch. 357, § 1:

Inheritance-tax law of 1909 held constitutional and valid. *The State, ex rel., v. Cline*, 91 K. 416.

Section 1 of act of 1909 construed; act held valid. *The State v. Mollier*, 96 K. 514, 515. Will executed in pursuance of contract; property passes by will. *The State v. Mollier*, 96 K. 514, 515.

Property taken under will; contract; inheritance tax. *The State, ex rel., v. Gerhards*, 99 K. 462, 463.

Act is not retroactive; nonresident testator. *The State v. Trust Co.*, 99 K. 841, 842.

Effect of repealing statute; laches; state's right not barred. *In re Moseley's Estate*, 100 K. 495.
 Tax not paid; executor discharged; order of discharge invalid. *In re Moseley's Estate*, 100 K. 495.
 Inheritance tax in charge upon right to inherit property. *Trust Co. v. The State*, 110 K. 158, 155, 106.

79-1502. Payment of tax; lien. Except as hereinafter provided, taxes imposed by the provisions of this act shall be payable to the county treasurer of the county in which is situated the probate court having jurisdiction, as in this act provided, by the executors, administrators or trustees, at the expiration of one year after the date of their giving bond; but if legacies or distributive shares are paid or delivered within the one year the taxes thereon shall be payable at the same time. In cases where property is transferred by deed, grant or gift made in contemplation of death, the tax thereon shall be due and payable at the time of such transfer. If the taxes contemplated by this act are not paid when due, interest at the legal rate shall be charged and collected from the time the same became payable. Property of which a decedent died seized or possessed, subject to taxes as aforesaid, in whatever form of investment it may happen to be, and all property acquired in substitution therefor, shall be charged with a lien for all taxes and interest thereon which are or may become due on such property; but said lien shall not affect any personal property after the same has been sold or disposed of for value by the executors, administrators or trustees. The lien charged by this act upon any real estate or separate parcel thereof may be discharged by the payment of all taxes due and to become due which are secured by such lien on real estate, or such lien for taxes may be satisfied, in relation to any real estate or separate parcel thereof, on condition that the payment of the tax to the estate is first secured by bond or deposit, or that other real estate is substituted in the place of that which is sought to be released: *Provided*, That the probate court having jurisdiction shall first approve the bond or deposit tendered, or shall approve of the substitution of other real estate as security for the taxes in lieu of that which is to be released. [L. 1915, ch. 357, § 2; April 10.]

79-1503. Contingent bequests or grants. In every case where there shall be a bequest or grant of personal estate made or intended to take effect in possession or enjoyment after the death of the grantor, to take effect in possession or come into actual enjoyment after the expiration of one or more life estates or a term of years, whether conditional upon the happening of a contingency or dependent upon the exercise of a discretion or subject to a power of appointment or otherwise, the executor, administrator or grantor may deposit with the county treasurer a sum of money sufficient in the opinion of the inheritance tax commission to pay all taxes which may become due upon such bequest or grant; or any executor, administrator, trustee or grantee, or any person interested in such bequest or grant, may give bond to the probate court having jurisdiction of the estate of the decedent in such amount and with such sureties as the court may approve, with the condition that the obligor shall notify the inheritance tax commission when said tax becomes due, and shall then pay the same to the county treasurer: *Provided*, That every such bond shall be renewed every five years, and in default of the renewal thereof from time to time, as required, the conditions of such bond

shall be deemed to be broken, and the recovery of the tax secured thereby may be obtained by an action on the bond without awaiting the maturity of the tax. [L. 1915, ch. 357, § 3; April 10.]

79-1504. Valuations; bond for tax. The tax upon the several shares of an estate, as herein provided, shall be determined on the actual value of the property at the time of the death of the decedent; and when any property or interest therein, or income therefrom, shall pass or be limited for the life of another, or for a term of years, or to terminate on the expiration of a certain period, the value of the said life estate, term of years, or period of limitation shall be fixed according to the "American experience tables" at five per cent compound interest; and the value of the remainder in said property so limited shall be ascertained by deducting the value of the life estate, term of years or period of limitation, from the actual value of the property as found at the time of the death of the decedent. The tax on the several shares of the estate, including shares of which vested estates in remainder may be a part or all, shall be due and payable to the treasurer of the proper county, as hereinbefore provided, and said tax shall remain a lien upon the entire property of the respective shares until paid: *Provided*, That the person or persons, body politic or corporate, beneficially interested in the estates in remainder charged with the said tax may elect not to pay the same until the right to come into actual possession or enjoyment of such estates accrues, and in such cases said person or persons, or body politic or corporate, shall give bond to the state of Kansas in a penal sum not less than three times the amount of the tax arising from such property, with one or more sureties as the probate court may require and approve, conditioned for the payment of said tax and interest thereon at the rate of four per cent per annum until such time or period as they or their representatives come into actual possession or enjoyment of such estates; but the tax may be paid at any time, in which case the obligation of the bond shall be discharged. The bond shall be filed with the probate court of the proper county, and shall discharge the lien of the said tax. Any person or persons, body politic or corporate, shall renew every five years any bond given under the provisions hereof, and in default of the renewal of any such bond from time to time, as herein required, the conditions of such bond shall be deemed to be broken, and the recovery of the tax secured thereby may be obtained by an action on the bond without awaiting the maturity of the tax. Vested estates in remainder, as used herein, shall include all estates where the remainderman, being alive, would take at once if the life tenant were to die. [L. 1915, ch. 357, § 4; April 10.]

Tax laid on Kansas property of nonresident; deduction of debts. *Trust Co. v. The State*, 110 K. 158, 156, 167.

79-1505. Determination of value of interests in expectancy; payment of tax. Upon estates or interests in expectancy which are contingent, the rates of tax imposed by this act shall be determined upon the value of such estates or interests at the time when the persons entitled thereto shall come into the beneficial enjoyment or possession thereof, without such value being diminished for or on account of any valuation theretofore made of the particular estates for the purposes of taxation upon which said estates or interests in expectancy may have been limited: *Provided*, That in case it is desired to pay the tax

upon such future estates or interests immediately, the inheritance tax commission may, with the approval of the attorney-general, effect such settlement of the tax as it shall deem to be for the best interests of the state, and the payment of the tax so agreed upon shall be in full satisfaction of the tax lien against any such interest. In such cases the settlement may be based upon the residue of the total value of the estate as of the day of the death of the decedent, after the deduction therefrom of the value of the particular estates upon which such future contingent interests are limited. [L. 1915, ch. 357, § 5; April 10.]

79-1506. Collection of tax by representative or trustee. An executor, administrator or trustee holding property subject to said tax shall deduct the tax therefrom or collect it from the legatee or person entitled to said property; and he shall not deliver property or a specific legacy subject to said tax until he has collected the tax thereon. An executor or administrator shall collect taxes due upon land which is subject to tax under the provisions hereof from the heirs or devisees entitled thereto, and he may be authorized to sell said land according to the provisions of section 9 if they refuse or neglect to pay said tax. [L. 1915, ch. 357, § 6; April 10.]

Tax not paid; executor discharged; order of discharge invalid. *In re Moseley's Estate*, 100 K. 495, 496.

79-1507. Collection of tax on legacy charged on realty. If a legacy subject to said tax is charged upon or payable out of real estate, the heir or devisee, before paying it, shall deduct said tax therefrom and pay it to the executor, administrator or trustee, and the tax shall remain a lien upon said real estate until it is paid. Payment thereof may be enforced by the executor, administrator or trustee in the same manner as the payment of the legacy itself could be enforced. [L. 1915, ch. 357, § 7; April 10.]

79-1508. Provision in instrument for payment of tax on gift out of other property. When provision is made by any will or other instrument for payment of the legacy or succession tax upon any gift thereby made out of any property other than that so given, no tax shall be chargeable upon any money to be applied in payment of such tax. [L. 1915, ch. 357, § 8; April 10.]

79-1509. Sale of realty by representative or trustee to pay tax. The probate court of the proper county may authorize executors, administrators and trustees to sell the real estate of a decedent for the payment of such tax in the same manner as it may authorize them to sell real estate for the payment of debts. [L. 1915, ch. 357, § 9; April 10.]

79-1510. Inventory and appraisal of estate. An inventory and appraisal under oath, of every estate, shall be filed in the probate court by the executor, administrator or trustee within three months after his appointment. If he neglects or refuses to file such inventory or appraisal he shall be liable to a penalty of not more than five thousand dollars, which shall be recovered in the proper district court by the attorney-general or county attorney of the proper county at the instance of the inheritance tax commission, in the name of the state, for the use of the state; and the probate court shall notify the tax commission within thirty days after the expiration of said three months of the failure of any executor, administrator or trustee to file an inventory and appraisal in his office. [L. 1915, ch. 357, § 10; April 10.]

79-1511. Record of inventory and appraisal. The probate judge shall record the inventory and appraisal of every estate which is filed in his office, and he shall, within thirty days after the same has been filed, send by mail to the inheritance tax commission such inventory and appraisal, or a copy thereof. The probate judge shall also, within the same period, send by mail to the inheritance tax commission a copy of the will of the decedent, if such has been allowed by the probate court. The probate judge shall also furnish such copies of papers in his office as the inheritance tax commission shall require, and shall furnish information as to the records and files in his office in such form as the inheritance tax commission may require. The inheritance tax commission shall excuse the probate court from filing inventories or copies of inventories and of wills of estates no part of which appears to be subject to a tax under the provisions of this chapter. [L. 1915, ch. 357, § 11; April 10.]

79-1512. Determination by commission as to taxability or amount of tax. Whenever, for the purpose of obtaining a determination by the inheritance tax commission as to the taxability of and the amount of tax, if any, which is chargeable against any distributive share or shares of the estate of a decedent under the provisions of this act, any person interested in such an estate shall make it to appear by his duly verified application filed with the commission that administration upon such estate is unnecessary for any other purpose than for such determination as to such tax, and shall set forth in the application the names of all persons known to have or claim any interest in the estate, the commission shall advise all the parties in interest of the filing of such application, and that after a given date the commission will make an investigation as to the value of the estate and of the distributive shares thereof. Before making such valuation the commission may require from any party in interest or from any county officer, upon forms to be prepared by the commission, such information as will disclose fully the condition of the estate; and after the value of the shares shall have been ascertained, and the tax chargeable against any of the said shares, if any, shall have been determined, the commission shall make an order determining such value and the tax, and shall file a certified copy thereof with the probate court of the county in which is situated the estate in question, and shall certify the amount of the tax to the county treasurer of such county for collection. Should any person be aggrieved by the action of the commission, application may be made to the probate court having jurisdiction of the estate, as provided in sections 16, 17 and 19 of this act, and the said probate court shall in all such cases exercise the authority conferred by said sections in order that any grievance may be remedied. In case it shall be found that no tax is chargeable against any share of the estate being passed upon, the commission, through its secretary, shall issue its certificate to that effect, and such certificate, when recorded in the office of the register of deeds of any county in which is situated real property belonging to such estate, shall be evidence that no lien exists against such real property because of any statute providing a tax upon legacies and successions. If no person having an interest in the estate shall make application to the commission within three months after the death of the decedent, the commission may demand of some one of the parties in interest the filing with it of an application in form to be prescribed

by the commission. In case no application shall be filed as herein provided within three months after a demand therefor, the probate court of the proper county, upon the application of the commission, shall immediately appoint an administrator for the sole purpose of ascertaining the value of the estate and the shares thereof, in order that the tax may be determined. The value of any property, the ownership of which passes by deed, grant or gift made in contemplation of death, and the tax, if any, chargeable thereon, shall be determined upon information required under the provisions of this section, but in default of such information the commission may of its own motion determine the value of all such property and the tax, and certify the same to the probate court and to the county treasurer for collection. When the estate of a nonresident decedent shall have among its assets property within the jurisdiction of the state of Kansas, but which is physically without the state, and no letters testamentary or of administration shall have been taken out in this state, the tax upon the distributive shares of such property shall be determined by the commission, and in all such cases the commission may require that the tax shall be paid directly to the state treasurer. Any expense incurred in the probate court under the provisions of this section shall be borne *pro rata* by the distributees according to the value of their respective shares. [L. 1915, ch. 357, § 12; April 10.]

Tax laid on Kansas property of nonresident; deduction of debts. *Trust Co. v. The State*, 110 K. 168, 167.

79-1513. Assignment or transfer of corporate stock by foreign executor, administrator or trustee. If a foreign executor, administrator or trustee assigns or transfers any stock in any national bank located in this state or in any corporation organized under the laws of this state, owned by a deceased nonresident at the date of his death and liable to a tax under the provisions of this act, the tax shall be paid to the county treasurer of the proper county at the time of such assignment or transfer; and if it is not paid when due, such executor, administrator or trustee shall be personally liable therefor until it is paid. A bank located in this state or a corporation organized under the laws of this state which shall record a transfer of any share of its stock made by a foreign executor, administrator or trustee, or issue a new certificate for a share of its stock at the instance of a foreign executor, administrator or trustee, before all taxes imposed thereon by the provisions of this act have been paid, shall be liable for such tax in an action of contract brought by the county attorney of the proper county, or the attorney-general in the name of the state and at the instance of either the probate court or the inheritance tax commission. [L. 1915, ch. 357, § 13; April 10.]

Transfer of stock in domestic corporation; statute repealed; saving clause. *The State, ex rel., v. Railway Co.*, 99 K. 831, 832, 835.

Right of corporation to refuse transfer of stock; statute repealed. *The State, ex rel., v. Railway Co.*, 99 K. 831, 832, 835.

79-1514. Notice of transfer of securities or assets to foreign representative. Securities or assets belonging to the estate of a deceased nonresident shall not be delivered or transferred to a foreign executor, administrator or legal representative of said decedent without serving notice upon the inheritance tax commission of the time and place of such intended delivery or transfer seven days at least before the time of such delivery or transfer. The in-

heritance tax commission, by any member or by representative, may examine such securities or assets prior to the time of such delivery or transfer. Failure to serve such notice or to allow such examination or a delivery or transfer of such securities or assets against the objection of the inheritance tax commission shall render the person or corporation making the delivery or transfer liable to the payment of the tax due upon said securities or assets, in an action brought by the county attorney of the proper county or the attorney-general in the name of the state. [L. 1915, ch. 357, § 14; April 10.]

79-1515. Refund of tax by representative or trustee. If a person who has paid such tax afterward surrenders a portion of the property on which it was paid, or if it is judicially determined that the whole or any part of such tax ought not to have been paid, such tax, or the due proportion thereof, shall be repaid to him by the executor, administrator or trustee. [L. 1915, ch. 357, § 15; April 10.]

79-1516. Computation of value of property; appraisalment. The value of the property upon which the tax is computed shall be determined by the inheritance tax commission and notified by it to the person or persons by whom the tax is payable and to the probate court and county treasurer of the proper county, and such determination shall be final unless the value so determined shall be reduced by proceedings, as herein provided. At any time within three months after such determination the probate court shall, upon the application of any party interested in the succession, or on application of the executor, administrator or trustee, appoint three disinterested appraisers, who, first being sworn, shall appraise such property at its actual value in money as of the day of the death of the decedent, and shall make return thereof to said court. Such return, when accepted by said court, shall be final. The fees of said appraisers, as determined by the judge of said court, shall be paid by the parties to said proceedings. [L. 1915, ch. 357, § 16; April 10.]

79-1517. Determination and certification of amount of tax; abatement; review in district court. The inheritance tax commission shall determine the amount of tax due and payable upon any estate or upon any part thereof, and shall certify the amount so due and payable to the probate court and to the county treasurer and to the person or persons by whom the tax is payable; but in the determination of the amount of any tax said inheritance tax commission shall not be required to consider any payments on account of debts or expenses of administration which have not been allowed by the probate court having jurisdiction of the estate. Payment of the amount so certified shall be a discharge of the tax. Any executor, administrator, trustee or grantee who is aggrieved by any determination of said inheritance tax commission may, at any time before said estate shall be finally closed, and after the payment of such tax to the county treasurer, apply by petition to said inheritance tax commission for the abatement of said tax or any part thereof, and if said commission adjudge that said tax or any part thereof was wrongfully exacted it shall order an abatement of such portion of said tax as was assessed without authority of law. Upon final decision ordering an abatement of any portion of said tax the county treasurer shall refund, from any legacy and succession taxes in his hands, the amount adjudged to have been illegally exacted, with interest at the legal rate, without any further act or resolve making appropria-

tion therefor: *Provided, however,* That any such executor, administrator, trustee or grantee may apply to any district court of competent jurisdiction for a review of any such order, and until final decision shall be entered by any such court such money shall not be refunded by said county treasurer. [L. 1915, ch. 357, § 17; L. 1917, ch. 319, § 2; March 26.]

Tax laid on Kansas property of nonresident; deduction of debts. *Trust Co. v. The State*, 110 K. 158, 159.

79-1518. Receipts of county treasurer. Whenever the tax upon any distributive share of an estate shall be paid to the county treasurer, he shall issue his receipt therefor in triplicate; the original receipt shall be given to the person paying the tax; the duplicate receipt shall be delivered to the county clerk; and the triplicate receipt shall be delivered to the probate judge and shall be recorded in full upon the journal of the probate court, and a certified copy of the record thereof shall be evidence in any court or in any transaction that the lien of the tax has been fully settled and discharged by payment. When real estate is situated in any other county of the state than the county in which is located the probate court having jurisdiction of the estate, the probate judge shall issue a certificate under the official seal of the probate court, in form to be prescribed by the inheritance tax commission, which certificate shall describe the land in such other county upon which the tax has been paid, as evidenced by the receipt of the county treasurer, and this certificate of the probate judge, when duly recorded in the office of the register of deeds of such other county, shall be evidence, under all circumstances, that the lien of the said tax has been fully settled and discharged by payment. [L. 1915, ch. 357, § 18; April 10.]

79-1519. Jurisdiction of controversies by commission; counsel for state; order by probate court for payment of tax; actions for tax. The inheritance tax commission, subject to the right of any party interested to apply to any district court of competent jurisdiction for review, shall hear and determine all questions relative to said tax, and the attorney-general, at the request of the inheritance tax commission or of the county treasurer, shall represent the state in any proceedings brought to review any action of said inheritance tax commission. If any probate court shall find that any such tax remains due and that proper proceedings have not been taken before said inheritance tax commission for abatement thereof, it shall order the executor, administrator, or trustee to pay the same, with interest, and costs, and no question regarding the validity of such tax shall be heard in such court. And if it appears that there are no goods or assets of the estate in his hands, the court may assess the amount of the tax against the executor, administrator, or trustee, as if for his own debt, and may enforce compliance with such order by proper procedure, as now authorized by probate practice; but the administrators, executors, trustees and grantees hereinbefore mentioned shall be personally liable only for such taxes as shall be payable while they continue in the said offices or have title as such grantees, respectively. In the cases where the tax is due and payable by and collectible from the beneficiary, all actions shall be prosecuted by the attorney-general or the county attorney of the proper county in the name of the state, and such actions may be brought in the same courts as other actions for money. [L. 1915, ch. 357, § 19; L. 1917, ch. 319, § 3; March 26.]

79-1520. Exercise of power of appointment. Whenever any person shall exercise a power of appointment derived from any disposition of property, such appointment when made shall be deemed to be a disposition of property by the person exercising such power, taxable under the provisions of chapter 357, Laws of 1915, and of all acts and amendments thereof and in addition thereto, in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power, and had been bequeathed or devised by the donee by will; and whenever any person possessing such power of appointment so derived shall omit or fail to exercise the same within the time provided therefor, in whole or in part, a disposition of property taxable under the provisions of Laws 1917, chapter 319, sections 2 and 3, and all acts and amendments thereof and in addition thereto, shall be deemed to take place to the extent of such omissions or failure in the same manner as though the persons or corporations thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by a will of the donee of the power failing to exercise such power taking effect at the time of such omission or failure. [L. 1917, ch. 319, § 4; March 26.]

NOTE.—L. 1916, ch. 857, as amended, is printed in this article. L. 1917, ch. 319, secs. 2 and 3, are the preceding sections.

79-1521. Appointment of administrator. If, upon the decease of a person leaving an estate liable to a tax under the provisions of this act, a will disposing of such estate is not offered for probate, or an application for administration made within four months after such decease, the probate court, upon application by the county attorney of the proper county or the attorney-general, at the instance of the inheritance tax commission, shall appoint an administrator if it then appears that there is no will in existence, but if an affidavit, which shall be satisfactory to the probate court be filed in said court, which shall be made by a person who is one of those under class A in the estate, which affidavit shall set forth that decedent left no will and that the estate of said decedent is not one taxable under this act, then no letters of administration shall be issued: *Provided*, That any affidavit made in such case shall be in form to be prescribed by the inheritance tax commission in order that the conditions of the estate may be shown to the probate court so that the court may determine from the *prima facie* case made by the affidavit that there are no taxable shares of the estate. [L. 1915, ch. 357, § 20; April 10.]

79-1522. Final settlement by representative or trustee. No final account of an executor, administrator or trustee shall be allowed by the probate court unless such account shows, and the judge of said court finds, that all taxes imposed by the provisions of this act upon any property or interest therein belonging to the estate to be settled by said account and already payable have been paid, and that all taxes which may become due on said estate have been paid or settled, as hereinbefore provided, or that the payment thereof to the state is secured by bond or deposit or by lien on real estate. The certificate of the inheritance tax commission and the receipt of the county treasurer for the amount of the tax therein certified shall be

conclusive as to the payment of the tax to the extent of said certification. [L. 1915, ch. 357, § 21; April 10.]

Tax not paid; executor discharged; order of discharge invalid. *In re Moseley's Estate*, 100 K. 496, 498.
Nonresident testator having stock in domestic corporation; act not retroactive. *The State v. Trust Co.*, 99 K. 841, 848, 846.

79-1523. Time for proceedings to recover tax. The county attorney of the proper county or the attorney-general, at the instance of the county treasurer or the inheritance tax commission, shall commence proceedings for the recovery of any of said taxes within six months after the same become payable, and also whenever the judge of a probate court certifies to him that the final account of an executor, administrator or trustee has been filed in such court, and that the settlement of the estate is delayed because of the nonpayment of said tax. The probate court shall certify upon the application of any heir, legatee or other person interested therein. [L. 1915, ch. 357, § 22; April 10.]

79-1524. Estates of persons deceased prior to 1915. This act shall not apply to estates of persons deceased prior to the taking effect hereof. [L. 1915, ch. 357, § 23; April 10.]

79-1525. Quarterly report by county treasurer to state treasurer. Each county treasurer shall make a report, under oath, to the state treasurer on the 1st day of January, April, July and October, respectively, of each year, of all taxes received by him under this act, which report shall state for what estate and by whom and when paid, and with said report he shall transmit to the state treasurer all taxes collected and in his hands at the time of making said report. The form of such report shall be prescribed by the inheritance tax commission. [L. 1915, ch. 357, § 24; April 10.]

79-1526. Compensation of county officers. The county treasurer shall retain, for the use of the county, as compensation to the county for services of county officers, five per cent out of all taxes paid to and accounted for by him. [L. 1915, ch. 357, § 25; April 10.]

79-1527. Payment of tax into state treasury. All taxes levied and collected under this act, less any expenses of collection, shall be paid into the treasury of the state for the benefit of the general revenue fund, and shall be applicable to such purposes as the legislature by law may direct. [L. 1915, ch. 357, § 26; April 10.]

79-1528. Definition of terms. The words "estate" and "property," as used in this act, shall be taken to mean the real, personal and mixed property or interest therein of the testator, intestate, grantor, bargainor, vendor or donor which shall pass or be transferred to legatees, devisees, heirs, next of kin, grantees, donees, vendees, or successors, and shall include all personal property within or without the state. The word "transfer," as used in this act, shall be taken to include the passing of property or any interest therein in possession or enjoyment, present or future, by inheritance, descent, devise, succession, bequest, grant, deed, bargain, sale, gift or appointment in the manner herein prescribed. The word "decedent," as used in this act, shall include the testator, intestate, grantor, bargainor, vendor or donor. [L. 1915, ch. 357, § 27; April 10.]

19.—GENERAL BOND LAW.

10-101. Definition of municipality. "Municipality," as used in this chapter and all acts amendatory thereto, unless otherwise expressed in such amendment, shall mean and include every corporation and quasi corporation empowered to issue bonds in payment of which taxes may be levied. [Revised, 1923.]

10-102. Definition of municipal bonds. "Municipal bonds," as used in this chapter and all acts amendatory thereto, unless otherwise expressed in such amendment, shall mean and include all bonds issued by any municipality, except railroad aid bonds. [Revised, 1923.]

10-103. Terms and denominations of municipal bonds. All municipal bonds shall run not longer than thirty years, shall bear interest at a rate not to exceed five per cent per annum, may be issued to mature in installments of approximately equal amounts each year. Each bond shall specify the date of its separate maturity and shall be in such denominations as the authority issuing the same shall direct: *Provided*, That all bonds issued by any city or subdivision thereof which are payable from assessments against the property benefited shall run not longer than ten years and shall be payable by not more than ten annual installments. [Revised, 1923.]

10-104. Limitations on improvement bonds. No bonds shall be issued in payment for any public improvement in excess of the actual cost and expense of such improvement, but the installment coupons shall include the interest on such installment to the maturity thereof. [Revised, 1923.]

10-105. Execution of bonds. Such bonds issued by any county shall be signed by the chairman of the board of county commissioners and attested by the county clerk, under the seal of the county. Bonds issued by any city shall be signed by the mayor and attested by the city clerk, under the seal of the city. Bonds issued by any township shall be signed by the trustee, attested by the township clerk, and countersigned by the township treasurer. Bonds issued by the board of education of any city shall be signed by the president, and attested by the clerk of said board under the seal of such board. Bonds issued by any school district shall be signed by the director, attested by the clerk and countersigned by the treasurer of the school board. Bonds issued by any drainage district shall be signed by the chairman of the board of directors or supervisors and attested by the secretary of the board under the seal of such board. The bonds issued by any other municipality, not herein named, shall be signed by the chairman or other presiding officer of the governing board and attested by the secretary or clerk of such board under the seal of the board, if it have a seal, but if such board is not authorized by law to use a seal, then the bonds shall be countersigned by the treasurer of such board. Interest coupons shall be signed by the chairman of the board of county commissioners, the mayor of the city, the township trustee, the president of the board of education, the director of the school district, or the chairman or other presiding officer of the governing board of any other municipality and the clerks or secretaries respectively: *Provided*, The interest coupons attached to any bond may be signed with a facsimile of the signature of any officer required to sign such interest coupons. [Revised, 1923.]

10-106. Sale of bonds. Such bonds shall be sold as follows: It shall be the duty of the officers having charge of the sale of such bonds to publish once a notice in some newspaper having general circulation in the county where they are issued, and in the official state paper, said publication to be not less than ten days before such sale, stating the amount, date, maturity, and rate of interest of such bonds and the time when and the place where the bonds will be sold. Purchasers shall submit their bids in writing, sealed, for all or any part of such bonds, and each bid shall be accompanied by a certified check for two per cent of the total amount of such bid. In case any purchaser, whose bid is accepted, shall fail to carry out his contract, the said deposit shall be forfeited to the municipality issuing the bonds. At the time and place specified, the said bids shall be opened and the bonds sold to the highest and best bidder or bidders, and the bonds may be allotted among the bidders, but any or all bids may be rejected. If the bids be rejected, the bonds may be sold at private sale. [Revised, 1923.]

10-107. Registration of bonds. The clerk, secretary or other recording officer of every municipality shall register said bonds in his office. Such bonds shall also in every case, except city bonds and bonds issued by boards of education, be registered by the county clerk, and such registration shall show the date, number, amount thereof, rate of interest, number of coupons, amount of each, to whom payable, where payable and date of maturity. [Revised, 1923.]

10-108. Record by auditor. Before any bonds shall become a valid obligation, a full and complete transcript of the proceedings leading up to the issuance thereof, properly certified by the clerk, secretary or other recording officer of the municipality issuing them, shall be filed with the auditor of state, and said bonds shall be registered in the office of the auditor of state in proper records kept for that purpose, and after being so registered the state auditor shall, under seal of his office, certify upon said bonds the fact that they have been so registered. [Revised, 1923.]

10-109. Statement for auditor. The clerk, secretary or other recording officer of the municipality shall file with the auditor of state a statement in such form and including such information as the auditor of state may require, signed by all the officers who signed the bonds and attested by the proper officer with the corporate seal of the municipality, if it have a seal, and duly acknowledged before the clerk of the district court. [Revised, 1923.]

10-110. Record of cancellations. The auditor of state shall revise the bond records in his office from time to time, by canceling all records of bonds which have theretofore been paid, and for the purpose of enabling him to carry out the provisions of this act it is hereby made the duty of the clerk, secretary, or other recording officer of the municipality to furnish to the auditor of state a sworn statement of all outstanding bonded indebtedness in such form as and whenever said auditor shall require. Any such clerk, secretary or other recording officer of any municipality who shall fail to furnish said sworn statement when required so to do by the state auditor shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of one hundred dollars. [Revised, 1923.]

10-111. Statement of cancellations. It is hereby made the duty of the fiscal agents of the state of Kansas upon the payment of any bond of any municipality to cancel the same and return such canceled bond to the clerk

of the municipality issuing the same. It shall also be the duty of the fiscal agents of the state of Kansas to render to the state auditor at least once each month a certified statement setting forth all bonds which have been paid and canceled since the making of the next preceding statement, and it shall be the duty of the state auditor upon the receipt of such statement to cancel the said bonds of record in his office. No fee shall be charged said municipality by any of the officers mentioned above in connection with the registration or cancellation of bonds: *Provided, however,* That this provision shall not apply to the regular statutory fiscal agency fees. [Revised, 1923.]

10-112. **Recitals in bonds.** All municipal bonds shall constitute a general obligation of the municipality issuing the same and shall recite the authority under which they are issued and that they are issued in conformity with the provisions, restrictions and limitations thereof and that such bonds and the interest thereon are to be paid by such municipality, and such recital when said bonds have been duly registered as herein provided, shall import absolute verity and shall be conclusive in favor of all persons purchasing said bonds, that all proceedings and conditions precedent have been had and performed to authorize the issuance of such bonds and such bonds shall be negotiable. [Revised, 1923.]

10-113. **Levy for sinking fund.** It shall be the duty of the proper officers charged with the levying of taxes to levy in each year a sum sufficient to pay the interest on such bonds, and the bonds falling due in that year, and any such officer failing to make such levies shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of one hundred dollars: *Provided,* If bonds mature in such manner as to require it, there may be levied during the first year in which a tax is to be collected two installments with not to exceed interest for two years, or one installment and interest for one year or more, and the last levy on any bond issue shall contain the installment with the interest to date of maturity of the last bond outstanding. [Revised, 1923.]

10-114. **Special assessments for improvements.** Whenever the governing body of any city shall issue internal improvement bonds to pay for the costs of any improvement the cost of which is chargeable against specific property, they shall apportion such cost by special assessments in installments, and the apportionment contained in the special assessment ordinance shall hold good for all the installments that are to be collected from the specific property chargeable with the cost of said improvement. Such ordinance shall contain the total amount of assessments apportioned to each lot or piece of ground within the taxing district, and shall state the number of annual installments in which such special assessment is to be collected; and thereafter the city clerk shall certify, annually, at the same time as other taxes are certified, and until the special assessments so apportioned have been so certified, to the county clerk a full list of the property liable for the cost of such improvement, except such property upon which the special assessments aforesaid have been paid in full, together with the respective amounts due on each of said lots or pieces of ground, which amounts shall include the annual installments and interest on all unpaid balances for one year at the rate at which the bonds were issued, and such amount so certified shall be collected as other taxes are

collected. The ordinance apportioning such costs may provide for the collection of two installments with not to exceed interest for two years, or one installment and interest for one year or more, in the first year in which such assessment is to be collected, if the bonds for such improvement and interest on the same mature in such manner as to require such levy. The last amount so certified shall contain the installment with the interest to the date of maturity of the last outstanding bond. All or a part of said installments, each installment being separately set out and designated by the year in which it is to be extended upon the tax rolls, may be included in one certificate. [Revised, 1923.]

10-115. Payment of such assessments. Where bonds have been or are to be issued by any municipality, which bonds are payable from special assessments to be levied by such municipality, the owner of any lot or piece of land liable to any such special assessment may redeem his property from such liability by paying the entire amount chargeable against his property at any time before the issuance of the bonds, or after the issuance of the bonds by paying all of the installments of the assessments which have been levied, and also the amount of the unlevied installments, with interest on the latter at the rate of interest provided in said bonds from the date of the bonds to the time of maturity of the last installment. In all cases where installments of special assessments not yet levied are paid, as above provided, whether before or after the issuance of the bonds, to the treasurer of the municipality issuing such bonds, he shall receipt therefor, and all sums so paid shall be applied solely to the payment of such improvements or the redemption of the bonds issued therefor. Where any piece of property has been redeemed from liability for the cost of any improvement, as herein provided, such property shall not thereafter be liable to further special assessment for the cost of such improvement. [Revised, 1923.]

10-116. Refunding indebtedness. Every municipality shall have the power to refund outstanding legal bonds or judgments, including interest thereon, upon such terms as it may agree upon with the owners thereof. Such bonds shall be issued according to law in an amount not exceeding the former indebtedness so refunded. No such bonds shall be delivered to the owner of the prior indebtedness until the evidence of such prior indebtedness shall be delivered to the proper officers and shall be stamped "paid in full," and a record made thereof. [Revised, 1923.]

10-117. Diversion or misuse of bond proceeds. Any person who shall appropriate, use, or aid or abet in appropriating or using any of the funds procured by the sale of bonds by a municipality for any other purpose than that for which such bond issue was intended, or shall issue any refunding bonds in excess of the indebtedness refunded, or shall misappropriate or use, or aid or abet in misappropriating or using, any of the funds raised by taxation for the purpose of paying the principal or interest of such bonds for any purpose other than paying such principal or interest, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not less than one hundred nor more than one thousand dollars, and in addition thereto may be imprisoned in the county jail for not less than three months nor more than twelve months, and shall also be liable in a civil action to the municipality issuing the bonds for the amount so misappropriated or used. Any of-

ficer of any municipality who shall be convicted in a court of competent jurisdiction of a misdemeanor as herein set out shall, in addition to the penalty or penalties herein prescribed, forfeit his office. [Revised, 1923.]

10-118. Levy to pay bonds maturing at same time. Whenever any municipality has issued bonds the entire amount of which become due and payable at the same time, it shall be the duty of the proper officers of such municipality to levy in each year a sinking fund sufficient to pay the said bonds when due, in addition to the tax necessary to pay the interest thereon. [Revised, 1923.]

10-119. Changing territory of municipality; disorganization. Whenever a part of the territory of any municipality has been detached and attached to some other municipality, or whenever any municipality has been disorganized according to law and the territory attached to some other municipality or municipalities, such territory shall be liable for the payment of all bonds issued or other indebtedness incurred by such municipality before such detachment or disorganization, and the proper taxing officers of the municipality to which such territory is attached shall levy such taxes upon such attached territory as are necessary to pay its proper proportion of the interest and principal of such bonds or other indebtedness as aforesaid, and such officers may be compelled by mandamus at the instance of the holders of such bonds or other indebtedness to levy such tax. [Revised, 1923.]

10-120. Bond elections. Whenever an election is required for the issuance of bonds for any purpose by any municipality other than a school district, drainage district or irrigation district, or where a different procedure for giving notice of the election is specifically provided by law, upon compliance with the legal requirements necessary and precedent to the call for such election, the proper municipal officers shall call an election to be held within thirty (30) days after compliance with the necessary requirements, or within ninety (90) days, should such long period include the date of a general election. Notice of such election shall be published in a newspaper of general circulation in the municipality once each week for three consecutive weeks, the first publication to be not less than twenty-one days prior to such election; if in a weekly, semiweekly or triweekly paper, on any one day of the week upon which such paper is published; if in a daily paper, on Wednesday or Thursday of each of the three consecutive weeks. Such notice shall set forth the time and place of holding the election and the purpose for which the bonds are to be issued and shall be signed by the municipal officers, or a majority of them, having authority to call an election in such municipality. Such election shall be held at the usual place of holding elections and shall be conducted by the officers or persons provided by law for holding elections in such municipality. At such elections all qualified electors shall be entitled to vote. The vote of such election shall be by ballot; such ballot shall comply with the usual requirements for an official ballot for candidates for public office in so far as such requirements are applicable thereto; upon such ballot shall be printed the bond proposition submitted, preceded by the words "Shall the following be adopted?" and followed by the words "To vote in favor of the bonds make a cross X mark in the square after the word 'yes.'" "To vote against the bonds make a cross X mark in the square after the word 'no,'" followed by sufficient squares. If more than one proposition or question be submitted on

said ballot the different propositions or questions shall be separately numbered and printed and be separated by a broad solid line one-eighth of an inch wide: Such elections to be in all respects governed and the results declared according to the rules and regulations provided by law for holding elections in any such municipality. [Revised, 1923.]

10-121. Elections for acquisition of land. Whenever any election is required to authorize the acquisition of land for, or the making of any public improvement, and such proposition is coupled with the proposition of the issuance of bonds and the levy of taxes to pay for the same, such election shall be held in all respects as provided for bond elections alone, except when such election is held at the same time as a general election. [Revised, 1923.]

10-122. Investment of sinking fund. The officers of any municipality which has levied and collected a sinking fund for the payment of bonds not then due may invest the said sinking fund in any municipal bonds of this state which shall become due prior to the due date of the bonds for which such sinking fund was levied and collected: *Provided*, No sinking fund shall be invested under this act in the bonds of any county, township, city or school district where the bonded indebtedness thereof shall exceed ten per cent of its total assessed valuation as shown by the last assessment preceding such investment. [Revised, 1923.]

10-123. Temporary notes for improvements. If a municipality shall have theretofore duly authorized the making of an improvement, which is to be paid for in whole or in part by the issuance of bonds, then the governing body of such municipality, authorized to issue such bonds, may issue temporary notes, bearing interest at the rate of not exceeding six per cent per annum, payable semiannually, maturing not later than the due date of the first installment of such bonds, and in no event not later than two years from the date of said notes, not exceeding in the aggregate the amount of bonds which are to be issued and are then unissued, as shown by the approved estimates on file (except in the case of road bonds when the amount of said notes shall not exceed the total amount of the unissued bonds of the state and federal aid granted to said project). Said temporary notes shall be in the form usual for such bonds, except that coupons evidencing the interest need not be attached, shall be executed and registered as are such bonds, and shall be redeemed and canceled before or at the time permanent bonds are issued in lieu thereof, so that the amount of temporary notes and bonds issued and outstanding shall not at any time exceed the estimated cost and expense of said improvement. Said temporary notes may be issued from time to time, as required during the progress of said work, shall be negotiable and shall constitute a general obligation of the municipality issuing the same. Such temporary notes may be sold in the manner provided for the sale of bonds or may be sold at private sale at not less than par and accrued interest. [Revised, 1923.]

10-124. Interest coupons receivable for taxes. Interest coupons shall, as fast as they become due, be receivable in payment of taxes due to the particular county, city, the board of education of any city, the township, or school district, which may have issued such coupons, and shall be received

by all collecting officers the same as cash, in payment of such taxes. [Revised, 1923.]

10-125. Bonds covered by this act. This act shall govern the issuance of all municipal bonds, except where different provisions are specifically provided by law, in which case the specific provisions shall control only so far as they conflict with this act. [Revised, 1923.]

AN ACT to enable cities of the first class having a population of more than one hundred thousand to refund their judgment indebtedness and providing a penalty for the violation thereof.

10-403. Cities first class over 100,000; judgment indebtedness. That in every instance in which any city shall issue bonds under this act, it shall be the duty of the mayor and council or board of commissioners thereof to annually levy, at the time of making the levy of other taxes a tax sufficient in amount to pay the interest upon said bonds and the coupons as they become due, and five years after said bonds have been issued, and annually thereafter until the maturity of said bonds, to levy a tax sufficient for their final redemption as the same shall mature. [L. 1923, ch. 83, § 4; March 24.]

10-414. Township and school board, funding bonds. Laws 1919, chapter 96, sections 1 and 2 included by reference. [Authorizes boards of township trustees and boards of education to issue bonds upon petition of 51 per cent of taxpayers to refund outstanding floating indebtedness existing at time of passage of act.]

10-1002. Change of Boundary. No person or property hereafter attached by a change of boundary lines to any county or township wherein any bonds previously authorized by a vote of the electors of such county or township shall have been, previous to the change of boundary lines, legally issued, shall be subject to taxation for the payment of the principal or interest of such bonds. [L. 1873, ch. 142, § 2; March 20.]

10-1003. Property detached by such change. All real estate heretofore or hereafter detached by a change of boundary lines from any county or township wherein any bonds shall have been previous to such change of boundary lines, legally authorized and issued by a vote of electors of such county or township, shall be subject to taxation for the payment of such bonds and the interest thereon, in the same manner as though no such change of boundary lines had been made. [L. 1873, ch. 142, § 3; March 20.]

Bridge bonds; officers of old township to make levy. *Fender v. Neosho Falls Township*, 23 K. 306, 312.

Bridge bonds payable although no bridges constructed in detached territory. *Comm'r's of Marion Co. v. Comm'r's of Harvey County*, 28 K. 181.

Act attaches even though territory erected into new county. *The State, ex rel., v. Comm'r's of Kiowa Co.*, 41 K. 630.

Act not unconstitutional because of rate assessment. *The State, ex rel., v. Comm'r's of Kiowa Co.*, 41 K. 630, 635.

Detached territory retains no interest in public property of township. *City of Wellington v. Wellington Township*, 46 K. 218.

Act applies only where bonds have been issued. *City of Wellington v. Wellington Township*, 46 K. 218, 219.

10-1004. Taxes thereon. It shall be the duty of the county clerk of every county from which any real estate shall be detached, as soon as it shall be determined, to certify to the county clerk of any county to which any such real estate shall have been attached, the per centum of tax to be levied for the payment of any bonds or interest thereon issued, as in the last section

described, and such tax shall be levied and collected by such last-mentioned county from the real estate so attached thereto, the same as other taxes, and when collected shall be paid over to the county treasurer of the county to which such taxes belong. [L. 1873, ch. 142, § 4; March 20.]

Certificate stating debt, describing territory and giving rate sufficient. *Comm'rs of Marion Co. v. Comm'rs of Harvey Co.*, 26 K. 181.

Certificate containing items not charge against territory; no levy required. *Comm'rs of Hodgeman Co. v. Comm'rs of Garfield County*, 42 K. 409, 416.

20.—LEVY OF TAXES.

AN ACT to provide revenue for the fiscal years ending June 30, 1924, and June 30, 1925.

SECTION 1. That for the purpose of raising revenue to meet appropriations made by the legislature of the state of Kansas, including those made for all current expenses, there is hereby levied, and the proper officers shall apportion and collect, a tax upon all the property in the state of Kansas subject to taxation, in the following amounts: For the fiscal year ending June 30, 1924, not exceeding the sum of seven million two hundred thousand dollars; and for the fiscal year ending June 30, 1925, not exceeding the sum of six million five hundred thousand dollars. [L. 1923, ch. 238, § 1; March 20.]

AN ACT authorizing and directing tax levies for the purpose of providing funds to pay the principal and the semiannual interest on the bonds of the state of Kansas, known as the soldiers' compensation bonds.

SECTION 1. That for the purpose of providing funds with which to pay the principal as it matures and the semiannual interest upon bonds of the state of Kansas, known as the soldiers' compensation bonds, there is hereby levied, and the proper officers shall apportion and collect, a tax upon all the property in the state of Kansas subject to taxation, the following amounts and no more; for the fiscal year ending June 30, 1924, \$2,290,000; and, for the fiscal year ending June 30, 1925, \$2,057,500. [L. 1923, ch. 239, § 1; March 23.]

SEC. 2. The auditor of state is hereby authorized to credit the treasurer of state with the amounts specified in section 1 of this act, upon the surrender to him of the bonds paid and canceled and each coupon detached from any soldiers' compensation bond of the state of Kansas properly canceled. [L. 1923, ch. 239, § 2; March 23.]

73-164. Bond sinking fund. There is hereby levied upon all the taxable property of the state of Kansas an annual tax sufficient to pay the interest upon such bonds and the principal thereof as they may become due; and the proceeds of such taxes are hereby appropriated to the payment of such principal and interest. [L. 1923, ch. 200, § 3; Jan. 19.]

73-169. Levy for sinking fund. There is hereby levied upon all the taxable property of the state of Kansas an annual tax sufficient to pay the interest upon such bonds and the principal thereof as they may become due; and the proceeds of such taxes are hereby appropriated to the payment of such principal and interest. [L. 1923 (Special Session), ch. 6, § 4; Aug. 15.]

73-186L. City and school levies. The governing body of any city, the trustees of any municipal township, the board of education of any city, and the school-district boards in the county, are hereby required to cause to be certified to the county clerk the percentage by them levied on the real and

personal property in such corporation, as returned on the assessment roll of the county; and the county clerk is hereby authorized and required to place the same upon the tax roll of the county, in the manner prescribed by section eighty-four of this act; and the said tax shall be collected by the county treasurer as other taxes, and when collected shall be paid into the treasury of any city, the treasurer of any municipal township, the treasurer of the board of education of any city, or the treasurers of the school-district boards of the various school districts in the county; and all levies required by law to be certified to the county clerk shall be so certified on or before the twenty-fifth day of August annually. [L. 1876, ch. 34, § 82; March 11.]

NOTE.—For "section 84 of this act" referred to, see § 79-1803.

School-district taxes paid under protest; action not maintainable against commissioners. *Comm'rs of Pawnee Co. v. Atchison, T. & S. F. Rld. Co.*, 21 K. 748, 749.

Cities have no power to levy taxes except by ordinance. *Sloan v. Beebe*, 24 K. 343, 349.

Assessment by city for sidewalks; certified to county clerk; authorized. *Doty v. Maddux*, 82 K. 416, 418.

Tax need not be certified unless there is necessity therefor. *The State, ex rel., v. Lander*, 87 K. 474, 476.

Situs of annexed territory for taxation; duty of county clerk. *Board of Education v. Barrett*, 101 K. 563, 569.

79-1802. Levies by county commissioners. The county commissioners shall meet on the first Monday of August in each year, and shall estimate and determine the amount of money to be raised by tax for all county purposes, and all other taxes which they shall be required by law to levy. [L. 1876, ch. 34, § 83; March 11.]

Levy cannot be made outside the state; collection enjoined. *Comm'rs of Marion Co. v. Barker*, 25 K. 258, 260.

Valid levy of tax to purchase poor farm. *The State, ex rel., v. Comm'rs of Pratt Co.*, 42 K. 641, 648.

Limitation to issuance of county warrants; tax levy fixes limit. *Bank v. Reilly*, 97 K. 817, 824.

When mandamus to compel tax levy must be instituted. *School District v. Stanton County*, 99 K. 763.

Mandamus to compel tax levy; service on clerk valid. *Commissioners v. Sellev*, 99 U. S. 624, 625.

Vacancy in office township trustee; commissioners' duty to make levy. *Cherokee County Commissioners v. Wilson*, 109 U. S. 621.

79-1803. Entry of valuations and levies by clerk. As soon as the tax commission shall report the action of the state board of equalization to the county clerk it shall be the duty of the county clerk to compute the percentage of increase or decrease in valuations authorized by said board, but in the extension of valuations the county clerk shall reject all such amounts as may fall below two dollars and fifty cents, and all amounts of two dollars and fifty cents or more shall be extended as the next higher five dollars or multiple thereof, thus making all valuations end in cipher or five. After all levies required by law to be certified to the county clerk shall have been so certified, it shall be his duty to proceed to determine the sums to be levied upon each tract or lot of real property, in the name of the owner, if known, and upon the amount of personal property in the name of each person, company or corporation, which shall be assessed equally upon all real and personal property subject to the same tax, and set down all taxes in one column, school-district and road taxes excepted. He shall complete the same, and attach his certificate thereto, and deliver it to the county treasurer on or before the first day of November, and shall charge the treasurer with the amount of the respective taxes assessed on the tax roll. For every day after the first day of November that the county clerk shall retain such tax roll in his possession the county board

shall deduct from his pay five dollars. [L. 1876, ch. 34, § 84; L. 1909, ch. 244, § 1; March 8.]

Annotation to L. 1876, ch. 34, § 84:

Effect of erroneous calculation by county clerk. *Glenn v. Stewart*, 78 K. 605, 606.
 Excessive valuation; application to reduce valuation too late. *Benn v. Slaymaker*, 98 K. 64, 67.
 Situs of annexed territory for taxation; duty of county clerk. *Board of Education v. Barrett*, 101 K. 568, 570.

79-1804. Time when taxes become due; lien upon real property. All taxes shall be due on the first day of November of each year. A lien for all taxes shall attach to the real property subject to the same on the first day of November in the year in which such tax is levied, and such lien shall continue until such taxes and penalty, charges and interest which may have accrued thereon, shall be paid by the owner of the property or other person liable to pay the same. [L. 1876, ch. 34, § 85; March 11.]

Tax deed not invalid because taxes for previous years included. *Walker v. Douglass*, 2 K. A. 708, 709.
 Homestead not exempt from lien for taxes. *Canins v. Finnup*, 5 K. A. 798, 799.
 Void tax deed; ejectment; lien for taxes proper. *Fairbanks v. Williams*, 24 K. 16, 18; *Russell v. Hudson*, 28 K. 99, 101.
 Change of county lines; tax deed held valid. *Board of Regents v. Linacott*, 30 K. 240, 261.
 Sidewalk tax no lien upon premises until due and payable. *Tull v. Royston*, 30 K. 617, 618.
 Taxes paid by mortgagee after last day; foreclosure proper. *Ellwood v. Wolcott*, 33 K. 526, 528.
 Sewer tax not a lien upon premises until tax is due. *Gilmore, County Clerk, v. Hentig*, 33 K. 156, 172.
 Time when lien attaches to property, considered. *Ritchie v. Mulvane*, 39 K. 241, 251, 253.
 Rights of grantee of purchaser at sheriff's sale, taxes unpaid. *Gibson v. Gilman*, 71 K. 320, 323.
 Lien not destroyed by tender and refusal of valid taxes. *Schiffer v. Douglass*, 74 K. 231, 233.
 Purchaser of void tax deed may have lien for taxes. *Doty v. Maddux*, 82 K. 416, 419.
 Warranty against incumbrance; when lien for special assessments attached. *Armstrong v. Trust Co.*, 96 K. 722, 723, 725.
 When mandamus to compel tax levy must be instituted. *School District v. Stanton County*, 99 K. 763.

79-1805. Payment of tax as between grantor and grantee. As between grantor and grantee of any land, where there is no express agreement as to which shall pay the taxes that may be assessed thereon, if such land is conveyed on or after the first day of March and before the first day of November, then the grantee shall pay the same; if conveyed on or after the first day of November and before the first day of the next ensuing March, then the grantor shall pay them. [Revised, 1923; old section, L. 1876, ch. 34, § 86.]

Annotations to L. 1876, ch. 34, § 86:

Section not applicable to sales by sheriff at judicial sale. *Gibson v. Gilman*, 71 K. 320, 323.
 Two deeds given; land held conveyed by first deed; taxes. *Bigger v. Underwood*, 88 K. 225, 230.
 Warranty against incumbrance; when lien for special assessments attached. *Armstrong v. Trust Co.*, 96 K. 722, 723, 725.
 Grantee takes possession in September; final payment following March; taxes. *Gauk v. Hurd*, 103 K. 61, 62.

79-1806. Certification by clerk of levies to tax commission. The county clerk shall, on or before the 15th day of November in each year, transmit to the tax commission, on forms to be prepared and supplied by the commission, a statement showing the total amount of taxes levied in his county for all purposes in such year, and the rate per cent; and the tax commission shall include the same in its report to the governor and the legislature. [L. 1876, ch. 34, § 87; L. 1909, ch. 243, § 11; March 5.]

21.—EMERGENCY LEVIES.

79-1937. Election for increased levy. If any board of levy, or any officer that is charged with the duty of levying tax in any taxing district, shall be of the opinion that the amount of tax limited by this act will be insufficient for the needs of such taxing district for the current year, the question of an increased levy may be submitted to the voters of such taxing district at a general election or at a special election called for the purpose in the manner provided by law for calling special elections in such taxing district: *Provided*, That under the provisions of this section a vote may be had upon the question of an increased levy at the annual meeting of any school district. If any such question of increasing the levy shall be submitted at any election or meeting as above set forth, due notice thereof shall be given for at least thirty days in advance of such election or meeting by publication in the official county paper for all taxing districts, except school districts, but in school districts by posting a notice in the manner provided by law for other elections or meetings; said notice shall also give the proposed increase in the levy. If three-fourths of the votes cast at any such election shall be in favor of the increased levy, as named in said election notice, then the officers charged with levying taxes may make such increased levy for the year voted upon, and thereafter the limitation of this act shall apply, unless an increased levy for a particular year shall be voted at another election in like manner. [L. 1909, ch. 245, § 27; March 11.]

Section considered in connection with levy for county high schools. Board of Education v. Allen County, 82 K. 782, 784.
This section was not repealed by L. 1911, ch. 271. School District v. Coughlin, 88 K. 1, 3.

79-1940. Emergency warrants for current expenses where rates of levies insufficient. That whenever it shall be apparent to a majority of the members of any board authorized to levy taxes in any taxing district or of any officer solely charged with that duty therein that the rates of levy in the particular taxing district under consideration are so limited as to be insufficient for the raising of funds necessary to supply the needs of said taxing district for general maintenance expenses for the current tax year, such officers or officer shall have the authority to issue warrants to meet such general maintenance expenses for the current tax year to the amount of money not exceeding twenty-five per cent of the amount of money which can be raised in such taxing district by using the rates limited by law: *Provided*, That no such authority to issue warrants shall be exercised until an application for such exercise shall be made to the tax commission, which body, if the evidence submitted in support of the application shall show an emergency need for the issue of warrants for the said additional amount hereby authorized or any part thereof, is hereby empowered to order the issuance of such warrants as may be shown to be necessary: *And provided further*, That at no time shall the issuance of such warrants authorized by the tax commission in any such taxing district exceed in amount twenty-five per cent of the amount of money that can be raised by taxation in any such district for the current tax year under the existing rates. [L. 1919, ch. 310, § 1; March 29.]

79-1941. Levy to pay such warrants. That whenever any board or officer shall issue warrants under the authority prescribed in section 1 of this act, the said board or officer is authorized and empowered to fix rates of levy in such

district which will raise an amount of money sufficient to pay and discharge such warrants. Such rate of levy shall be in addition to the rate authorized by law at the time of making such levy: *Provided*, That the amount of such warrants shall not exceed by more than twenty-five per cent the amount of money that could be raised by taxation in any such district for the year in which the indebtedness represented by the warrants was incurred. [L. 1919, ch. 310, § 2; March 29.]

79-1942. Emergency levy for current expenses. Whenever it shall be the opinion of the majority of the members of any board authorized to levy taxes in any taxing district or of any officer solely charged with that duty therein that the rates of levy in the particular taxing district under consideration are so limited as to be insufficient for the raising of the funds necessary to supply the needs of said taxing district for general or maintenance expenses for the current tax year such levying officers or officer shall have authority to fix rates of levy in such district which will raise an amount of money for such taxing district exceeding by twenty-five per cent the amount of money which can be raised in such taxing district for the current tax year by using the rates limited by law: *Provided*, That no such authority shall be exercised until an application for its exercise shall be made to the tax commission, which body, if the evidence submitted in support of the application shall show an emergency need for the said additional amount hereby authorized or any part thereof, is hereby empowered to order such increase as may have been shown to be necessary: *And provided further*, That at no time shall any increase authorized by the tax commission in any such taxing district exceed by more than twenty-five per cent the amount of money that can be raised by taxation in any such district for the current tax year. [L. 1919, ch. 311, § 1; April 12.]

79-1935. Limit on specific levies authorized by statute in taxing district. All levies authorized in any taxing district by statute, and which are not expressly limited herein, are hereby limited so that no such levy shall be made in excess of twenty-five per cent of the rates so authorized. [L. 1909, ch. 245, § 25; March 11.]

79-1936. Application of limitations to sinking fund levies or road levies. No limitation imposed by this act shall in any wise apply to or in any way limit any levy which is authorized by statute for the purpose of creating sinking and interest funds necessary to liquidate at maturity the principal and interest of any indebtedness authorized by law; nor shall any provision of this act apply to or in any way limit special taxes levied by ordinance in any city. And nothing in this act shall be construed to limit the levy provided by any special act heretofore passed for the construction of roads, and under which any county is now operating. [L. 1909, ch. 245, § 26; March 11.]

79-1938. Levy in excess of limitations; levies under special acts for bridges and roads. Any levy which may be certified to the county clerk in excess of the limitations placed by this act shall be unlawful, and in any such case it shall be unlawful for the county clerk of any county within the state to enter upon the tax roll of the county any such excessive levy; and in case of any such excess in any levy it is hereby made the duty of the county clerk and he is hereby required to reduce such levy and to extend upon the tax roll only such a part thereof as will comply with the provisions of this act: *Pro-*

vided, That nothing in this act contained shall be construed to limit or restrict the board of county commissioners, now building or constructing bridges and roads in any county under any special act, from making a levy in accordance with the terms and conditions of such special act. [L. 1909, ch. 245, § 28; March 11.]

79-1939. Penalty for violation of act by officer. Any officer of any taxing district or any county clerk who shall violate any provision of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred dollars nor more than five hundred dollars, and shall also be subject to removal from office by a civil action. [L. 1909, ch. 245, § 29; March 11.]

22.—LIMITATION OF TAX LEVIES. COUNTIES.

79-1901. Limitation on levy for current expenses of county. The power of the board of county commissioners of each of the several counties to fix rates of levy annually by means of which to create a fund out of which to meet and defray the current expenses of the county is hereby limited as follows. [L. 1909, ch. 245, § 1; March 11.]

Court may take judicial notice of tax levy in county. *School District v. Wilson County*, 82 K. 808, 809.

79-1902. Limit in county having valuation not in excess of ten million dollars. In any county which has an assessed valuation, for the current tax year, of five million dollars or less, the levy shall not exceed three and one-half mills on the dollar of such valuation. In any county which has an assessed valuation, for the current tax year, of more than five million dollars, and not in excess of ten million dollars, the levy shall not exceed two and one-half mills on the dollar of such valuation. [L. 1909, ch. 245, § 2; L. 1913, ch. 329, § 1; L. 1915, ch. 362, § 1; May 22.]

79-1903. Limit in county having valuation not in excess of thirty million dollars. In any county which has an assessed valuation for the current tax year of more than ten million dollars and not in excess of eleven million dollars the levy shall not exceed two and one-fourth mills on the dollar of such valuation. In any county which has an assessed valuation in any amount in excess of eleven million dollars, up to and including thirty million dollars, the maximum levy shall be determined by reducing the levy two and one-fourth mills allowed upon a valuation of eleven million dollars, four-hundredths of one mill for each one million dollars in excess of eleven million dollars, and any rate of levy so determined shall be the maximum rate of levy for all assessed valuations which are fractions of the next higher one million dollars of valuation. [L. 1909, ch. 245, § 3; March 11.]

79-1904. Limit in county having valuation not in excess of forty million dollars. In any county which has an assessed valuation for the current tax year of more than thirty million dollars and not in excess of thirty-one million dollars the levy shall not exceed one and forty-six-hundredths mills. In any county which has an assessed valuation in any amount in excess of thirty-one million dollars, up to and including forty million dollars, the maximum levy

shall be determined by reducing the levy of one and forty-six-hundredths mills allowed upon a valuation of thirty-one million dollars, three-hundredths of one mill for each one million dollars in excess of thirty-one million dollars, and any rate of levy so determined shall be the maximum rate of levy for all assessed valuations which are fractions of the next higher one million dollars of valuation. [L. 1909, ch. 245, § 4; March 11.]

Section construed; valuation \$39,990,991; rate of levy 1.22 mills. *Railway Co. v. Marion County*, 98 K. 800, 802.
Ch. 68, L. 1911, authorized levy in addition to amount herein prescribed. *Railway Co. v. Cloud County*, 104 K. 324, 326.

79-1905. Limit in county having valuation not in excess of fifty million dollars. In any county which has an assessed valuation for the current tax year of more than forty million dollars and not in excess of forty-one million dollars the levy shall not exceed one and twenty-hundredths mills. In any county which has an assessed valuation in any amount in excess of forty-one million dollars, up to and including fifty million dollars, the maximum levy shall be determined by reducing the levy of one and twenty-hundredths mills allowed upon a valuation of forty-one million dollars one one-hundredth of one mill for each one million dollars in excess of forty-one million dollars, and any rate of levy so determined shall be the maximum rate of levy for all assessed valuations which are fractions of the next higher one million dollars of valuation. [L. 1909, ch. 245, § 5; March 11.]

Limit hereunder not applicable to road levy under L. 1911, ch. 249, sec. 33. *The State, et al., v. Cowley County*, 86 K. 301, 302.

79-1906. Limit in county having valuation not in excess of sixty million dollars. In any county which has an assessed valuation for the current tax year of more than fifty million dollars and not in excess of fifty-one million dollars the levy shall not exceed one and twenty-hundredths mills. In any county which has an assessed valuation in any amount in excess of fifty-one million dollars up to and including sixty million dollars, the maximum levy shall be determined by reducing the levy of one and twenty-hundredths mills allowed upon a valuation of fifty-one million dollars one one-hundredths of one mill for each one million dollars in excess of fifty-one million dollars, and any rate of levy so determined shall be the maximum rate of levy for all assessed valuations which are fractions of the next higher one million dollars of valuation. [L. 1909, ch. 245, § 6; March 11.]

79-1907. Limit in county having valuation not in excess of seventy million dollars. In any county which has an assessed valuation for the current tax year of more than sixty million dollars and not in excess of sixty-one million dollars the levy shall not exceed one and twenty-hundredths mills. In any county which has an assessed valuation in any amount in excess of sixty-one million dollars, up to and including seventy million dollars, the maximum levy shall be determined by reducing the levy of one and twenty-hundredths mills allowed upon a valuation of sixty-one million dollars one one-hundredths of one mill for each one million dollars in excess of sixty-one million dollars, and any rate of levy so determined shall be the maximum rate of levy for all assessed valuations which are fractions of the next higher one million dollars of valuation. [L. 1909, ch. 245, § 7; March 11.]

79-1908. Limit in county having valuation not in excess of eighty million dollars. In any county which has an assessed valuation for the current tax

year of more than sixty million dollars and not in excess of seventy-one million dollars the levy shall not exceed one and thirty-hundredths mills. In any county which has an assessed valuation in any amount in excess of seventy-one million dollars, up to and including eighty million dollars, the maximum levy shall be determined by reducing the levy of one and thirty-hundredths mills allowed upon a valuation of seventy-one million dollars one one-hundredth of one mill for each one million dollars in excess of seventy-one million dollars, and any rate of levy so determined shall be the maximum rate of levy for all assessed valuations which are fractions of the next higher one million dollars of valuation. [L. 1909, ch. 245, § 8; March 11.]

79-1909. Limit in county having valuation not in excess of ninety million dollars. In any county which has an assessed valuation for the current tax year of more than eighty million dollars and not in excess of eighty-one million dollars the levy shall not exceed one and thirty-hundredths mills. In any county which has an assessed valuation in any amount in excess of eighty-one million dollars, up to and including ninety million dollars, the maximum levy shall be determined by reducing the levy of one and thirty-hundredths mills allowed upon a valuation of eighty-one million dollars one one-hundredth of one mill for each one million dollars in excess of eighty-one million dollars, and any rate of levy so determined shall be the maximum rate of levy for all assessed valuations which are fractions of the next higher one million dollars of valuation. [L. 1909, ch. 245, § 9; March 11.]

79-1910. Limit in county having valuation not in excess of one hundred million dollars. In any county which has an assessed valuation for the current tax year of more than ninety million dollars and not in excess of ninety-one million dollars the levy shall not exceed one and thirty-hundredths mills. In any county which has an assessed valuation in any amount in excess of ninety-one million dollars, up to and including one hundred million dollars, the maximum levy shall be determined by reducing the levy of one and thirty-hundredths mills allowed upon a valuation of ninety-one million dollars one one-hundredth of one mill for each one million dollars in excess of ninety-one million dollars, and any rate of levy so determined shall be the maximum rate of levy for all assessed valuations which are fractions of the next higher one million dollars of valuation. [L. 1909, ch. 245, § 10; March 11.]

79-1911. Limit in county having valuation in excess of one hundred million dollars. In any county which has an assessed valuation for the current tax year in excess of one hundred million dollars the levy shall not exceed one and six-tenths mills: *Provided*, That in counties having a population of 35,000 or more the limitation of this chapter shall not prevent raising an amount for current expenses of the county equal to what might have been lawfully raised upon the assessed valuation for the year 1907. [L. 1909, ch. 245, § 11; March 11.]

79-1920. Levy for drilling of artesian well. That in addition to the taxes authorized to be levied by the county commissioners for current expense, the county commissioners, in counties that have undertaken to accept the provisions of chapter 97, Laws of 1909, are hereby authorized to make a levy of taxes on all taxable property of the county, at the regular time for levying taxes, of such an amount as may be necessary to pay for the drilling of such artesian well provided and authorized in chapter 97, Laws of 1909. Prior to

the levying of such taxes, and in the same year, the county commissioners are authorized to issue warrants against the artesian well fund for which the levy will afterwards be made. [L. 1911, ch. 322, § 1; March 18.]

NOTE.—For L. 1909, ch. 97 referred to, see chapter 42, on "Irrigation," §§ 42-505, 42-506.

79-1921. Levy in counties having population in excess of forty thousand for paying floating indebtedness. The board of county commissioners in each of the several counties of the state of Kansas, having a population in excess of forty thousand and less than seventy thousand are hereby authorized to levy annually upon all the taxable property in their respective counties a tax of not more than one and one-half mills on the dollar for the purpose of paying the legal floating indebtedness existing in such counties at the time of the passage of this act. [L. 1911, ch. 321, § 1; May 22.]

79-1922. Collection of such levy; use of funds. The levy hereby authorized shall be in addition to and independent of any tax levy now authorized by law and shall be levied and collected at the same time and in the same manner as the levies for the general fund now provided by law and when collected shall be applied only to the payment of floating indebtedness of the county levying and collecting such tax, existing at the time of the passage of this act. [L. 1911, ch. 321, § 2; May 22.]

18-211. Levy to pay debts. In order to fully carry out the provisions of section 9 of this act, it is hereby made the duty of the board of county commissioners of the county to which said territory formerly belonged, when they shall have levied a tax upon the property of their county (which tax must be uniform throughout their county), for the purpose of raising funds to pay off, in whole or in part, either principal or interest, any indebtedness existing against said county at the time of such change and detachment, to cause the clerk of their board to certify, under the seal of their board, a statement of the amount of such levy, and transmit the same to the clerk of the board of county commissioners of the county to which said territory has become attached; and it shall be the duty of such clerk at the time he receives such statement, to levy a tax to the amount therein stated, upon the taxable property included within the limits of such detached territory, according to the last assessed value thereof; and it shall be the duty of such clerk at the time he completes the tax list, as required by law, to carry out said tax against such taxable property, including such detached territory, in a column by itself, and the same shall be delivered and charged to the treasurer, collected and treated in all other respects in the same manner as now or hereafter to be provided by law for the collection of other county taxes; and it shall be the duty of said treasurer to pay the same over, from time to time, as the same is collected, to the county treasurer of the county to which the same belongs, taking his receipt therefor, which receipt shall be his voucher on settlement therefor: *Provided, However,* The said treasurer shall retain therefrom the sum of five per centum on said amount so collected, which shall be placed by him in the county treasury of his county, as the absolute and unconditioned property of said county as a full compensation to said county for trouble and expenses incurred in the collection of said tax; and it shall be the duty of the board of county commissioners of the county to which said territory is attached, at the time or times they levy any tax in their county for the purpose of raising any funds to pay, in whole or in part, either principal or interest, any indebtedness existing

against said county at the time of such change and attachment, to exempt from such levy and tax the property included within the limits of such attached territory. [L. 1872, ch. 96, § 10; Feb. 29.]

19-108. Levy to pay judgment; execution. When a judgment shall be rendered against the board of county commissioners of any county, or against any county officer, in an action prosecuted by or against him, in his name of office, where the same should be paid by the county, no execution shall issue upon said judgment, but the same shall be levied and collected by tax, as other county charges, and when so collected shall be paid by the county treasurer to the person to whom the same shall be adjudged, upon the delivery of a proper voucher therefor. [G. S. 1868, ch. 25, § 8; Oct. 31.]

No execution can issue upon judgment rendered against county. *Ware v. Pleasant Grove Township*, 9 K. A. 700, 702.
Mandamus lies to compel levy for payment of judgment. *Investment Co. v. Wyandotte County*, 86 K. 708, 711.

19-236. Extraordinary expense in emergencies. That in addition to the powers already given by law, the board of county commissioners of each county shall have power at any meeting, in case of great loss or damage to life or property, to assist in burying the dead, caring for the wounded, rendering temporary aid to the distressed, preventing disease and pestilence, and cleaning up debris, and to issue warrants of the county therefor not exceeding one per cent of the taxable property of the county, and to levy a tax to pay such warrants. [L. 1903 (Special Session), ch. 43, § 1; July 11.]

19-241. Levies to defray county charges and for delinquent taxes; warrants in excess of levies. It shall be the duty of the board of county commissioners of each county in this state to levy in each year, in addition to the taxes for other purposes, a county tax sufficient to defray all county charges and expenses incurred during such year, and twenty per centum in addition to make up for delinquent taxes of the same year; and it shall be unlawful for any board of county commissioners or county clerk to issue county warrants or orders in any one year to a greater amount than the amount of the county tax levied in the same year to defray county charges and expenses, less the amount levied for delinquencies. [G. S. 1868, p. 295, § 1.]

"County charges and expenses" in section construed. *The State, ex rel., v. Comm'r of Marion Co.*, 21 K. 534, 546.
The word "year" construed to mean fiscal year. *Bank v. Reilly*, 97 K. 817, 824.

19-516. Statement of tax of person so requesting. That it shall be the duty of county treasurers, upon request, to furnish and deliver by mail or personally, a written statement of personal property tax and of the real property tax of the person requesting: *Provided, however,* That such request be made in writing stating the city or township in which said personal property is assessed and a correct description of the real estate assessed. [L. 1915, ch. 174, § 1; May 22.]

19-517. Fee for notifying person of amount of taxes or for accepting payment through the mail. That it shall be unlawful for any county treasurer to make, demand or retain any fee for notifying any person or his agent of the amount of his personal or real property tax, and it shall be unlawful for any county treasurer to demand or retain any fee for accepting payment through the mail of any personal or real property tax of any person. [L. 1915, ch. 174, § 2; May 22.]

19-518. Cancellation of tax receipt where check not paid. That where any draft or check remitted to any county treasurer shall not be paid on presentation, of any tax receipt issued to any such person shall be forthwith canceled by the county treasurer on his books, noting on his records that such receipt is canceled for nonpayment of the check or draft sent in payment thereof. [L. 1915, ch. 174, § 3; May 27.]

Nonpayment of draft received for taxes cancels tax receipt. *Skinner v. Mitchell*, 108 K. 861, 869.

19-539. Disposition of such surplus funds. If in any county any greater amount of state taxes or any money for any other fund has been collected than is required for the purpose for which it was levied, the surplus of all such taxes and money shall belong to the county, township or municipality from which it was collected, the same as if it had been levied and collected for general purposes; and it shall be the duty of the county treasurer, in case such surplus funds were collected from the county at large, to transfer the same to the general fund of the county, and if from one or more townships or municipalities, to the general funds of such townships or municipalities in proportion to the amount collected from each. [L. 1886, ch. 29, § 1; Feb. 26.]

19-1503. Levy for construction or repair. The board of county commissioners of any county may determine, in their discretion, when the erection of any permanent building or buildings, for the use of the county is necessary, and they shall also determine the cost of the erection thereof, and the same shall be entered on the journal, but no tax shall be levied, bonds issued or other obligations incurred on account of the erection of such building or buildings until after the question has been submitted to the electors of said county at some general election or at a special election held for that purpose. When, however, the assessed valuation of the property in any county shall be in excess of six million dollars, and said county shall have in its treasury a sum not less than twenty-five thousand dollars belonging to said county, over and above its indebtedness, and the county commissioners are petitioned therefor by one-fourth of the *bona fide* resident taxpayers of said county, they shall, without submitting the question to the electors of such county, levy an annual tax for the purpose of building or repairing any county building at the county seat of any county, said tax not to exceed two mills on the dollar upon the taxable property subject to taxation in said county in any one year, and said tax shall not be levied for a longer period than five years, and the county commissioners are further authorized and empowered to use any surplus funds that may be in the treasury belonging to said county in payment for the erection or repairing of said building. [Revised, 1923; old sections, G. S. 1863, ch. 25, § 18; L. 1907, ch. 141, § 1; L. 1909, ch. 99, § 1.]

Section is constitutional. *The State v. Butler Co.*, 77 K. 537.

Section not applicable to bonds for high-school building. *Greeley County v. Davis*, 99 K. 1.

Commissioners cannot provide for permanent buildings without popular vote. *Conest. Co. v. Sedgwick County*, 100 K. 294, 297.

19-1565. Conduct of election; erection of building; issue of bonds or making of levy. At the time specified by such board of county commissioners aforesaid, the votes of the electors of such county shall be taken in the several voting precincts in the manner following: The ballots shall be printed and supplied to the voters as provided in the general election laws governing

the election of county officers, and such election shall be governed, results ascertained, returns made and canvassed in accordance with the general election laws of the state as near as may be. On each ballot shall be printed "county building proposition." On each of said ballots there shall also be printed in brier lower-case type the following: "Shall the county erect a _____?" (Here insert the name of building or buildings to be erected.) Opposite and after said proposition so printed on said ballots shall be printed two squares, one above the other; preceding the upper one of said squares shall be printed the word "yes," and preceding the lower one of said squares shall be printed the word "no." Immediately above such proposition and across the entire width of said ballots shall be printed in pica type the following: "To vote in favor of the erection of _____" (here insert the building or buildings to be erected), "make an X in the square after the word 'yes'; and to vote against the erection of said building or buildings make an X in the square after the word 'no.'" Upon each of said ballots shall also be printed in brier lower-case type the following: "Shall the funds required for the erection of said improvement be raised by the issuance of bonds or by levying a special tax?" Opposite and after said proposition so printed on said ballots shall be printed two squares, one above the other; preceding the upper one of said squares shall be printed the word "bonds," and preceding the lower one of said squares shall be printed the word "tax"; across the entire width of said ballot and immediately above the question as aforesaid, in pica type, shall be printed instructions as follows: "To vote in favor of raising the money to pay for the improvements above mentioned by the issuance of bonds, make an X in the square after the word 'bonds'; to vote in favor of raising the money by a special tax, make an X in the square after the word 'tax.'" If at such election a majority of those voting on the first question shall be in favor of the erection of such building or buildings, then it shall be the duty of the board of county commissioners to at once proceed to erect the same and make payment for the same as hereinafter provided. If at such election a majority of those voting on the second proposition shall be in favor of the issuance of bonds to provide for the raising of the moneys to pay for the erection of such building or buildings, then the board of county commissioners shall be and they are hereby authorized, empowered and directed to issue the bonds of said county in a sum not exceeding the amount determined by them as the cost of said building or buildings as hereinbefore provided; *which said bonds shall be issued as provided by law.** But if a majority of the votes cast on said second proposition shall be in favor of the tax, then said board of county commissioners are hereby authorized, empowered and directed to pay for the erection of such building or buildings by the levy of a special tax for that purpose on all the taxable property in said county as provided by law; but they shall not levy in any one year less than one-fifth of the total cost of the erection of such building or buildings, as the same has been determined by them, and no levy for said purpose shall exceed in any one year the sum of five mills on the dollar. The moneys arising from such tax levy shall be paid into the county treasury and kept separately, in a fund to be designated as "county building fund," and said fund shall not be used for any purpose what-

* In original section before revision, the words in italic read as follows: "said bonds to run for a period of not more than twenty years from the date thereof, and to bear a rate of interest not to exceed five per cent per annum, payable semiannually."

ever except for the purpose of defraying the expenses of erecting such building or buildings. On the back of each ballot to be used at such general or special election shall be printed, in addition to the indorsements required at other general county and city elections, the words "question submitted." If the question be submitted at a general election, a special ballot-box shall be provided at each voting-place for the reception of such ballots. The board of county commissioners are hereby authorized and empowered to anticipate the moneys arising from said tax by drawing warrants on the fund aforesaid, which warrants shall designate on their face the particular fund whereon they are drawn, shall bear interest at a rate not to exceed six † per cent per annum, and shall not be due until money is accumulated in said fund for the payment thereof. They shall be numbered consecutively in the order in which they are issued, and it shall be the duty of the county clerk, whenever five hundred or more dollars shall accumulate in said fund, to make a call for said warrants, as provided by law, in the order in which they are issued; and if the warrants so called shall not be presented for payment within thirty days from the date of said call, then interest on such warrants shall cease and determine (terminate). But it shall not be compulsory upon said board of county commissioners to let any contract for the erection of such building until at least fifty per cent of the amount authorized to be raised by taxation has been levied and collected. [Revised, 1923; old sections, G. S. 1868, ch. 25, § 20; L. 1907, ch. 141, § 3.]

19-1507. *Levy therefor.* The said board of county commissioners are hereby authorized to levy an annual tax upon all the taxable property subject to taxation in said county to pay for a site and the erection, equipment, and furnishing of either or both building or buildings; but not more than one and one-half mills upon the dollar of assessed valuation shall be levied in any one calendar year. The first levy shall be made at the first annual assessment of taxes after the presentation of said petition, at the time taxes are levied for other purposes, and a levy shall be made each year thereafter until the amount required to purchase the site and to erect, equip, and furnish said building or buildings shall be provided. The taxes levied under this act shall be kept in a separate fund, to be known and designated as the "county building fund." [L. 1917, ch. 139, § 2; March 7.]

19-1515. *Levy therefor.* That when the said board of county commissioners desire to build, remodel or repair the buildings on such county farm, they may levy a tax and use the money arising therefrom in building new buildings, or in improving, remodeling, or repairing the buildings now thereon: *Provided*, That the tax so levied shall not exceed one-half mill on each dollar of the assessed valuation of such county. [L. 1923, ch. 117, § 2; March 20.]

19-1519. *Tax for jail.* Laws 1917, chapter 140, included by reference. [Provides tax levy in counties 10,000 to 65,000 population to construct a jail or jail and sheriff's residence combined in counties having no jail or where, in the judgment of the judge of the district court, the jail in existence is unfit for use. Act omitted because of restricted application.]

19-1521. *Courthouse and jail unsafe; replacement.* Laws 1919, chapter 167, included by reference. [Relates to construction of courthouse and jail

† Original section before revision read "five" per cent.

after examination and condemnation of existing buildings by state fire marshal and secretary board of health in counties with tax valuation 45 to 55 million. Omitted because of restricted application.]

19-1522. **Additional tax levy.** Laws 1921, chapter 158, included by reference. [Authorizes additional tax levy to carry out purposes of Laws 1919, chapter 167. Omitted because of restricted application.]

19-1523. **Furniture and fixtures for county buildings.** Laws 1921, chapter 162, included by reference. [Authorizes tax levy for purchase of furniture and fixtures for courthouse and jail constructed under provisions of Laws 1919, chapter 167. Omitted because of restricted application.]

19-1524. **Tax levy for county buildings.** Laws 1920, chapter 26, included by reference. [Limit of tax levy, for erecting and repairing county buildings, for ten years, applying to counties having a tax valuation, in 1919, of 18 to 22 million dollars. Omitted because of restricted application.]

19-1526. **Additional levy for courthouse.** Laws 1921, chapter 160, included by reference. [Authorizes increased levy for building and equipping courthouse in counties under 16,000 population. Omitted because of restricted application.]

19-1701. **Officers of board; powers; meetings; regulations; levies.** That the board of county commissioners of any county shall have the power to establish and maintain a county free public library, or to contract for the use of a public library already established, for the use of the inhabitants of said county, and for such purposes may levy a tax of not more than one-half mill on the dollar annually, to be levied and collected in the same manner as other taxes in said county and to be known as the county library fund: *Provided*, That before establishing such county free public library, or upon the written petition of 10 per cent of the taxpayers of said county, the board of county commissioners at the next general election, shall submit to the voters of the county resident in cities or townships not already maintaining a public library by public tax the proposition to establish and maintain a county free public library; and if a majority of the voters voting thereon shall authorize the establishment and maintenance of such county library, the board of county commissioners shall proceed to establish a county free public library as prescribed in this act and to levy annually thereafter a county library tax as specified in this act: *Provided further*, That when any board of county commissioners makes a levy for a county library, it shall omit from such levy all property within the limits of any city or township in such county which already maintains a library, unless such city or township by formal action of its library board and its mayor and council or mayor and commissioners, shall have given notice that it desires to participate in the county library and to pay the same county library tax as other parts of the county pay. [L. 1921, ch. 152, § 1.]

19-1801. **Establishment.** Any county having less than 40,000 inhabitants may establish a county hospital in the following manner: Whenever the board of commissioners of any county shall be presented with a petition signed by 25 per cent of the resident freeholders of such county, 10 per cent of whom shall not be residents of the city, town or village where it is proposed to locate such

public hospital, asking that a tax may be levied for the establishment and maintenance of a public hospital at a place in the county named therein, and shall specify in the petition the maximum amount of money proposed to be expended in purchasing or building said hospital, such board of commissioners shall submit the question to the qualified electors of the county at the next general election to be held in the county, or if no general election shall be held within six months from the date of the presentation of said petition, then at a special election called for that purpose, if requested in the petitions, which tax shall not exceed two (2) mills on the dollar for any one year and be for the purchase of a site or sites and the erection thereon of a public hospital or hospital buildings, and for the support of the same; which said election shall be held at the usual places in such county for electing county officers, the vote to be canvassed in the same manner as that for county officers. [L. 1913, ch. 202, § 1; L. 1919, ch. 158, § 1; March 20.]

Cited in matter of special election under constitution, article 4. *The State, ex rel., v. Deak*, 106 K. 518, 523.

19-1809. Levy for hospital fund. In counties exercising the rights conferred by this act, the board of county commissioners is hereby authorized to levy a tax each year in addition to tax for hospital fund hereinbefore provided for not to exceed one-half mill on the dollar, on all the taxable property of said county for the improvement and maintenance of any public hospital so established, such tax to be levied and collected as other taxes. [L. 1913, ch. 202, § 9; L. 1921, ch. 156, § 1.]

19-2404. Cost of mixtures. That the cost of the service and materials provided for in section 1 shall be met out of the general fund of the county, which may be replenished to the extent of the amount so used by a tax levied and collected as other taxes are levied and collected by the board of county commissioners, not to exceed one mill upon each dollar of valuation of the county. [L. 1917, ch. 147, § 2; May 26.]

25-1301. Voting machines. [Provides for the purchase of voting machines, if the proposal is approved by a majority of the voters. To pay for the voting machines it is:] "*Provided further*, That the board of county commissioners of any county, the township board of any township, or the governing body of any city, upon the purchase of voting machines may contract for such number of machines as may be necessary and provide for the payment thereof and for all expenses of freight, drayage and insurance incident to their delivery and installation in such manner as they may deem for the best interests of the locality, either in cash from the general revenue fund of such county, township or city, or for that purpose issue certificates of indebtedness or warrants drawing interest at a rate not to exceed six per cent per annum, payable at the option of the party issuing them within a period not to exceed fifteen years from the date of issue, but such certificates of indebtedness or warrants shall not be issued or sold at less than par; and in any case where such certificates or warrants shall be issued it shall be unlawful (lawful) for the proper officers to make a tax levy in addition to other tax levies provided by law sufficient in amount and for the purpose of raising funds to pay such certificates of indebtedness and interest thereon as the same may become due."

[L. 1901, ch. 134, § 1; L. 1915, ch. 206, § 1; L. 1917, ch. 181, § 1; April 5.]

38-504. Levy for home. For the support and maintenance of the detention home or juvenile farm, the county commissioners shall make an estimate of the cost and levy a tax, as in the case of providing for other expenses of the county, and all expenses of the said detention home or juvenile farm shall be accorded as a part of the expenses of the said juvenile court of the said county. The salary of the matron or superintendent shall be fixed by the county commissioners, and warrants shall be drawn for the payment of said salary and all other bills regularly allowed by the said commissioners on account of said expenses for the maintenance of said detention home or juvenile farm. [L. 1907, ch. 177, § 10; May 27.]

38-507. Tax levy. That for the purchase of the necessary ground and the erection of a suitable building or buildings for the purposes herein provided for, the board of county commissioners may, by unanimous vote, levy and collect a tax of not exceeding three cents on the hundred dollars on all taxable property of the county and also may by unanimous vote, levy and collect an annual tax of not to exceed one and one-half cents on the hundred dollars for the support and maintenance of such home, which taxes shall be levied and collected as in case of providing for other expenses of the county. [L. 1915, ch. 276, § 3; April 10.]

38-513. Tax levy for farm. For the purchase, improvement, support and maintenance of such juvenile farm or farms, the county commissioners shall make an estimate of the cost and levy a tax as in the case of providing for other expenses of the county, which tax shall not exceed one and one-half mills on the assessed valuation of said county. [L. 1923, ch. 114, § 3; March 8.]

2-204. Buildings for and expenses of county exhibits. Any county with a population in excess of thirty-five thousand may erect upon said state fair grounds a separate building for the exhibition at said fair of the agricultural and other resources of said county, which building shall be maintained and kept in repair at state expense. All costs of making exhibitions therein to be paid by the county owning the building: *Provided*, That before any such building shall be erected it shall be authorized by a vote of the people of said county at either a general or special election; said building to be paid for either by a special tax or by an issue of bonds as the board of county commissioners of such county may suggest and the people at such election approve. [L. 1913, ch. 293, § 9; March 6.]

2-207. County fair grounds. That whenever in the opinion of any board of county commissioners of a county having less than forty-five thousand population and having its county seat either in a city of the first class having less than twenty-five thousand population, or in a city of the second class, the agricultural and industrial interests of such county can be advanced thereby, and whenever a petition to the same effect signed by twenty-five per cent of the electors of such county is presented to the board of county commissioners, it shall be the duty of the board of county commissioners to call an election to submit to the voters a proposition to purchase a fair ground, and if a majority of the votes cast on that proposition shall be favorable to such purchase, it shall be the duty of the board of county commissioners to purchase such fair grounds: *Provided, however*, That whenever a petition to the

same effect signed by a majority of the electors of such county, is presented to the board of county commissioners, it shall be the duty of the board of county commissioners, without calling an election as herein provided, to purchase a fair ground, the purchase price thereof, in no event to exceed the sum of fifteen thousand dollars: *Also provided further*, That in any county complying with the provisions of this act, the board of county commissioners shall annually at the time set by law for making levies, levy a tax for the maintenance, paying premiums and repairing and building improvements in a sum not exceeding one-half mill on the dollar. [L. 1913, ch. 152, § 1; L. 1917, ch. 190, § 1; L. 1919, ch. 194, § 1; March 8.]

Section considered in connection with calling of special election. *The State, ex rel., v. Deck*, 108 K. 523.

2-209. Tax levy for county or city fair grounds. If in the opinion of the board of county commissioners, or the mayor and commissioners, such fair ground may be purchased from moneys raised by taxation without issue of bonds, they may levy a tax for a series of years to pay for such fair ground: *Provided*, That the deferred payments shall not bear a greater rate of interest than six per cent: *And provided further*, That the levy in any one year shall not exceed one mill: *Provided*, They be first authorized to make such levy by a vote of the people. [L. 1913, ch. 152, § 3; March 15.]

2-301. Tax levy for county fairs. Whenever any county agricultural, or fair association, located in any county in this state, having a population of over 50,000 shall have provided itself, by ownership or lease, with suitable grounds and facilities, for holding an agricultural fair, with a design to encourage improvement in live stock, tillage, crops, implements, mechanical fabrics, fine arts, and articles of domestic industry, by offering premiums for the best exhibits thereof, and shall have held such a fair during at least one year in said county, it shall be the duty of the county commissioners of such county to provide annually for the levy of a tax, not to exceed one-fourth of one mill on the amount of taxable property in such county, and to appropriate annually the proceeds of such tax for the payment of such premiums as may be offered by the association having in charge the holding of such fair for improvement in live stock, tillage, crops, implements, mechanical fabrics, fine arts, and articles of domestic industry: *Provided, however*, That such tax shall not be levied until the proposition shall have been submitted to the qualified voters of such county at a general election, or a special election, called for such purpose, and the making of such levy shall have been ordered by a majority of the electors voting on the proposition: *Provided*, That whenever in any county contemplated by the provisions of this act, a wheat show and a live-stock show shall both have been held for more than three (3) years, the amount available for premiums, as herein provided, shall be divided equally between the said wheat show and live-stock show. [L. 1915, ch. 178, § 1; L. 1933, ch. 142, § 1; March 8.]

2-503. Levy for farm. That in addition to the taxes authorized to be levied by the county commissioners for current expense by the authority of this act the county commissioners in counties that have undertaken to accept the provisions of this act are hereby authorized to make a levy of taxes on all taxable property of the county at the regular time for levying taxes, of

such an amount as may be necessary to pay for the establishment of the said demonstration farm, as authorized by this act. Prior to the levying of such taxes and in the same year, the county commissioners are authorized to issue warrants against the county demonstration farm funds for which the levy will afterward be made. [L. 1913, ch. 148, § 3; March 22.]

19-237. Land for agricultural experiment station. The board of county commissioners of any county in this state in which an agricultural experimental station has heretofore been or shall hereafter be established and located by the board of regents of the state agricultural college of Kansas is hereby authorized to purchase a suitable tract of land, not exceeding three hundred and twenty acres in such county, and lease or donate such tract to the board of regents of said college for experimental purposes in agriculture: *Provided*, There shall be presented to said board of commissioners a petition praying for them to purchase and pay for the same by a tax to be levied for that purpose, signed by not less than one-half of the legal voters of said county, as shown by the election returns at the last preceding general election held in said county: *And provided further*, That the cost of such tract of land shall in no case exceed the sum of thirty dollars per acre. [L. 1907, ch. 142, § 1; Feb. 12.]

COUNTY FARM BUREAUS.

2-601. Aid of bureaus. That whenever there shall be organized in any county in the state of Kansas a county farm bureau having a membership of 25 per cent of the *bona fide* farmers of the county, or as many as 250 farmers, and having for its purpose the giving of instruction in agriculture and home economics to the people of said county through practical demonstrations and otherwise, and the employment of a county agricultural agent or agents to prosecute this work, the Kansas state agricultural college shall contribute, from federal and state funds granted for demonstrations in agriculture and home economics, not less than \$1,200, as far as such funds are available, towards the salary of such county agricultural agent or agents. All applications for such funds must be made by farm bureaus to the extension division of the Kansas state agricultural college, on or before June 1 and December 1 of each year. [L. 1915, ch. 166, § 1; L. 1919, ch. 157, § 1; June 17.]

2-602. Conditions of such aid. Before such appropriation is made the county farm bureau shall present to the board of county commissioners of its county a copy of the constitution and by-laws adopted by the farm bureau, and approved by the Kansas state agricultural college, and a certified statement of deposit in a local bank of the county of not less than \$800, which shall be used subject to the order of the county farm bureau for providing the necessary equipment for said bureau. [L. 1915, ch. 166, § 2; July 1.]

2-603. County appropriations and levies for bureau. When said county farm bureau shall present to the board of county commissioners its list of farm bureau members provided in section 1, and its certificate of deposit as provided in Laws 1915, chapter 166, section 2, the said board of county commissioners shall appropriate a sum of money not less than \$1,200 per annum to assist in payment of the salary of the county agricultural agent and the expenses of the farm bureau. The executive committee of the farm bureau shall be required to prepare and present to the board of county commissioners, on

or before the first Monday in August, a budget or budgets showing clearly the amounts needed from year to year, which budgets shall be used as the basis for the appropriation by the county commissioners, and the county commissioners shall be empowered to make a tax levy against the property of the county, real and personal, sufficient to raise the funds needed for the farm bureau work, which levy shall be in addition to all other levies authorized by law. Before and until the income from such tax levy is available the county commissioners may make appropriations necessary for farm bureau work from the general funds of the county and shall have power to replace such appropriations from the general fund by transferring an equal amount from the farm bureau fund when available. [L. 1915, ch. 166, § 3; L. 1919, ch. 157, § 2; June 17.]

2-604. Aid to joint bureaus. Should any two adjacent counties located west of the line passing through the western border of Phillips, Rush and Comanche counties jointly organize a farm bureau, this bureau shall be subject to the same requirements and receive the same appropriations as a bureau organized in one county, the county commissioners of each of the two counties appropriating not less than \$600 per annum per county for the farm bureau. [L. 1915, ch. 166, § 4; L. 1919, ch. 157, § 3; June 17.]

INSANE, INCOMPETENT AND DEPENDENT PERSONS.

39-304. Duty of county. Every county shall relieve and support all poor and indigent persons lawfully settled therein, whenever they shall stand in need thereof; and the board of county commissioners may raise money for the support and employment of the poor in the same way and manner as in the twenty-ninth section of this act, is provided. [G. S. 1868, ch. 79, § 4; June 30, 1862.]

NOTE.—“The twenty-ninth section of this act” referred to is § 39-328. Township trustees can bind county for care of poor. *Comm’rs of Clay County v. Renner*, 27 K. 225, 228. Sections 39-304 and 39-324 held not conflicting. *K. C. T. & W. Rld. Co. v. Albright*, *Press.*, 33 K. 211, 214. In emergency cases overseer empowered to provide medical treatment. *Caton & Starr v. Osborne County*, 110 K. 711, 714.

39-328. Tax for asylums. To raise the sum necessary for the purchase of land and the erection and the furnishing of the buildings for such asylums, the board of county commissioners in the several counties shall have power to assess a tax on property liable to taxation for raising a county revenue, not exceeding five hundred dollars unless the amount of taxes to be assessed shall be submitted to a vote of the people at some general election, and a majority of all the votes cast at a poll opened for that purpose shall be in favor of such assessment. [G. S. 1868, ch. 79, § 29; June 30, 1862.]

Power of county board limited respecting levying and assessing tax. *K. C. T. & W. Rld. Co. v. Albright*, *Press.*, 33 K. 211, 214. Election to determine whether fund be raised by taxation valid. *The State, ex rel., v. Comm’rs of Pratt Co.*, 48 K. 641, 642.

39-340. Special county levies. That for the purpose of raising revenue to carry out the provisions of this act, relating to the care, support and maintenance of the poor and providing comforts therefor, within and without the county home or asylum for the poor, and for the purpose of relieving the general revenue fund of such counties of such expenditures, the board of county commissioners of any county are hereby authorized and empowered

and they may levy an annual tax of not exceeding five-tenths of one mill on the dollar, on all taxable property in their respective counties, in addition to other tax levies provided by law, for the purpose of paying such expenses necessarily incurred in providing for the support, care and maintenance of the unfortunate inhabitants thereof, and all such expenditures for the care, support and maintenance of the poor within and without the county home or asylum for the poor shall be paid from the funds so raised by said tax levy. [L. 1919, ch. 160, § 1; June 17.]

39-342. Additional levies. The county commissioners of all counties in the state of Kansas having a population of not less than 39,000 nor more than 45,000, and in which counties there is located a city of the first class having a population of not less than 19,000 nor more than 25,000, are hereby authorized to levy upon all taxable property in their respective counties each year at the time for levying taxes for other purposes, a tax of one-half mill on the dollar, in addition to all other levies now authorized by law, for the support of the poor of the county and for such purpose only. [L. 1911, ch. 323, § 1; March 18.]

39-345. Levy after such sale. Where said property is sold as provided in this act, and the amount realized from the same is less than fifty thousand dollars, the board of county commissioners of said county is hereby authorized to raise by taxation the amount necessary to make said fund in the aggregate fifty thousand dollars, said tax to be levied upon all the taxable property, both real and personal, in said county. Said tax may be levied at one time or in installments, as the board of county commissioners shall deem best; said tax to be collected in the same manner as other taxes are now collected. [L. 1909, ch. 100, § 3; L. 1919, ch. 162, § 1; Feb. 25.]

39-346. Repair of buildings on county farm or asylum when not advisable to sell same. When the said board of county commissioners shall not deem it advisable or for the best interests of the county to sell said county farm or asylum, but desire to build, remodel or repair the buildings thereon, the said board may have said property appraised as provided in section 2 of this act, and may levy a tax as provided in section 3 of this act, and use said money in building new buildings or in improving, remodeling or repairing the buildings now thereon. [L. 1909, ch. 100, § 4; March 25.]

39-347. When property not to be sold. If said property exceed in value the sum of fifteen thousand dollars, as shown by the appraisement hereinbefore provided for, the board of county commissioners of said county shall not sell or dispose of the same without first submitting the question to the vote of the electors of the county; or if the cost or expense of the improvements contemplated together with said property exceed the aggregate sum of fifty thousand dollars, then the said board of county commissioners shall not sell and dispose of said property or levy a tax for said improvements without first submitting both said questions to the vote of the electors of said county. [L. 1909, ch. 100, § 5; L. 1919, ch. 162, § 2; Feb. 25.]

CITIES.

12-322. Relevy of taxes; validation of assessments. When there has been any informality in the levying of the general taxes on the smaller city for any year, the joint session may by their joint ordinance relevy the same, and

such relevy shall have the same effect as if the same had been passed at the time of making the general levy of taxes; and where any special assessment shall have been made and the work for which such assessment has been made has been done, and the city has actually assumed the payment for such work by issuing its obligations therefor or otherwise, the joint session of the two councils may by their joint ordinance validate and legalize the same, notwithstanding there may have been informality in levying such assessment or in doing the work for which such special assessment has been made. [L. 1887, ch. 112, § 22; March 5.]

12-614. Resurfacing of paved streets; bonds. That whenever the governing body of any incorporated city of the second or third class shall deem it necessary to resurface or repair any paved street or any portion thereof, which paved street was originally curbed, guttered, and a base and surfacing constructed in accordance with specifications; and the surfacing of such paved street by reason of the wear and tear of traffic is in a condition which requires repairing or resurfacing in order to preserve the base of same and to provide a reasonably smooth wearing surface the same may be ordered by resolution and shall be done at the expense of the city and the payment of the cost of such resurfacing or repairing may be made by the issuance of improvement bonds of the city. Such bonds shall be made payable at such time as the governing body shall provide by ordinance; but none of such bonds shall run longer than ten years nor bear interest at a rate exceeding five per cent (5%) per annum, and the credit of such city shall be pledged to the payment thereof: *Provided*, That before such bonds shall be issued and the work begun under the provisions of this act, a question of performing such work and issuing such bonds shall be submitted to a vote of the electors of the city. A majority of the votes cast at a special election held for such purpose, or a majority of the votes cast on the proposal at any general election when the question is submitted, shall be considered sufficient to approve the proceedings under this act. Said election may be called by the governing body of the city at any time when they deem such action advisable. The election shall be held in accordance with the general laws of the state governing elections for a similar purpose. [L. 1923, ch. 99, § 1; June 9.]

12-615. Issuance of such bonds. The bonds herein provided for shall not be issued in an amount in excess of the cost of such work or improvements. Such bonds shall be issued to mature in installments of approximately equal amounts each year. Each bond shall specify the date of its separate maturity, and shall be in such denominations as the authority issuing the same shall direct. The governing body shall annually levy a general tax on all the property in the city to pay the interest and installments on such bonds. [L. 1923, ch. 99, § 2; June 9.]

12-644. Issuance of bonds. That in order to provide for the payment of the costs of said improvements and the damages occasioned by reason thereof, the governing body of said city may issue internal improvement bonds of the city as provided by law. Such bonds shall not be issued in an amount in excess of the contract price of the work or improvement, plus the total amount of damage allowed for injury to property, except that the in-

stallment coupons shall include the interest of such installments to the maturity thereof. [Revised, 1923; old section, L. 1917, ch. 87, § 10.]

12-645. Tax levy. That said governing body shall provide for the payment of said bonds and the interest thereon as the same becomes due and payable, by the levy of a general tax on all the taxable property in said city. [L. 1917, ch. 87, § 11; April 5.]

12-646. Limitations on bonds. That bonds issued under this act shall not be included in fixing the limit of bonded indebtedness of cities of the second class as provided in Laws of 1911, chapter 109, section 1. [L. 1917, ch. 87, § 12; April 5.]

12-671. Bonds for land; levy for payments. When the governing body of any city shall deem it necessary in order to pay for lands hereafter or heretofore appropriated for opening, widening, or extending any street or alley, they may issue and sell to obtain funds therefor the negotiable bonds of such city in a sum not to exceed the cost thereof. Said board shall levy and certify to the county clerk, to be placed upon the tax rolls, a tax sufficient to pay the interest on said bonds and the principal at maturity. [Revised, 1923; old section, L. 1913, ch. 86, § 9.]

12-616. Resurfacing-act supplemental. This act shall not repeal any law granting authority to cities to make improvements, but shall be in addition to such power. [L. 1923, ch. 99, § 3; June 9.]

12-630. Levies for sewage disposal plants. That all cities of less than 50,000 in the state of Kansas be and they hereby are authorized to levy a tax, in addition to all other taxes allowed by law, not exceeding one-half mill on the dollar upon all taxable property in such cities, to be collected as other taxes and used for the purpose of maintaining and operating sewage disposal plants. Such levy shall not prevent the use of other funds available for the same purpose. [L. 1919, ch. 111, § 1; June 17.]

12-661. Levy for special lighting fund. The governing body of any such city is hereby authorized to levy an annual tax on all real, personal and mixed property in such city, of not to exceed one-third of one mill on the dollar, to be used exclusively for the purpose of paying the cost and expense of maintaining and operating such additional system of lights as hereinbefore provided. The revenue derived from such tax shall be kept in a separate fund by the city treasurer and shall be known as the "special lighting fund." [L. 1913, ch. 89, § 5; March 18.]

12-1201. Establishment; tax levy. That upon the written petition of twenty-five per cent of the resident taxpayers of any city presented to the governing body thereof, such governing body shall cause to be submitted to the legal voters of such city, at the first city election thereafter, or, if the petition so requests, at a special election to be called for that purpose, the question of the establishment and maintenance of a free public library and reading room by such city; and if a majority of the votes cast at such election on such proposition shall be in favor of the establishment and maintenance of such library and reading room, the governing body shall annually thereafter levy a tax in such sum as may be by resolution of the directors of the free library designated, not to exceed one mill on the dollar on all

taxable property in such city subject to tax, to be levied and collected in a like manner with the other taxes of said city and to be known as the library fund: *Provided*, That in cities having a population of 40,000 or more, the levy herein provided for shall not exceed one-fourth of one mill. [L. 1886, ch. 72, § 1; L. 1901, ch. 250, § 1; L. 1903, ch. 121, § 1; L. 1905, ch. 104, § 1; L. 1913, ch. 80, § 1; L. 1915, ch. 123, § 1; L. 1919, ch. 112, § 1; June 17.]

12-1302. Bonds and levies for lands. For the purpose of purchasing lands for park purposes or for the erection of buildings thereon cities are hereby authorized to issue bonds or make a special levy for the special purpose whenever, in the judgment of the governing body thereof, it shall be expedient to purchase such lands or erect such buildings. But no such bonds shall be issued or special levy be made until the city council or city commission shall be instructed so to do by a majority of all the votes cast on the proposition at an election held in said city for such purpose. Such elections shall be held and said bonds shall be issued as provided by law. [Revised, 1923; old sections, L. 1909, ch. 69, § 2; L. 1917, ch. 89, § 1.]

12-1303. Park tax. For the purpose of maintaining such parks, cities are hereby authorized to levy a tax to be known as park tax. [L. 1909, ch. 69, § 3; March 26.]

Limitation of tax levies in cities, considered. *Bush v. City of Beloit*, 105 K. 79, 81.

12-1405. City levy. That all cities of the second and third class and townships owning and controlling municipal or township cemeteries are hereby authorized to make an annual levy of a tax not to exceed one-quarter mill on the dollar to be expended in making permanent improvements in said cemeteries and upkeep of the same. [L. 1913, ch. 125, § 1; L. 1921, ch. 90, § 1; March 2.]

12-1406. Purchase of unsold land of cemetery association. The governing body is hereby authorized to purchase from cemetery associations, all of the unsold land belonging to same for a consideration of not more than one dollar, and in case such purchase is made, the city may assume complete control of all roadways and parking in and around said cemetery: *Provided, however*, That the proposed transfer of the cemetery association shall be first published in four consecutive issues of a daily paper if there be one, or in two consecutive issues of a weekly paper published in said city: *And provided further*, That a protest signed by not less than thirty per cent of the lot owners be not filed in the office of the city clerk of aforesaid city, within thirty days after the first publication of the proposed transfer. [L. 1913, ch. 125, § 2; April 30.]

12-1407. Purchasing of adjoining land. The officers of such city are authorized to purchase adjoining land and levy a tax for the payment for same. [L. 1913, ch. 125, § 3; April 30.]

12-1631. Levy for nursing association. That the governing body of the cities of the first and second class in the state of Kansas is hereby authorized and empowered to levy a tax not to exceed one-fifth of one mill on a dollar, as other city taxes are levied, for the purpose of raising a fund for the maintenance of any public health nursing association which is or hereafter may be duly incorporated in any city of the first or second class. [L. 1919, ch. 136, § 1; June 17.]

48-305. Donations and contributions for armories. That such military board shall have power to receive from counties, cities, municipalities, or other sources, donations of land or contributions of money, buildings or other property to aid in providing or erecting armories throughout the state, for the use of the national guard of Kansas, and which shall be held as other property for the use of the state of Kansas; and such counties, cities or other municipalities are hereby authorized to make such contributions for the purpose of this act, and each city of the state of Kansas is hereby authorized and empowered to levy a tax upon all the property therein subject to taxation to raise the necessary money for said armory building and site herein specified: *Provided*, That no money shall be donated or tax levied until the same is authorized by a vote of a majority of electors in said city at an election called for that purpose. [L. 1909, ch. 172, § 5; May 29.]

79-1923. Levies in cities of 40,000. That in cities of the first class having a population of 40,000 or less, the governing body shall not fix a rate each year upon all real, personal and mixed property in any city for the respective purposes in excess of the following-named rates: For general revenue fund, two and one-half mills; for general improvement fund, excepting improvements for which special assessments are levied, two mills; for the purpose of paying any existing legal obligations of the city for water, light, heat and power supplied to the city, three and one-half mills; for the purpose of paying interest coupons as they mature and all bonds of the city now or that may hereafter be issued, such tax as may be necessary to pay the same; for the purpose of paying judgments, one-half mill; for park fund, one-half mill; for library fund, one-half mill; for fire department fund, two and one-half mills; for band fund, three-tenths mill. [L. 1909, ch. 245, § 17; L. 1921, ch. 292, § 1; L. 1923, ch. 235, § 1; March 20.]

Annotation to L. 1909, ch. 245, § 17:

Limit of levy to pay judgments under ch. 95, L. 1911. *Railway Co. v. City of Hutchinson*, 96 K. 202, 203.

79-1924. Levies in cities of less than 60,000 and more than 40,000. That in cities having a population of less than 60,000, but more than 40,000, the governing body shall not fix a levy for the respective purposes in excess of the following-named rates on each dollar; for general funds, six mills; for water funds to discharge existing legal obligations for water supplied to the city, one mill; for judgment fund, one-quarter of one mill; for park fund, one-half of one mill; for library fund, one-fourth of one mill; for lighting fund, to discharge existing legal obligations for lights supplied to the city, six-tenths of one mill; for bridge fund, to be used for building and rebuilding bridges, one-half of one mill; and for two platoon fire fund, one-half of one mill. [L. 1919, ch. 127, § 1; L. 1921, ch. 124, § 1; May 25.]

79-1925. Paving levy in cities of less than 20,000 having commission form of government. That the board of commissioners of the cities of the first class, operating under the commission form of government, having less than twenty thousand population, are hereby authorized and empowered to levy a tax not to exceed one and one-half mills on the dollar valuation of all real and personal property, in such city, in addition to other tax levies now authorized by law, to be levied and collected, as other taxes are now levied and collected, the proceeds of such tax levy to be used exclusively for the repairing

and maintenance of the paved streets in said city, which have been paved for a period of five years or more. Such tax when collected shall be kept in the city treasury, in a special fund, to be known as "paved streets repair and maintenance fund," and shall be used only for the purpose herein specified upon the order of the board of commissioners of such city. The city may by ordinance prescribe the character, conditions, manner and method, of the work to be done in the expenditure of such fund: *Provided*, That before any such work costing in excess of the sum of one hundred dollars shall be undertaken for the city engineer shall submit a sworn detailed estimate of the cost thereof for the approval of the board. The work may be done by contract, or by the city, only within the estimated cost thereof, not in excess of the money available in such special fund. [L. 1921, ch. 112, § 1; May 25.]

79-1926. Levies in cities of over 60,000. That in cities having a population of less than 80,000 but more than 60,000, the governing body shall not fix a levy for the respective purposes in excess of the following-named rates on each dollar: for general funds, five mills; for water fund to discharge existing legal obligations for water supplied to the city, one mill; for judgment fund, one-quarter of one mill; for park fund, one-half of one mill; for library fund, one-fourth of one mill; for lighting fund, to discharge existing legal obligations for lights supplied to the city, six-tenths of one mill; for bridge fund, to be used for building and rebuilding bridges, one-half of one mill. [L. 1909, ch. 245, § 18; L. 1911, ch. 81, § 1; L. 1913, ch. 98, § 1; L. 1920, ch. 67, § 1; Feb. 2.]

Annotation to L. 1913, ch. 98, § 1:

Section construed; power of city to create reserve fund, considered. *Railway Co. v. City of Topeka*, 95 K. 747, 761.

13-705. Double platoon fire department in cities of over 40,000; levy of tax. That in all cities in the state of Kansas having a population of over forty thousand and less than fifty-eight thousand inhabitants, subject to the conditions hereinafter prescribed, are hereby authorized to levy a tax in addition to the amount already allowed by law, not exceeding one-half mill on the dollar of the assessed valuation of all taxable property of such cities for the preceding year, to be collected as other taxes, for the purpose of maintaining a double platoon fire department, but no such levy shall be made until the proposition to levy such tax has been submitted to a popular vote in such city as hereinafter prescribed. [L. 1915, ch. 119, § 1; March 15.]

13-716. Double platoon fire department in cities of over 75,000. That in all cities in the state of Kansas having a population of over seventy-five thousand inhabitants, subject to the conditions hereinafter prescribed, are hereby authorized to levy a tax in addition to the amount already allowed by law, in the sum of not exceeding one-half mill on the dollar of the assessed valuation of all taxable property of such cities for the preceding year, to be collected as other taxes, for the purpose of maintaining a double-platoon fire department: *Provided*, That no such levy shall be made until the proposition to levy such tax has been submitted to a popular vote in such city, as hereinafter prescribed. [L. 1913, ch. 97, § 1; Feb. 27.]

13-635. Tax levy for pensions. In all cities coming within the provisions of this act there shall be levied annually at the time of the levy of taxes for

city purposes and in addition to taxes heretofore or otherwise authorized, for the purpose of paying such pensions a tax not to exceed one-tenth of one mill on all taxable property within the limits of the city. [L. 1923, ch. 86, § 7; Feb. 10.]

13-715. Levy for maintenance and equipment of fire department. That the governing body of the cities of the first class having less than thirty-five thousand population is hereby authorized and empowered to levy a tax not to exceed two and one-half mills on the dollar as other city taxes are levied, for the purpose of raising funds for the maintenance of a fire department and for the purchase of equipment: *Provided*; That any ordinance directing such levy shall require a two-thirds vote of such city council or commission for its adoption. [L. 1917, ch. 101, § 1; L. 1920, ch. 15, § 1; L. 1921, ch. 113, § 1; May 25.]

13-717. Deficiency in firemen's relief fund. Whenever in any city of the first class having a population of less than 30,000 the firemen's relief fund, created by chapter 363, Session Laws 1895, and amendments thereto, becomes depleted, and is insufficient to pay the gratuities and pensions therein provided for, the governing body of any such city is authorized to annually levy a tax sufficient to provide for such deficiency, not exceeding one-tenth of a mill in any one year. The proceeds of such tax levy when collected to be paid into the said firemen's relief fund, and used only for the purposes prescribed in the law creating and governing the application of the same, and for no other purposes. [L. 1923, ch. 89, § 1; June 9.]

13-721. Tax levy for fund; other moneys as part thereof. In all cities and towns now or hereafter having an organized fire department and which may avail themselves of the provisions of this act, there may be levied annually at the time of the levy of other taxes for city purposes, a tax upon all the taxable property within the limits of such city or town for the purpose of creating a firemen's pension fund, as follows: In all cities of more than 30,000 population, a tax of one-tenth ($\frac{1}{10}$) of one mill on the dollar. All moneys derived from taxes so levied and all moneys received from membership fees as dues, as hereinafter provided, and all moneys received from grants, donations, legacies and devises for the benefit of such fund, and all fines and penalties imposed and collected in the control, management and discipline of the fire departments shall constitute a fund to be known and designated as a firemen's pension fund, which said fund shall be exclusively devoted to and for the purposes hereinafter enumerated. [L. 1915, ch. 260, § 4; March 18.]

13-734. Levy for pension. In all cities coming within the provisions of this act, there shall be levied annually at the time of the levy of taxes for city purposes, and in addition to taxes heretofore or otherwise authorized, for the purpose of paying such pension, a tax not to exceed one-tenth of one mill on all taxable property within the limits of the city. [L. 1919, ch. 116, § 5; March 20.]

13-902. General tax levy. The governing body shall levy taxes each year upon all the real, personal and mixed property in the city for the purposes and not to exceed the rate on each dollar as follows: For general revenue, six mills; for general improvements, except improvements for which special assess-

ments are levied, six mills; for the purpose of paying interest coupons as they mature on all bonds of the city now or that may be hereafter issued, such tax as may be necessary to pay the same; for the purpose of discharging any existing legal obligation of the city for water supplied to the city, four mills on the dollar; for the purpose of paying off judgment, not to exceed one mill. [L. 1903, ch. 122, § 125; March 18.]

This section not repealed by L. 1911, ch. 95. *Ry. Co. v. City of Hutchinson*, 99 K. 202, 204.

18-903. Limit on levy. At no time shall the levy of all city taxes for the current year for all purposes, exclusive of school, waterworks, electric light, heat, power or gas works, or for public libraries under the general library act, and special assessments for improvements and a general tax for paving or macadamizing areas formed by the intersections of streets and alleys, exceed two per cent of the taxable property of the city. [L. 1903, ch. 122, § 127; March 18.]

18-909. Levy made by ordinance. All taxes and special assessments shall be levied by ordinance. [L. 1903, ch. 122, § 133; March 18.]

18-1058. Levy for bridges. That all cities of the first class are hereby authorized to levy a tax each year of not to exceed one-half of one mill on the dollar on all taxable property in such cities, for the purpose of paying the cost of building, rebuilding and repairing bridges. [L. 1913, ch. 93, § 1; March 10.]
Duty of city to keep streets and bridges in safe condition. Commr's of Shawnee Co. v. City of Topeka, 89 K. 197, 200.

18-1059. Pipe organ for auditorium. That all cities of the first class having a population of forty thousand or more and owning public auditoriums are hereby authorized to equip the same by purchasing and installing therein a pipe organ, and to make an annual levy of taxes, not to exceed one-eighth of a mill on the dollar, on the taxable property of the city to be expended in payment for such organ. [L. 1913, ch. 99, § 1; March 15.]

18-1066. Rest rooms. That all cities of the first class having a population of 55,000 or under and not having a city hall or convention hall costing more than one hundred thousand dollars, are hereby authorized to levy a tax, in addition to other taxes provided by law, each year not to exceed one-half of one mill on the dollar on all taxable property in such cities for the purpose of purchasing or erecting suitable buildings to be used as rest rooms and for maintaining the same. [L. 1915, ch. 126, § 1; March 8.]

18-1068. Levy for day nursery. That in all cities of the first class having a population in excess of 20,000 and not exceeding 30,000 wherein there is now located and in operation, or may hereafter be erected and placed in operation, a day nursery for the care, support and maintenance of orphan children or children of indigent parents, the governing body may, in addition to other city taxes provided by law, levy each year upon all the taxable property in such cities, a tax not exceeding three-tenths of one mill on each dollar of assessed valuation to provide a fund sufficient to properly and adequately maintain such day nursery. [L. 1919, ch. 125, § 1; April 4.]

18-1309. Annual tax levy. The board of park commissioners of any such city are authorized to levy by resolution of said board, subject only to the limitations contained in this act, an annual tax on all the taxable property of

the city not to exceed one-fourth mill on the dollar to create a general park fund, to be used by said board in establishing, acquiring, improving and maintaining public parks, parkways and boulevards and generally in carrying out the provisions of this act, and to certify said levy to the county clerk of the county in which said city is situated, and have the same placed upon the tax rolls thereof and collected as other taxes. [L. 1907, ch. 115, § 9; L. 1909, ch. 71, § 2; March 20.]

Levy of tax by park commissioners, valid exercise of power. *Wulf v. Kansas City*, 17 K. 358, 359, 360.

13-1310. District tax levy. The board of park commissioners of any such city are authorized to levy by resolution of said board, subject only to the limitations contained in this act, an annual tax on all taxable property of any park district of such city of not to exceed one-fourth mill on the dollar to create a park fund for such district, to be used by said board in the acquiring, improvement and maintenance of parks and boulevards in such district, and to certify such levy to the county clerk and have the same placed upon the tax roll and collected as other taxes. [L. 1907, ch. 115, § 10; L. 1909, ch. 71, § 3; March 20.]

13-1317. Tax levy for bonds. When any board of park commissioners shall deem it necessary to issue general bonds of the city, they shall find and declare by order to be entered upon their journal whether or not such general bonds shall be paid by a tax to be levied upon all the taxable property of all the park districts of the city or upon the taxable property situate in any one or more park districts into which such city may be divided, and shall provide for the payment of such bonds and interest in conformity therewith. [L. 1907, ch. 115, § 17; March 4.]

13-1333. Limitation of action to contest assessment. No suit or action of any kind shall be maintained in any court to set aside or in any way contest or enjoin the levy or collection of any tax or special assessment levied under the provisions of this act after the expiration of thirty days from the time of the levy of such tax or assessment: *Provided*, That in cases where assessments are levied before the completion and acceptance of any improvement, said thirty days shall not commence to run until the improvement is completed and accepted. [L. 1907, ch. 115, § 34; March 4.]

Provisions hereof amendatory of and supplementary to code of procedure. *Hannon v. United Workman*, 99 K. 734, 736.

13-1408. Policemen or firemen not exempt from taxation. No person shall be exempt from taxation of any kind on account of being a member of the police or fire departments. [L. 1903, ch. 122, § 180; March 18.]

13-1441. Levy for securing factories. That cities of the first class containing a population of 20,000 or less are hereby authorized to levy annually upon all the property within said city a tax not to exceed one-half of one mill for the purpose of creating a fund to be used in securing manufacturing institutions for such city. [L. 1923, ch. 90, § 1; March 28.]

13-1442. Industrial fund. All moneys collected by virtue of the tax hereinbefore authorized shall be placed in the fund known as an "industrial fund," and shall only be used by ordinance duly adopted by the governing body of such city for the purpose of inducing industries to locate within the said city. [L. 1923, ch. 90, § 2; March 28.]

13-1443. Music fund. The governing body of cities of the first class is hereby authorized to levy a tax on all property in such cities of not to exceed one-eighth of one mill per annum on each one dollar assessed valuation, for the use and benefit of vocal or instrumental music or band organizations. All money received from such levy shall be paid into a special fund to be known as "the music fund," but the governing body shall not appropriate any moneys out of such fund for the use and benefit of any band or musical organization until such band or musical organization shall have first entered into a written contract with such city for public concerts in the parks or public halls of such city, at such times and places and under such regulations as shall be provided in such contract, and no voluntary donation or contribution shall be made out of said fund to any such organization in any manner whatever. [L. 1907, ch. 120, § 1; L. 1908, ch. 30, § 1; L. 1913, ch. 100, § 1; April 30.]

13-1470. Municipal band fund. The governing body of cities of the first class having less than 30,000 population shall, and it is hereby made its duty to levy a tax on all property in such cities of three-tenths of one mill, or such part thereof as may be petitioned for, per annum, on each one dollar assessed valuation, for use in the maintenance of a municipal band to give free musical concerts for the benefit of the people. All money received from such levy shall be paid into a special fund to be known as "the municipal band fund," but the governing body shall not appropriate any moneys out of such fund for the use and benefit of any band until the conductor of such band shall have first entered into a written contract with such city for public concerts in the parks or public halls of such city, at such times and places and under such regulations as shall be provided in such contract, and no voluntary donation or contribution shall be made out of said fund to any such organization in any manner whatever. [L. 1915, ch. 115, § 1; March 20.]

13-1476. Levy for improvements in cemeteries. That all cities of the first class, owning and controlling municipal cemeteries, are hereby authorized to make an annual levy of tax not to exceed one-fourth mill on the dollar on the taxable property of said city, to be expended in making permanent improvements in said cemeteries. [L. 1911, ch. 84, § 1; March 18.]

13-2302. Payment of salaries. It shall be the duty of the board of commissioners of said cities, and they are hereby authorized and directed to pay or cause to be paid out of the funds of said respective cities, as compensation and salaries, to the members of their respective police departments the sums of money as hereinbefore provided. In case there is not enough money on hand in the protection of life and property fund of said city to pay said salaries and compensation, as aforesaid, then the board of commissioners of said city, are hereby authorized to transfer to the said protection of life and property fund, enough money from any other fund of said city, which in their opinion, can spare the same, to pay said salaries and compensation, until such time as the said protection of life and property fund can be replenished by the annual collection of taxes: *Provided, however,* That said moneys so transferred to the protection of life and property fund, must be replaced in the fund from which the same was transferred, the following year, from the money levied and collected for the said protection of life and property fund; and said board of commissioners are hereby authorized and directed to levy, in addition to the amounts fixed in the city budget for the protection of life and property fund,

such amounts as may be necessary, not exceeding the statutory limitations, to replace and repay such moneys, if any, as may have been transferred to said protection of life and property fund as aforesaid. [L. 1919, ch. 115, § 2; Feb. 15.]

13-2413. Levy for fire protection. The board of commissioners shall annually levy a general tax on all real and personal property in the district benefited in such city to pay for the cost of fire protection; and when said taxes are collected it shall be the duty of the city treasurer to immediately transfer the same to the general fund of the waterworks department in payment of said fire protection. [L. 1907, ch. 114, § 109; May 27.]

13-2502. Levy for park fund. The board of commissioners is hereby authorized to levy an annual tax on all property in such city, not exceeding one mill on the dollar, to be used exclusively in the acquisition, improvement and maintenance of all public parks and playgrounds. The revenue derived from such tax shall be kept in a separate fund by the city treasurer and shall be known as "the park fund." But in no case shall any debt be incurred beyond the amount of cash actually available in the park fund or which shall become available during the current fiscal year. [L. 1907, ch. 114, § 111; L. 1911, ch. 100, § 1; April 3.]

13-2507. Property in territory annexed subject to tax. All property in such territory annexed for park, playgrounds and boulevard purposes shall be subject to the annual tax now provided by law, levied by the board of commissioners of such city for the acquisition, improvement and maintenance of public parks: *Provided*, That all revenue derived from such tax on property in such territory shall be kept separate and used only for supervision and maintenance of the parks, playgrounds and boulevards in such territory. [L. 1915, ch. 270, § 8; May 22.]

13-2520. Order for levy to pay bonds. When any board of commissioners shall deem it necessary to issue general bonds of the city for any of the purposes specified in this act, it shall find and declare by an order to be entered upon its journal whether or not such general bonds shall be paid by a tax to be levied upon all the taxable property of all the park districts of the city or upon the taxable property situate in any one or more park districts into which such city may be divided, and shall provide for the payment of such bonds and interest in conformity therewith. [L. 1911, ch. 79, § 11; March 23.]

13-2601. Fiscal control of city; fiscal year; budget; levy. The board of commissioners shall have full authority over the financial affairs of such city, and shall provide for the levying of taxes and the collection of all revenues and other assets, the auditing and settlement of all accounts, and make all appropriations for the payment of liabilities and expenses. The fiscal year of such city shall begin on January 1 of each year. In the month of July of each year, or as soon thereafter as practicable, said board of commissioners shall make a careful estimate of the probable revenues for the next fiscal year and apportion the same to the several departments of the city government, including a reserve fund of not to exceed twenty-five thousand dollars, to be used only in case of extraordinary emergencies such as act of God or other sudden disaster, which could not have been foreseen before their occurrence. Any unexpended portion of such reserve fund created for any year

shall constitute part of such reserve fund for the next ensuing year. Such estimate or budget shall be so prepared in detail as to the aggregate sum and items thereof as said board shall deem advisable. In order to enable said board to properly prepare such estimate or budget, the heads of all departments shall, at least thirty days before such estimate or budget is hereby required to be made, send to the said board estimates of the amounts needed for the conduct, respectively, of each department of such city for the next ensuing fiscal year. Such items shall be certified to by the parties making them, and shall specify in detail the objects thereof and the items required for the respective departments, including a statement of each of the salaries of the officers, employees, deputies and subordinates in each department. It shall be the duty of the said board of commissioners, when assembled for the consideration of said budget, to consider and investigate the estimates prepared by said officers, and to hold daily sessions, if necessary, for the consideration, approval and adoption of said budget. After said budget shall have been duly passed and adopted said board shall not have the power to increase the amounts fixed therein beyond the estimated revenues, unless the actual revenues shall have exceeded such estimate; and, in such event, said budget shall not be increased beyond such actual revenues. The sums as fixed in said budget shall be appropriated after the beginning of the next ensuing fiscal year for the purposes named. Said board of commissioners shall levy taxes annually and make provision for sufficient revenue to meet all contemplated expenses included in such budget. In case the actual revenue is less than the estimates in said budget, there shall be a *pro rata* abatement of all appropriations contained therein. In case of a surplus in any fiscal year by reason of an excess of actual revenue received over and above the estimated revenues and expenditures for such year, the said surplus shall be credited *pro rata* to the several funds of said city from which said revenue is derived, and shall be added to the revenues available for the next ensuing fiscal year. Any member of said board of commissioners who shall knowingly vote for or in any manner aid or promote the passage or adopting of any ordinance, legislation or other act of said board increasing the appropriations for the expenses of said city beyond the estimates in said budget, unless the actual revenues shall have exceeded such estimates, shall thereby be guilty of misfeasance in office, and such action shall, *ipso facto*, vacate his office, and any such appropriation over and above said estimated revenues shall be null and void, and said commissioner shall be liable on his official bond for the money so misappropriated. [L. 1907, ch. 114, § 113; May 27.]

Method of creating, and proper use of reserve fund, considered. *Railway Co. v. City of Topeka*, 96 K. 747.

Section cited in defining "fiscal year." *Bank v. Reilly*, 97 K. 817, 821.

Restrictions relate only to matters within official control of officers. *The State, ex rel., v. Bentley*, 98 K. 442, 443.

Legislature may impose obligations over which officers have no discretion. *The State, ex rel., v. Bentley*, 98 K. 442, 443.

13-3702. Levy for support of divisions. There shall be levied at the time provided by law for the levying of taxes, each year, a tax upon all real and personal property, taxable within the city, as hereinafter specified, for the support of each division of government mentioned in section 1 which tax when collected, together with other revenues arising out of the operation of each of such divisions, and not the specific earnings of any certain department,

as hereinafter specified, shall be paid into the city treasury and be credited to the several divisions above specified as collected. [L. 1913, ch. 92, § 2; March 19.]

13-2703. Limitations and apportionment of levies. The taxes to be levied as provided in section 2 shall not be in excess of the following amounts:

General government08 on each \$100 valuation
Protection of life and property.....	.50 on each \$100 valuation
Health and sanitation15 on each \$100 valuation
Highways18 on each \$100 valuation
Recreation05 on each \$100 valuation
Judgment fund08 on each \$100 valuation

The revenue accruing to each division of government shall be apportioned on or before January 1 of each year by the commissioners of the several departments within each division in accordance with the annual budget. [L. 1913, ch. 92, § 3; L. 1919, ch. 133, § 1; L. 1921, ch. 125, § 1; May 25.]

17-1718. County or city may appropriate money for such corporation.

The board of county commissioners of any county in which is located a city of the first class wherein a corporation is or hereafter may be organized for the purpose defined in the preceding section, shall have the power to appropriate money to the use of each such corporation out of the general funds of the county not to exceed four hundred dollars per month, for each such corporation and the proper officers of any city of the first class wherein such a corporation or corporations are located shall have the power to appropriate moneys for the use of such corporation or corporations out of the general funds of the city not to exceed two hundred dollars per month, for each such corporation. Any city or such county appropriating moneys for such corporation or corporations shall have the power to levy a tax in addition to other taxes levied for the purpose of raising moneys to be appropriated as herein provided, which tax levies so made in any city shall not exceed one-tenth of one per cent, on all the taxable property in said city, and any levy so made by the board of county commissioners of any county shall not exceed the sum of one-tenth of one per cent, upon all of the taxable property of such county: *Provided*, That nothing in this act contained shall be construed as making it obligatory upon the board of county commissioners or the proper officers of any city of the first class to appropriate moneys for the use of such corporations or associations, nor to make tax levies therefor. [L. 1911, ch. 135, § 2; L. 1913, ch. 144, § 1; March 11.]

79-1928. General limitation on levies in cities of second and third class.

That the governing body of all cities of the second and third class are hereby authorized and empowered to fix the levy for any one year at a rate not to exceed the following amounts: For general revenue fund, three mills; for opening, widening and bringing to grade all streets, avenues and alleys, and for the building of bridges, culverts and sewers, and for foot-walks across streets, avenues and alleys, three mills; for park contingent fund, one mill; for library fund, one mill; to pay for street lighting as ordered and installed by the council or commissioners, two mills; for establishing and maintaining rest rooms, five-tenths of a mill; to pay for necessary water hydrants as ordered and installed by said city, five-tenths of one mill; for raising fund for the maintenance of a fire department, two mills; all other levies for cities of the second and third class which are authorized by statute not specifically

named in this section are hereby limited to one-fifth of the rate so authorized: *Provided*, That any surplus in either the general fund or street fund may be transferred from one to the other by authority of the governing body of such city: *Provided further*, That in cities of the second class and third class, for which special acts have been passed, the limitations of this section shall not apply, so as to prevent the raising of amount for the general revenue fund of said cities which by virtue of said special acts could have been raised in the tax year of 1907 upon the assessed valuation of that year. [L. 1917, ch. 113, § 1; L. 1919, ch. 147, § 1; L. 1921, ch. 142, § 1; May 25.]

Annotations to L. 1918, ch. 361:

Excessive levy; taxes paid under protest, recoverable. *Bush v. City of Beloit*, 105 K. 79, 80, 81.

Cities of second class; limit of taxation for "general purposes." *Bush v. City of Beloit*, 105 K. 79, 80, 81.

79-1929. Levies in cities of second class having valuation of three million dollars or less. That the governing body of any city of the second class, the assessed valuation of which as shown by the returns of the last assessment for any year is three million dollars or less, may make in any year, levies on all the taxable property of said city, for taxes for that year as follows, viz.: For general revenue fund three and one-half mills on the dollar; for defraying the cost of street lighting, two mills on the dollar; for opening and widening and bringing to grade all streets, avenues and alleys, and for building of bridges, culverts and sewers and for foot walks across streets, avenues and alleys, two mills on the dollar; for water fund, two mills on the dollar; for park contingent fund, two-tenths of one mill on the dollar; for library fund, four-fifths of one mill on the dollar: *Provided*, That in the cities of the second class, for which special acts have been passed, the limitations of this section shall not apply so as to prevent the raising of an amount for general revenue fund of such cities which by virtue of such special acts could have been raised in the tax year of 1907 upon the assessed valuation of that year. [L. 1911, ch. 112, § 1; L. 1917, ch. 325, § 1; March 27.]

79-1939. Levy in city of second class to open, widen, or extend streets. That, in addition to the levy provided for in Laws 1921, chapter 142, section 1, the governing body of any city of the second class may, when such council or board shall deem it necessary or expedient to open, widen, or extend any street, avenue or alley in such city, as provided by section 2 of chapter 99 of the Session Laws of 1885, and pursuant thereto, and shall find it necessary to acquire land therefor, by condemnation or by purchase, such council or board may levy upon all the taxable property of such city a tax not exceeding the rate of one-half mill in any one year, for the purpose of raising funds to pay for said land and the expenses incident to its acquirement. [L. 1913, ch. 116, § 1; L. 1915, ch. 142, § 1; May 22.]

NOTE.—Section originally referred to L. 1909, ch. 245, sec. 29, which has been superseded by L. 1921, ch. 142, sec. 1 (79-1929). For L. 1885, ch. 99, sec. 2, referred to, see chapter 14, on "Cities Second Class" (14-424, R. S. 1923).

13-1636. Band fund. The governing body of any city of the second or third class may when petitioned for by twenty-five per cent of the qualified electors of such city levy a tax on all property in such city not exceeding five-tenths mill per annum on each one dollar assessed valuation, for use and maintenance of a municipal band to give free musical concerts for the benefit of

the people. All money received from such levy shall be paid into a special fund to be known as "the municipal band fund," but the governing body shall not appropriate any moneys out of such fund for the use and benefit of any band until the conductor or manager of such band shall have first entered into a written contract with such city for public concerts, at such times and places and under such regulations as shall be provided in such contract, and no voluntary donation or contribution shall be made out of said fund to any such organization in any manner whatever. [L. 1923, ch. 100, § 1; March 24.]

14-402. Specific powers of governing body. The cities of the second class coming under the provisions of this act in their corporate capacity are authorized and empowered to enact ordinances for the following purposes in addition to the other powers granted by law:

First. To levy and collect taxes for general revenue purposes, including the maintenance of arc lights for street lighting purposes, for fire hydrants and water for fire protection on all real, mixed and personal property within the limits of said cities, taxable according to the laws of this state, the valuation of such property to be taken from the assessment rolls in the county clerk's office.

Second. To open and improve streets, avenues and alleys, make sidewalks and build bridges, culverts, sewers, acquire a site for and construct and maintain an incinerating plant, or other plants for the sanitary disposition of garbage of the city, for footwalks across streets, avenues and alleys, and for the purpose of paying for the same shall have power to make assessments in the following manner, to wit:

(a) For opening, widening and bringing to grade all streets, avenues and alleys, and for building bridges, culverts, sewers, incinerating plant, or other plants for the sanitary disposition of garbage from the city, and for footwalks across streets, avenues and alleys, the assessment shall be made on all taxable property within the limits of the city.

(b) For making and repairing sidewalks, the assessment shall be made on all lots and pieces of ground abutting on the improvement according to the front foot thereof.

(c) For all paving and improvements of the squares and areas formed by the crossing of streets, avenues and alleys, and for the acquiring of a site for the construction and maintenance of an incinerating plant, or other plants for the sanitary disposition of garbage of the city, the assessments shall be made upon all the taxable property of the city, and for the payment of such paving or improvements the governing body is hereby authorized to issue special improvement bonds and levy taxes and assessments in addition to all other taxes and assessments now authorized by law to pay said bonds and interest thereon: *Provided*, That nothing herein shall be construed to authorize the governing body to pave any square or area formed by the crossing of streets, avenues or alleys, unless in connection with one or more blocks of street paving ordered by the governing body, as now provided by law, of which the paving of such square or area or squares or areas shall form a part: *And provided further*, That nothing herein shall be construed to authorize the governing body to acquire a site for constructing and maintaining an incinerating plant or other plants for the sanitary disposition of the garbage of the city, and to issue bonds therefor, as herein provided, without submitting the

matter to a vote of the legally qualified voters of the city, except in cities of the second class having a population of ten thousand or more, and an assessed valuation of ten million dollars, or more: *And provided further*, That no such bonds shall be issued, either with, or without the vote of the people, until said bonds, and the plans and specifications, and contract for the construction and maintenance of said incinerating plant, or other plants for the sanitary disposition of the garbage of the city, has been submitted to and approved by the public utilities commission.

Third. For paving, macadamising, curbing and guttering all streets, avenues and alleys, and for doing all excavating and grading necessary for the same, except the squares and areas formed by the streets, avenues and alleys, after said streets, avenues and alleys have been brought to grade, as provided in the first subdivision of this section relating to the opening, widening and bringing to grade of all streets, avenues and alleys, the assessments shall be made for each block separately on all lots and pieces of ground to the center of the block on either side of such street, or avenue, the distance improved or to be improved or on the lots or pieces of ground abutting on such alley, according to the assessed valuation of the lots or pieces of ground without regard to the buildings or improvements thereon. [Revised, 1923; old sections, L. 1872, ch. 100, § 32; L. 1873, ch. 85, § 3; L. 1881, ch. 40, § 2; L. 1905, ch. 116, § 1; L. 1911, ch. 102, § 1; L. 1921, ch. 129, § 1.]

14-403. Light tax in city of 5,000. That the governing body of cities of the second class having a population not exceeding five thousand, as shown by the assessor's return, owning and operating an electric-light plant for supplying such city and its inhabitants with electric light, may levy a tax of not more than ten mills on the dollar on all of the taxable property in such city for the purpose of defraying the cost of lighting the streets of such city and maintaining a system of street lighting. Said tax may be levied each year, and the authority to levy such tax shall be in addition to the authority which cities of the second class now have to levy taxes. [L. 1907, ch. 127, § 1; May 27.]

14-407. Limitation on levies. At no time shall the levy of all city taxes of the current year for general purposes, exclusive of school taxes, exceed four per cent of the taxable property of the city as shown by the assessment books of the preceding year. [L. 1872, ch. 100, § 39; April 6.]

14-408. Reassessment and reliev of taxes. In case the corporate authorities of any city have attempted to levy any assessments or taxes for improvements, or for the payment of any bonds or other evidence of debt, which assessments, taxes or bonds are or may have been informal, illegal or void, for the want of sufficient authority or other cause, the council of such city, at or before the time fixed for levying general taxes, may reliev and reassess any such assessments or taxes in the manner provided in this act. [L. 1872, ch. 100, § 41; L. 1885, ch. 101, § 1; March 17.]

Section held constitutional and valid. *City of Emporia v. Norton*, 13 K. 569, 584.

Power of legislature in enactment of curative statutes considered. *City of Emporia v. Norton*, 13 K. 569, 584.

Statute given effect although in same terms as former statute. *City of Emporia v. Norton*, 13 K. 534, 539.

Curative act not necessarily a continuation of previous similar enactments. *City of Emporia v. Norton*, 16 K. 236, 239.

Section cited in construing curative act relating to other cities. *Mason v. Spraver*, County Clerk, 25 K. 612, 629.

Whether curative statute special or general legislation, considered. *Mason v. Spencer, County Clerk*, 85 K. 512, 520.

Annotation to L. 1886, ch. 101, § 1:

Act is general in intent and operation; held valid. *Newman v. City of Emporia*, 41 K. 583, 584.

14-535. Levy for special lighting system; special lighting fund. The governing body of any such city is hereby authorized to levy an annual tax on all real, personal, and mixed property in such city of not to exceed one mill on the dollar, to be used exclusively for the purpose of paying the cost and expenses of maintaining and operating such additional system of lights as hereinbefore provided. The revenue derived from such tax shall be kept in a separate fund by the city treasurer, and shall be known as the "special lighting fund." [L. 1915, ch. 141, § 5; May 22.]

14-437. Library levy in cities having valuation of not over \$3,500,000. That the governing body of any city of the second class, having and maintaining a public library, and having an assessed valuation of property in such city of not more than \$3,500,000, is hereby authorized and empowered to submit at a general or special election to the electors of the city the question of levying a tax for the erection of a public library building in such city: *Provided*, That the amount raised by such tax shall not exceed \$30,000 and shall be levied annually at a rate not to exceed one and one-half mills on the dollar of such valuation, at such election, if a majority of the votes cast should be for the proposition, the governing body of such city, are hereby authorized to erect such building with the money thus produced. [L. 1923, ch. 95, § 1; June 9.]

14-438. Surplus from such levy. That should the fund so produced be more than sufficient for the erection of such building, then the remainder of such fund shall become a part of and be transferred to the library fund of such city. [L. 1923, ch. 95, § 2; June 9.]

14-503. Assessments to pay such bonds. Such bonds shall be payable from such assessments to be made in each year so far as the same are chargeable upon the abutting lands. The governing body shall make a levy of a general tax on all the property in the city to pay the general-improvement bonds so issued, with the interest thereon. [Revised, 1923; old section, L. 1901, ch. 70, § 3.]

14-505. Road or street connecting with cemetery; paving by railroad. That whenever it becomes necessary to repave, remacadamize, surface or resurface any road, street or avenue, which terminates at and is a continuation of the main and principal paved, concreted or macadamized road, street or avenue leading to and connecting with the cemetery grounds owned by a city of the second class having not less than seven thousand inhabitants and having an assessed valuation of four million dollars or more, the other end of said road, street or avenue to be so repaved, remacadamized, surfaced or resurfaced, terminating at a regularly paved street of said city, the governing body of a city of the second class, upon the presentation to them of a petition, signed by fifty-one (51) per cent of the abutting property owners, that such work shall be done, shall by ordinance provide for the doing of such work, and shall contract therefor and shall provide for the payment of the total cost thereof by issuing general-improvement bonds of said city: *Provided*,

That this act shall apply only to such roads, streets, or avenues where the cost of the original paving or macadamizing thereon was paid by special assessment upon the real property abutting on such road, street or avenue, and where either the original curbing or the foundation of such paving or macadamizing is usable: *And provided further*, That whenever any such road, street or avenue, over which the track or tracks of a street, steam or interurban railroad have been built, is to be repaved, remacadamized, surfaced or resurfaced, then and in that case the person, persons, company or corporation owning such railroad shall at their own expense repave, remacadamize, surface or resurface, with vitrified brick and according to the specifications of the city engineer, that part of such road, street or avenue between the rails of each track or tracks and for eighteen inches outside the rails of such track or tracks. All such work shall join up to the rails as closely as possible and be as nearly as practicable on the same level as the top surface of the rails of such track or tracks, and the person, persons, company, or corporation owning such railroad shall thereafter keep in repair all that portion of said road, street or avenue lying between the rails of each track or tracks and for eighteen inches outside the rails of such track or tracks. [L. 1917, ch. 105, § 1; March 9.]

14-538. Public parks tax. That for the purpose of maintaining such parks the governing body of any city named in section 1 of this act is hereby authorized to levy a tax to be known as "the public parks tax," in exact accordance with the recommendation made by the public parks commission, not to exceed one mill on each dollar of the valuation of all taxable property in the city. [L. 1921, ch. 133, § 2; May 25.]

14-539. Laws applicable to parks. That all the provisions of Laws of 1909, chapter 69, sections 1, 2 and 3, as amended by Laws of 1915, chapter 125, section 1, Laws of 1913, chapter 81, section 1, and Laws of 1915, chapter 124, section 1, in so far as they can be made applicable to this act, are hereby adopted and made a part hereof. [L. 1921, ch. 133, § 3; May 25.]

14-506. Issuance of such bonds. The bonds provided for in the preceding section shall be issued and sold as provided by law. The credit of the entire city issuing such bonds shall be pledged for the payment thereof, both principal and interest. [Revised, 1923; old section, L. 1917, ch. 105, § 2.]

14-507. Levy to pay such bonds; limitation on bonds. The governing body of cities of the second class is hereby authorized to and shall make a levy of a general tax on all the taxable property in said city to pay such bonds and the interest thereon: *Provided*, That no city shall issue bonds to an amount in excess of fifteen thousand (\$15,000) dollars for the repaving, remacadamizing, surfacing or resurfacing of any one continuous road, street or avenue by virtue of this act. [Revised, 1923; old section, L. 1917, ch. 105, § 3.]

14-508. Restrictions on such levy. The power of the governing body of a city of the second class, to levy taxes to pay said bonds and interest thereon shall not be restricted by the provisions of any other act or parts of acts relating to taxation in or by cities of the second class, but such power shall be in addition to all other power or powers of cities of the second class to levy taxes for any purpose or purposes whatsoever. [L. 1917, ch. 105, § 4; March 9.]

14-516. [Authorizes the governing body of any city of the second class to provide for main intercepting sewers and pay for same by a tax on all the property of the city.] [L. 1905, ch. 117, § 1; L. 1909, ch. 83, § 1; March 27.]

14-601. Levy to aid public or private hospital in cities of over 6,000. That cities of the second class, with a population in excess of 6,000 and not exceeding 10,000 are hereby authorized to levy a tax, not exceeding three-tenths of a mill on the dollar of all taxable property of such city, for the purpose of aiding in the support of a public or city hospital owned or controlled by such city; and where such city does not own or control a public or city hospital such tax may be levied and appropriated to any private hospital located in such city that will receive and care for, without other charge, and extend charitable aid in medical care or surgical treatment to patients living in such city. Said tax may be levied each year, and the authority to levy such tax shall be in addition to the authority which cities of the second class now have to levy taxes, and said tax when collected shall be paid over to said institution or to the treasurer or managing agent thereof as directed by the governing body of said city. [L. 1911, ch. 113, § 1; March 10.]

14-602. Levy for hospital site and building. The governing body of any city of the second class may levy, in addition to other taxes prescribed by law, a tax of not exceeding ten mills on each dollar of assessed valuation of all property in said city, for the purpose of acquiring a site and building a hospital in said city: *Provided*, That before such tax shall be levied a petition fixing the amount of the levy, the cost of the site, and the cost of the building, signed by not less than forty per cent of the electors of such city, as shown by the official vote cast at the last preceding general election in said city, shall be presented to such governing body, asking that such a tax be levied for such a purpose; and upon receipt of such petition and the approval thereof by the governing body thereof, the said governing body shall pass a resolution approving such petition and declaring such hospital to be a public benefit, and ordering that the levy of said tax shall be made. The said resolution shall be published for not less than three consecutive weeks in the official newspaper published in said city: *And provided further*, That no petition signed by forty per cent of the electors of said city remonstrating against the acquiring of said site, the building of said hospital, and the levying of said tax, shall be presented to said governing body within sixty days from the date of the passage of the resolution hereinbefore provided for: *And provided further*, That in the event such remonstrance petition remonstrating against the levy of such tax shall be presented to said governing body within the time aforesaid, the said governing body shall submit the proposition to make such levy, stating the amount of such levy, to a vote of the qualified electors of the city at an election called for that purpose, which said election shall be held at a date to be fixed at not more than ninety days from the date of the filing of such remonstrance petition. A majority of the qualified voters of the city voting at such election, voting in favor of the levying of the tax, the governing body shall at once proceed to make the levy. [L. 1917, ch. 104, § 1; April 3.]

14-603. Levy for maintenance of hospital. Upon the establishment of a city hospital in a city of the second class, the governing body may levy an-

nually, in addition to other taxes prescribed by law, a tax for the purpose of equipping, maintaining and improving such hospital, of not to exceed three mills on each dollar of the assessed valuation of all property within the limits of said city. [L. 1917, ch. 104, § 2; L. 1921, ch. 134, § 1; May 25.]

14-616. Levy to supplement hospital bequest. That when any city of the second class in the state of Kansas situated in a county having a population of not less than eighteen thousand and not more than twenty thousand and have an assessed valuation of not less than \$45,000,000 has received a bequest of not less than ten thousand dollars for the purpose of acquiring a site and building a hospital thereon, and such sum shall be deemed inadequate therefore, by the governing body of said city, they shall so declare by resolution, and the governing body of such city shall have power to levy a tax of not exceeding ten mills on the dollar on all taxable property in said city for the purpose of raising such funds as may be necessary for acquiring a site and building such city hospital: *Provided*, That before any such levy shall be made, the petition provided for in section 1, of chapter 104, of the Session Laws of the State of Kansas of 1917, shall be filed and the proceedings required thereby be had in accordance therewith. [L. 1923, ch. 96, § 1; March 23.]

14-617. Levy for maintenance of such hospital. That the governing body of such city be and is hereby authorized and empowered, upon the erection of such hospital, to fix a levy each year of not to exceed three mills on the dollar on all the taxable property in said city, for the purpose of maintaining improvement and upkeep of such hospital. [L. 1923, ch. 96, § 2; March 23.]

14-1001. Exemption of city property from taxation. All lands, houses, moneys, debts due the city, and property and assets of every description belonging to any city or municipal corporation under this act, shall be exempt from taxation. [L. 1872, ch. 100, § 134; March 13.]

Under former law, city not required to answer as garnishee. *Switzer v. City of Wellington*, 40 K. 250, 252. (For later law, see L. 1919, ch. 237.)

14-1004. Relevy of taxes in case of void annexation. That in all cases where property adjacent to any city of the second class has been attempted to be added to such city, and thereafter such city has made public or special improvements in such territory by which it has been benefited, and thereafter the annexation of the same has been determined to be invalid, the governing body of any city of the second class, upon a reannexation of said territory pursuant to the laws provided therefor, is hereby directed and empowered to relevy said taxes and special assessments, if any; and the invalidity of the proceedings taken in said adjacent territory, previous to the making of said improvements and special assessments, shall be no defense to the collection of said taxes and special assessments. [L. 1893, ch. 67, § 1; April 19.]

14-1005. Levies for light and water funds. That cities of the second class with a population in excess of ten thousand are hereby authorized to levy each year, in addition to other taxes provided for by law, taxes for a "light fund" and "water fund," as follows: For the "light fund," a tax sufficient to realize an amount equal to the annual bill for street lighting and no more, and in no event to exceed five mills; and for the "water fund," a tax sufficient to realize an amount equal to the annual bill for hydrant rental and no more, and in no event to exceed five mills: *Provided*, This additional levy

shall not increase the present statutory limit of four per cent of the assessed valuation for general taxation in any one year: *And provided further*, That the authority of such cities to levy for either of the above funds shall cease and terminate whenever such city shall establish and operate its own plant or works and furnish itself the service for which it would otherwise be obliged to pay. [L. 1907, ch. 126, § 1; March 8.]

Limit cannot be increased by designating taxes by another name. *Ry. Co. v. City of Humboldt*, 87 K. 1, 3.

14-1006. Hauling of garbage. That the governing body of the second-class cities in this state is hereby authorized and empowered to contract for the hauling away and disposition of the garbage of the city and of its inhabitants, and to require that all such garbage shall be hauled away and disposed of as required by ordinance. The expense of the hauling and disposing of such garbage may be paid by assessment or other charge upon the inhabitants of the city whose garbage is hauled or disposed of, or the governing body of such city may levy a tax upon all of the taxable property in said city, in addition to the taxes now authorized, of not exceeding one-half mill to pay the expense of the hauling and disposition of such garbage. [Revised, 1923; old sections, L. 1915, ch. 145, § 2; L. 1919, ch. 141, § 1.]

14-1010. Levy for library. That the mayor and council of any city of the second class or the mayor and commissioners of any city of the second class having a commission form of government and having a population of not less than two thousand (2,000) nor more than three thousand five hundred (3,500) inhabitants, and having an assessed valuation of not less than one million five hundred thousand (\$1,500,000) dollars, or more than two million five hundred thousand (\$2,500,000) dollars and having a free public library, is hereby authorized at their discretion to make a levy for the support of said free public library, of not to exceed one (1) mill for a library fund. [L. 1913, ch. 327, § 1; Feb. 20.]

14-1011. Levy for municipal band. The governing body of any city of the second class shall, and it is hereby made its duty to levy a tax on all property in such cities, of two-tenths of one mill, or such part thereof as may be petitioned for, per annum, on each one dollar assessed valuation, for use in the maintenance of a municipal band to give free musical concerts for the benefit of the people. All money received from such levy shall be paid into a special fund to be known as "the municipal band fund"; but the governing body shall not appropriate any moneys out of such fund for the use and benefit of any band until the conductor or manager of such band shall have first entered into a written contract with such city for public concerts, at such times and places and under such regulations as shall be provided in such contract, and no voluntary donation or contribution shall be made out of said fund to any such organization in any manner whatever. [L. 1917, ch. 109, § 1; March 10.]

14-1012. Election for such levy. The provisions of this act shall not apply in any city of the second class until approved by the majority of the electors of said city at a special or general election called in response to a petition signed by at least ten per cent of the qualified voters of said city. The question shall be on the ballot in the following form: "Shall the city of _____ levy a tax of _____ mills for the creation of a 'municipal band fund'?" and

shall be voted for or against as is provided by law in other cases. A majority of the voters voting thereon shall be sufficient to carry the provisions of this law into effect in said city. [L. 1917, ch. 109, § 2; March 10.]

14-1018. Tax levy to purchase library building. Laws 1919, chapter 142, sections 1 and 2, included by reference. [The title to this act reads as follows: "An act authorizing the levy of a tax by certain cities of the second class for the purpose of producing a fund for the purchase of a site for a free library building, and enabling such cities to purchase such site." Omitted, as proceedings have probably been carried out.]

14-1601. Control financial affairs; annual budget and tax levy. The board of commissioners shall have general authority over the financial affairs of the city, and shall levy the taxes, settle all accounts, and make all appropriations for the payment of liabilities and expenses. The fiscal year of such city shall begin on January 1 of each year. In the month of July of each year, or as soon thereafter as practicable, the commissioner of finance and revenue shall make a careful estimate of the probable revenues for the next fiscal year and apportion the same to the several departments of the city government. Any unexpended part of such apportionment created for any year shall constitute part of the apportionment of the same department for the next ensuing year. Such estimate or budget shall be so prepared in detail as to the aggregate sum and items thereof as said commissioner shall deem advisable. In order to enable said commissioner to properly prepare such estimate or budget the heads of all departments shall, at least thirty days before such estimate or budget is hereby required to be made, send to the said commissioner estimates of the amounts needed for the conduct, respectively, of each department of such city for the next ensuing fiscal year. Such items shall be certified to by the parties making them, and shall specify in detail the objects thereof and the items required for the respective departments, including a statement of each of the salaries of the officers, employees, deputies and subordinates in each department. After such budget shall have been duly passed and adopted said board shall not have the power to increase the amounts fixed therein beyond the estimated revenues, unless the actual revenues shall have exceeded such estimate; and in such event said budget shall not be increased beyond such actual revenues. The sums fixed in said budget shall be appropriated after the beginning of the next ensuing fiscal year for the purposes named. Said board of commissioners shall levy taxes annually and make provision for sufficient revenue to meet all contemplated expenses included in such budget. In case the actual revenue is less than the estimates in said budget, there shall be a *pro rata* abatement of all appropriations contained therein. In case of a surplus in any fiscal year by reason of an excess of actual revenue received over and above the estimated revenues and expenditures for such year, the said surplus shall be credited *pro rata* to the several funds of the said city from which said revenue is derived, and shall be added to the revenue available for the next ensuing fiscal year. Any member of said board of commissioners who shall knowingly vote for or in any manner aid or promote the passage or adoption of any ordinances, legislation or other acts of said board increasing the appropriations for the expenses of said city beyond the estimates in said budget, unless the actual revenues shall

have exceeded such estimates, shall thereby be guilty of malfeasance in office, and such action shall, *ipso facto*, vacate his office, and any such appropriation over and above said estimated revenues shall be null and void, and said commissioner shall be liable on his official bond for the money so misappropriated. [L. 1909, ch. 82; § 28; March 1.]

15-402. Taxation and street improvements. The cities coming under the provisions of this act in their corporate capacities are authorized and empowered to enact ordinances for the following purposes, in addition to the other powers granted by this act:

First. To levy and collect taxes for general revenue purposes, not to exceed ten mills on the dollar in any one year, on all the real, mixed and personal property within the limits of said cities, taxable according to the laws of this state.

Second. To open and improve streets, avenues, and alleys, make sidewalks, and build bridges, culverts and sewers within the city; and, for the purpose of paying for the same, shall have power to make assessments in the following manner, to wit: *First*, for opening, widening and grading all streets and avenues, and for all improvements of the squares and areas formed by the crossing of streets, and for building bridges, culverts, and sewers, and footwalks across streets, the assessments shall be made on all the taxable property within the limits of the city, not to exceed ten mills on the dollar, for these purposes, in any one year. *Second*, for making and repairing sidewalks, macadamizing, curbing, paving, and guttering, the assessments shall be made on all lots and pieces of ground abutting on the improvements, according to the front foot thereof. [L. 1871, ch. 60, § 34; L. 1907, ch. 129, § 1; May 27.]

See chapter 245, Laws of 1909, limiting tax levy, this volume, in chapter on Taxation. Power of city to levy and collect taxes for sidewalks. *Seward v. Rheiner*, 2 K. A. 113. Mayor and council enjoined only by state. *The State, ex rel., v. City of Neodesha*, 3 K. A. 324.

City can only collect tax for sidewalk according to ordinance. *Sloan v. Beebe*, 24 K. 843. Abutting property owner cannot restrain tax collection after sidewalk built. *Ritchie v. City of South Topeka*, 38 K. 368.

Power of city to hold and control park. *Hurd v. Comm'rs of Harvey Co.*, 40 K. 92. Sidewalk and grading assessments must be made separately. *Kindley v. Rogers*, 85 K. 647. Section does not require tax levy when no necessity therefor. *The State, ex rel., v. Lander*, 87 K. 477.

15-409. Relevy or reassessment of taxes. In case the corporate authorities of any city coming under the provisions of this act have attempted to levy or assess any taxes for improvement, or for the payment of any bonds or other evidences of debt, which taxes or bonds are or may have been informal, illegal or void for the want of sufficient authority or other cause, the council of such cities, at the time fixed for levying general taxes, shall relevy and reassess any such taxes in the manner provided in this act, or shall bond such taxes and assessment as herein provided for their city indebtedness. [L. 1871, ch. 60, § 37; April 3.]

15-408. Improvements generally. The council may provide for making any and all improvements of a general nature in the city; and for the purpose of paying for the same, may from time to time borrow money, and may issue bonds therefor, as provided by law, but no such money shall be borrowed or bonds issued, until the city council shall be instructed so to do by a majority of all the votes cast at an election held in such city for that purpose. The council shall levy taxes on all taxable property within the city, in

addition to other taxes, to pay said bonds and the interest thereon, which taxes shall be paid in cash only. [Revised, 1923; old section, L. 1871, ch. 60, § 36.]

15-410. Limit of tax levy. At no time shall the levy of all the city taxes of the current year exceed four per cent of the taxable property of the city, as shown by the assessment books of the preceding year. [L. 1871, ch. 60, § 40; April 3.]

Section operates as limit on levy for bonds and interest. *Railway Co. v. Williamson*, 8 K. A. 711, 717.

City cannot be compelled to levy taxes to exceed limit. *Phelps v. Lodge*, 60 K. 122, 124. Judgment requiring levy not subject to collateral attack. *McEntire v. Williamson*, 68 K. 275, 280.

Taxpayer in privity with officers, bound by judgment against city. *McEntire v. Williamson*, 68 K. 275, 280.

Judgment not subject to collateral attack because excessive levy required. *McEntire v. Williamson*, 68 K. 275, 280.

15-433. Rest rooms and reading rooms. That upon the written petition of twenty-five per cent of the taxpayers of any city of the third class presented to the governing body, it shall cause to be submitted to the legal voters of said city at the first city election thereafter, or if the petition so requests, a special election to be called for that purpose, the question of the establishment and maintenance of a free rest room and reading room in such city, and if the majority of the votes cast at such election on such proposition shall be in favor thereof the governing body shall annually thereafter levy a tax in such sum as may be by resolution determined, not to exceed four-tenths of a mill on the dollar on all taxable property in such city. To be levied and collected in like manner with usual taxes and to be known as the rest-room fund. [L. 1917, ch. 116, § 1; March 24.]

15-702. Resolution for sewer or street improvements; protests; levy. When the governing body in any city of the third class in counties of more than 90,000 population which shall deem it necessary to curb, gutter, pave, macadamise, or grade, or recurb, regutter, repave, remacadamise or regrade any street, lane, avenue or alley, or any part thereof, or build or construct any sewer within the limits of the city, for which a special tax is to be levied, such governing body shall by resolution declare such work or improvement necessary to be done, and such resolution shall be published for three consecutive weeks in the official paper of the city, and if the resident owners of more than one-half of the property liable for taxation therefor shall not within twenty days from such last publication file with the clerk of such city their protest against such improvement, the governing body shall have power to cause such work to be done or such improvement to be made, and to contract therefor and to levy taxes as provided by law, and the work may be done before, during or after the collection of the special assessment, as may be deemed proper by the governing body; but none of the provisions of this act shall prevent the governing body from grading or regrading any street, lane or alley, or part thereof, and pay therefor out of the general improvement fund of said city. [Revised, 1923; old section, L. 1911, ch. 120, § 1.]

15-706. Building for meetings. That the governing body of any city of the third class in this state be and it hereby is authorized and empowered to procure by purchase or otherwise, a suitable site, and to build thereon permanent buildings. The same to be used for public purposes such as meetings

relating to the business of said city, and to keep its offices therein, and also for other public purposes, such as political gatherings, lectures and other entertainments, whether for free use or for hire and profit at which an admission price may be charged, and such other meetings as may be authorized by the governing body of said city or the representative thereof so appointed for that purpose: *Provided, however*, That in no event shall the total cost of said building and site exceed \$25,000: *And provided further*, That in no event shall said city officers proceed to procure said land or erect said building or buildings thereon, or appropriate any of the moneys of said city or levy any tax therefor, without first submitting the question to a vote of the electors of said city at a general or special election called for that purpose by the governing body, and said election shall be conducted and governed by and the returns thereof made in accordance with the general election laws: *And provided further*, That no levy or expenditure shall be made or contract entered into unless so authorized at said election by a majority of the qualified voters voting at said election. [L. 1921, ch. 144, § 1; March 31.]

15-902. **Tax for park.** The governing body of cities of the third class in the state of Kansas is hereby empowered to levy an annual tax on all property, real or personal, within the corporate limits of such city, not exceeding three mills on the dollar, to be used in the acquisition, improvement and maintenance of a public park. The revenue thus provided shall be designated and known as the "park fund," and shall not be used for any other purpose. [L. 1901, ch. 116, § 2; March 15.]

15-1109. **Levy for lighting streets.** That the governing body of cities of the third class may levy a tax of not more than one mill on the dollar on all taxable property in such city for the purpose of defraying the cost of lighting the streets of such city. Said tax may be levied each year and the authority to levy such tax shall be in addition to the authority which such cities now have to levy taxes. [L. 1911, ch. 117, § 1; L. 1915, ch. 152, § 1; May 22.]

79-1931. **Limit of levy in cities of the third class.** The authority of the governing body of cities of the third class to levy taxes, as provided in chapter 129, Laws of 1907, Laws of 1919, chapter 112, section 1, and chapter 116, Laws of 1901, is hereby limited so that the governing body of any such city shall not fix a rate of levy for the respective purposes in excess of the following-named rates: For general revenue fund, two and one-half mills; for opening, widening and grading all streets and avenues, and for all improvements of the squares and areas formed by the crossing of streets and for building bridges, culverts and sewers and footwalks across streets, two mills; for library fund, four-tenths of one mill; for park fund, six-tenths of one mill. All other levies for cities of the third class which are authorized by statutes not specifically named in this section are hereby limited to one-fifth of the rates so authorized. [L. 1909, ch. 245, § 21; March 11.]

NOTE.—Section originally referred to L. 1905, chapter 104, which has been superseded by L. 1919, ch. 112 (§ 12-1201). For L. 1907, ch. 129, referred to, see chapter 14, "Cities of the second class" (§ 14-123).

DRAINAGE.

24-108. **County drainage works along highways.** That the board of county commissioners of any county in this state where existing drainage districts are so situated that the drainage and ditches established therein are

inadequate to take care of and discharge the surplus surface waters along the highways of any portion of said county are authorized and empowered to assess, levy and collect a tax sufficient to secure the draining of the lands adjacent to such roads to relieve all such roads and highways and lands of such surplus waters and to construct drains, dig ditches or build levies or embankments wherever necessary to confine and conduct the waters; to condemn lands; to enter adjacent natural drainage territory, and assess individual property and road districts as their benefits may appear: *Provided*, That such action is prayed for by an agreement participated in by at least sixty per cent of the resident property owners benefited, asking and consenting to such condemnation and use of such property: *Provided further*, That the prayer of which said petition and agreement shall have been allowed by the board of county commissioners after a hearing due notice of which shall have been given: *Provided further*, That the total amount of expense of constructing such ditches, drains, embankments or levees in any one section of the county so benefited in any one instance shall not exceed the sum of \$1,000. [L. 1923, ch. 140, § 1; April 14.]

24-109. Warrants and assessments therefor. That to carry out the provisions of this act the board of county commissioners of such county is authorized, empowered and directed to issue its warrants in favor of the persons doing such work or owning such lands and to collect the same in three annual assessments, upon the property lying within the limits of the benefit district defined by the board of county commissioners. [L. 1923, ch. 140, § 2; April 14.]

24-205. Cost of work; assessments. That the said township trustee, whenever he shall have established any such ditch, drain, or watercourse, shall divide the same into suitable sections, not less in number than the number of owners of land through which the same may be located, and shall also prescribe the time within which the work upon such sections shall be completed, and by whom done. And the said trustee shall assess and allow all the fees, costs and expenses of locating and establishing such ditch, drain or watercourse, and shall apportion the payment of the same equitably among the parties to be benefited thereby. And the trustee may prescribe the time within which assessments shall be paid, and may if he deem it necessary and convenient to the parties, direct the clerks to prepare, for the use of each person having costs to pay and labor to perform, a brief statement, in writing, describing briefly his, her or their apportionment of said ditch, together with the length, depth, width, and place of the same, amount of costs assessed against such person, when to be paid, and by what time said work to be completed; and that whenever any such ditch, drain or watercourse shall become in any manner obstructed, it shall be the duty of said township trustee, after five days' notice having been given by any person damaged thereby, to cause such ditch, drain or watercourse to be repaired in such a manner as to remove such obstruction, and to restore such ditch, drain or watercourse to its established width and depth; and to this end said trustee shall have power, for such purpose, to enter upon the lands of any person through which such ditch, drain or watercourse may pass. The cost and expense of such work and repairs shall be equitably apportioned among the parties benefited thereby, and said trustee may prescribe the time within which such assessments may be paid. When any assessment or part of assessment

of the costs and expenses of locating, establishing or repairing any such ditch, drain or watercourse shall remain unpaid at the expiration of the time prescribed for the payment of the same, by said trustee, such unpaid costs and expenses may be certified to the county clerk and collected as provided for in Laws 1919, chapter 186, section 1. [L. 1879, ch. 100, § 5; L. 1895, ch. 118, § 1; April 12.]

NOTE.—Section as enacted referred to "section 13 of the original act (section 13, chapter 100, Laws 1879)," which was amended by Laws 1919, chapter 186 (24-213).

Landowners assessed according to benefits received. *Bonnewell v. Lowe*, 80 K. 769, 774, 775.

Trustee may act upon his own initiative when repairs needed. *Bonnewell v. Lowe*, 80 K. 769, 775, 776.

Purpose of designating person to do work on ditch, considered. *Hupe v. Sommer*, 88 K. 561, 568.

24-211. Work to be done and compensation paid; proceedings certified to county clerk. The said ditch, drain, or watercourse shall be opened and worked, and compensation for land used in the construction of the same paid, within the time specified in the order of the probate judge; and at the expiration of such term any such work remaining undone, and the probate judge being notified of that fact, shall immediately give notice of the sale of such work by sections, or parts of sections, of said ditch, drain or watercourse, to the lowest bidder, by written handbills. The time of such sale shall not be less than ten nor more than fifteen days from the date of notice, and the place of sale shall be at the proposed terminus of such ditch, drain, or watercourse, in said township; that said probate judge shall take such security for the performance of such work as he may deem necessary, and he shall, immediately after such sale, enter his proceedings on his journal, and make them a part of the record in such case, and shall thereupon certify to the county clerk of his county the several amounts, including costs apportioned, so assessed against each owner or person interested as aforesaid, describing each piece or parcel of land so to be charged; and the county clerk shall thereupon enter the same on the tax roll of such county, to be collected as other taxes are collected, and shall be paid over, on the order of the county clerk, to the probate judge of the county, who shall keep a correct account of the same, and shall pay the same over to the several persons entitled thereto whenever he shall be satisfied that the several sections have been completed according to the report of the jury theretofore made. [L. 1879, ch. 100, § 11; March 26.]

24-302. Tax levy. The county commissioners of any county which has or which shall construct a drainage ditch, drain or watercourse within said county are authorized hereby and empowered to levy a tax upon the taxpayers of the entire county sufficient to maintain and keep in repair said ditch, drain or watercourse and the taxes collected from said levy shall be paid the same as other taxes. [L. 1920, ch. 42, § 1; Jan. 29.]

24-316. Ditch along highway or railroad. That when any ditch, drain or watercourse, located and established under this act, crosses or drains, either in whole or in part, any public or corporated road, or any railroad, or benefits any or either of said roads, so that the roadbed or traveled track of any such road will be made better by the opening and construction of any such ditch, drain or watercourse, the board of county commissioners shall apportion and set off to the county, if a county road, or to the township, if a township road,

or to the company, if corporated or a railroad, a portion of the costs and expenses, and also a portion of the construction thereof, the same as private individuals, and in proportion to the benefits conferred by said ditch, drain and watercourse on such roads, and compel them to pay said costs and perform said labor in like manner. That if any public or corporated road, or any railroad whose roadbed or traveled track is benefited by the opening and constructing of any such ditch, drain or watercourse, shall fail to pay the costs and expenses assigned to them, or fail to procure the cutting and opening of such ditch, drain or watercourse on that section or portion assigned and set off to them respectively by the board of county commissioners as hereinbefore provided, as in case of individuals, after due notice upon the person designated by any such corporation or railroad to accept service for such corporation or railroad and in the manner and time specified in this act for such service, or on individuals, the board of county commissioners shall in that event proceed in the same manner and form as in this act provided for the collection of such costs and expenses against private individuals; and upon completion of the work, and acceptance as hereinbefore provided, the county commissioners shall certify the amount due for the performance of said work to the county clerk of such county, and said amount shall be placed upon the tax roll of such county by the clerk thereof, against said corporated road or railroad benefited by cutting and opening of said portion or section of said ditch, drain or watercourse, to be collected as other state and county taxes are collected. [L. 1888, ch. 161, § 15; Feb. 24.]

24-407. Powers of drainage districts. . . . Eleventh. To annually levy and collect a general tax not exceeding five mills on the dollar on all taxable property within the district, to create a general fund.

Twelfth. To levy assessments and special taxes, if deemed expedient by the directors, upon all of the real estate in the district that may be benefited, to defray the costs of the construction and maintenance of levees or other works or improvements to prevent the overflow of natural watercourses, or the drainage of overflowed lands therein, or that may be conducive to the public health, convenience, or welfare.

[The above are the eleventh and twelfth paragraphs of section 1, chapter 40, L. 1920.]

24-412. Board to determine work to be done; surveys. That the board of directors, subject to the limitations contained in the next preceding section, shall have power and it shall be its duty to determine what work is necessary to be done, levees constructed or other improvements made to protect its district from overflow or damage and injury resulting therefrom, and whether the cost thereof shall be defrayed by issuing bonds to be paid by the levy of general taxes or by the levy of special taxes or assessments; but before any bonds shall be issued, special taxes levied or liability of any kind incurred by it, the board of directors shall cause accurate surveys of all work deemed necessary by it to be done, and accurate estimates and calculations to be made by some competent engineer, who shall make a written report thereof, showing the amount, character and kind of work to be done and the location and probable cost thereof, and return and file the same with all plans and specifications in

the office of its secretary, which report shall at all times be open to public inspection. [L. 1905, ch. 215, § 18; Feb. 25.]

Land subject to overflow, as well as actual overflow, included. *Roby v. Drainage District*, 77 K. 754, 758.

24-475. Costs and damages assessed. That the drainage districts into or through which such navigable stream flows are hereby made liable for the value of any land so appropriated, together with all damages which may be occasioned thereby to the owner of the land so appropriated and the cost of said suit, and any judgment rendered in said action against the state of Kansas shall be a lien upon all the taxable property in such drainage district and the board of directors of such drainage district is hereby empowered and directed to pay said judgment, the cost and award, from the funds in their hands and under their control for such purpose, and in the event such funds are insufficient or for any reason may not be used for such purpose, the board of directors shall issue bonds or levy a tax for the payment thereof as provided by law; and in the event that the board of directors of such district shall fail or neglect to pay the full amount of the judgment, cost and award, as herein provided, the board of county commissioners of the county wherein such land is situated, is hereby empowered and directed to levy a tax upon all the taxable property within the limits of such drainage district and cause the same to be extended upon the tax rolls and collected as other taxes in a sum sufficient to pay such judgment, cost and award in full, and the same when so collected shall be so applied; and if for any reason there should be a failure to satisfy such judgment, the rights of the state to such tract or tracts of land shall be divested and the possession of such tract or tracts of land shall revert to the former adjudicated owners, in which event compensation shall be awarded for any loss or damage occasioned by such temporary appropriation, and the court shall render judgment therefor, which judgment shall be enforceable as in case of permanent appropriation: *Provided, however*, That in any such action it shall be competent for the state to dispute and contest the title of the claimant and to show that the land so appropriated constituted an obstruction or encroachment wrongfully placed in the channel or between the banks of said stream, or that for any other reason the claimant is not entitled to any compensation therefor and, if it shall be found that the land so appropriated constituted an obstruction wrongfully placed in said stream or that for any reason the claimant is not entitled to compensation or damage therefor, judgment shall be rendered accordingly. [L. 1911, ch. 172, § 6; Jan. 30.]

24-512. Powers of district. Every drainage district incorporated under the provisions of this act shall have power: . . . *Eighth*, to levy an annual tax, not to exceed two mills on the dollar, on the assessed value of all lands and other real property included within the district to constitute a general fund to meet the incidental expenses of the district. *Ninth*, to issue bonds and to provide for the payment of the same; *Provided*, That the whole amount of the bonds so issued shall not exceed fifty per centum of the assessed value of all lands and other real property within the district. . . . [L. 1911, ch. 170, § 12; L. 1919, ch. 187, § 1; L. 1921, ch. 179, § 1; March 17.]

24-707. Lien and payment of assessments. . . . It shall be the duty of the clerk to give notice by mail to the director of any school district and to the

mayor of any city against which any assessment for benefits shall have been made, of the fact of such assessment; and it shall be the duty of such school-district board and of the mayor and council of such city to make a levy, at the time and in the manner levies are made for taxes, of a sufficient amount upon all the taxable property in such school district or such city to raise a sufficient sum to pay such assessment, which when so levied shall be certified to the county clerk as other levies are certified by school-district boards and the mayor and council of cities, and entered on the tax roll by the county clerk and collected by the county treasurer as taxes are collected, and when so collected shall be paid over by the county treasurer, to the clerk of the district court as other assessments of benefits are paid to such clerk. [L. 1907, ch. 197, § 5; L. 1909, ch. 128, § 2; March 25.]

RAILROAD AID.

66-1008. Bond levy. Whenever any bonds shall be issued in pursuance of the foregoing provisions, it shall be the duty of the board of county commissioners or the governing body of the city to levy and collect annually, in addition to other taxes, a tax on all taxable property in such county, township or city, sufficient to pay the interest on such bonds as the same shall become due, and to create a sinking fund sufficient to pay said bonds at maturity; and such tax shall be collected as other taxes are collected, and paid out by the treasurer on presentation of the coupons or bonds, when due, at the treasurer's office, or at such place as may be specified in the petition or proposition herein mentioned. [L. 1876, ch. 107, § 6; Feb. 9.]

County commissioners levy tax; concurrence of township trustees not necessary. Board of County Comm'rs of Labette County, Kan., v. United States, et rel. Clarence F. Moulton, 113 U. S. 317.

66-1012. Application of taxes to such bonds and the proceeds therefrom. All the county, township and city taxes levied upon the property of and collected from any company to which aid shall be extended under the provisions of this act, within such county, township or city, shall be set apart for and applied exclusively to the payment of the coupons, and to provide a sinking fund for the payment at maturity of the principal of the bonds issued by such county, township or city in aid of such railroad company, until the same shall be fully paid; and where any county, township or city has extended aid in the nature of a loan to any railroad company, the first-mortgage bonds received by such county, township or city under the provisions of this act, together with the interest thereon and the proceeds of the principal thereof if sold, shall be applied exclusively to the payment of the coupons and bonds issued by such county, township or city in aid of such company: *Provided*, That where two or more townships in a county shall extend aid to any railroad company under the provisions of this act, the taxes collected from such company in such county shall be divided and applied between such townships in proportion to the amount of aid rendered by them respectively, but no greater amount of taxes shall be levied upon the taxable property of any county, township or city extending aid under the provisions of this act to any railroad company than shall be necessary, with the amount of taxes collected from such railroad company upon its property in such county, township or city, and the interest collected from the first-mortgage bonds, to meet the

interest and provide a sinking fund for the payment of the principal of the bonds of such county, township or city. [L. 1876, ch. 107, § 10; Feb. 29.]

66-1025. Officers of benefit district; laws applicable to bonds. The county commissioners of any county in which a benefit district is organized according to the terms of this act shall, *ex officio*, act as the officers of such benefit district in like manner, and shall perform the same duties for said district as are performed by the township board for the township in the issuance, registration and payment of railroad-aid bonds, levying taxes, and in providing a sinking fund therefor and in taking and holding stock subscribed to any such railroad as an aid in the construction thereof. Such board of county commissioners shall choose one of their number to act as trustee, another as clerk and another as treasurer of said benefit district, and shall sign all orders, warrants, or other instruments necessary for the purpose of carrying this act into effect as ——— benefit district, as the case may be. All laws and statutes relating to the issuance of railroad aid bonds, the providing of sinking funds and the distribution of taxes of the railroads extending through said benefit district, relative to bonds issued by townships or the taxation of railroads extending through townships, which have issued railroad bonds for the purpose of aiding in the construction of railroads, are hereby adopted for the purpose of this act: *Provided*, That where a benefit district is created in part from two or more townships, cities or towns, and the amount of taxation paid by any railroad extending through such district in any one year shall exceed the amount necessary for the purpose of meeting the interest on such bonds and the sinking fund requirements, the balance of such taxes shall be distributed between the townships, cities or towns, in which said lands are situated in proportion to the value of the lands located in each of said townships, cities or towns. [L. 1923, ch. 172, § 8; March 24.]

66-1044. Sinking fund. Whenever any bond shall be issued in pursuance of the provisions of this act, it shall be the duty of the board of county commissioners or the governing body of such city to levy and collect annually, in addition to all other taxes, a tax on all the taxable property in such county, township or city, sufficient to pay the interest and annual installment of such bonds as the same shall become due, and to create a sinking fund sufficient to pay said bonds at maturity if said bonds are not made payable in annual installments; and such tax shall be collected as other taxes are collected and paid out by the treasurer on presentation of the bonds and coupons, or either, as the same become due, in the same manner as other bonds are paid. [L. 1923, ch. 171, § 8; March 7.]

66-1050. Levy of taxes to pay interest and for sinking fund. Whenever any bonds shall be issued under the provisions of this act it shall be the duty of the county commissioners to levy and collect taxes, as provided under other bond laws, sufficient to pay the interest on said bonds and to provide a sinking fund to pay said bonds at maturity. [L. 1913, ch. 247, § 5; March 13.]

66-1065. Levy to pay bonds. Whenever such bonds shall be issued in pursuance of the foregoing provisions, it shall be the duty of the governing body of the city to levy and collect annually, in addition to other taxes, a tax on all taxable property in such city sufficient to pay the interest on such bonds as the same shall become due, and to create a sinking fund sufficient to pay

such bonds at maturity. Such taxes shall be collected and paid on presentation of coupons or bonds when due at the fiscal agency aforesaid. [L. 1886, ch. 67, § 6; Feb. 26.]

66-1081. Levy to pay bonds. Whenever any bonds shall be issued under the provisions of this act, it shall be the duty of the governing body of such city to levy annually a general tax on all the taxable property in the city to pay the interest upon said bonds, and also to provide a sinking fund to pay the principal of said bonds at maturity. [L. 1915, ch. 279, § 5; March 17.]

66-1094. Tax levy hereunder. If a majority of the votes cast upon any proposition submitted in the tax aid benefit district as herein provided be in favor of extending aid to the railroad company named in said proposition, the board of county commissioners of the county in which said tax aid benefit district is located shall at a regular meeting to be held by it or them on the first Wednesday of August next succeeding any election held in any year under the provisions of this act levy a tax not exceeding two mills on the dollar on the valuation of all taxable property in such tax aid benefit district sufficient to raise the amount of money as determined by the order of the district court as provided by section 5 hereof. [L. 1923, ch. 173, § 6; March 28.]

66-1095. Payment of proceeds of levy to railroad company. It shall be the duty of the county treasurers of each county in the state of Kansas in which a tax aid benefit district may be located to pay to the treasurer of any railroad company to which aid has been voted by the people of such tax aid benefit district all money that may hereafter come into his hands by reason of any tax levy made under the provisions of this act. [L. 1923, ch. 173, § 7; March 28.]

66-1096. Change of boundaries of benefit district. The boundaries of a benefit district in each county when once determined by the district court as provided in section 5 hereof shall so remain for a period of five years from the date of the rendition of the order by said court. But on and after said five years, if a petition is filed with said court within six months praying an order of the court to either set aside said tax aid district or to change the boundaries thereof, notice of a hearing on said petition shall be given as provided in section 5 hereof, and the court may dissolve said district or change its boundaries according to the testimony at said hearing. But if no such petition be filed within the said period of six months then said tax aid benefit district as heretofore defined by said court shall continue for a period of five more years, and shall continue for similar periods of five years unless changed or dissolved in the manner provided in this section. [L. 1923, ch. 173, § 8; March 28.]

66-1097. Annual petition and levy for aid of railroad. For the purpose of securing the levy of a tax as provided in this act, it will be necessary for the railroad or railway to be benefited to petition the district court each year as provided in section 4 hereof, and before a levy for the purpose of collecting said tax can be made it must be voted on each year as provided by sections 5 and 6 hereof and no tax can be levied for the purposes provided in this act at any time except on a determination by the district court of each district that said tax is needed as provided herein and then a favorable vote of the voters in each district as provided herein. [L. 1923, ch. 173, § 9; March 28.]

66-1209. Remission of railway taxes. Whenever it is made to appear to the satisfaction of the board of county commissioners of any county in this state that any corporation, company or person has operated a railroad in the state of Kansas for not less than ten years, and has paid all taxes on its property and right of way assessed for said ten years, and thereafter has ceased to operate said railroad for two years, because it did not have sufficient money to do so, and the taxes on such property and right of way have not been paid for a period of five (5) years, such county commissioners may cancel said taxes for said last five (5) years, when said railroad company, or its receiver, or legal representatives, resumes operation of said railroad in the state of Kansas. [L. 1923, ch. 174, § 1; June 9.]

ROADS AND BRIDGES.

68-125. County levy for repair of hard-surfaced roads. That in each county in this state where macadam or other hard-surfaced roads have been constructed previous to March 3, 1917, under any law of this state authorizing the construction of said roads by the use of county or township funds, the county engineer of such county, on or before the 25th day of July of each year shall carefully inspect or cause to be inspected all such macadam or other hard-surfaced roads in said county and certify to the board of county commissioners a detailed statement of the repairs and maintenance required on each mile of said hard-surfaced road and the amount necessary to pay for the proper maintenance and repair of all said roads during the ensuing year, which shall include the maintaining of needed repairs and the preservation of a reasonably smooth surface considering the type of road but not extraordinary repairs or reconstruction. The board of county commissioners may levy on all taxable property in said county a tax sufficient to raise the amount necessary. The county treasurer shall collect said tax in the same manner in which other taxes are collected and shall pay out the same on orders drawn by the county board against such funds. This levy shall be made in addition to all other levies fixed by law and the funds so collected shall be kept in a separate account and shall not be used for any other purposes than herein provided: *Provided*, That no portion of the funds so collected shall be used to maintain or improve highways or roads lying within the limits of any city of the first or second class. [L. 1921, ch. 223, § 1; May 25.]

68-148. Oiling of roads. The board of county commissioners of any county having 90,000 inhabitants or over, already empowered by special acts to macadamise county roads, and already authorized to levy and collect taxes for that purpose, are hereby further empowered to oil any such county road instead of macadamising it. The cost of such improvement may be defrayed out of the macadam fund. [L. 1915, ch. 294, § 1; March 17.]

68-403. Estimates and levies to comply with federal aid. That in each county in this state which has received or may hereafter receive federal aid in the construction or reconstruction of any road or roads from the appropriation provided for in the aforesaid act of congress, the state highway commission, together with the county engineer of such county, on or before the twenty-fifth of July in each year, shall carefully inspect, or cause to be inspected, all such government aid roads in said county and certify to the board of county commissioners a detailed statement of the repairs and maintenance

required on each mile of said government aid road and the amount necessary to pay for the proper maintenance and repair of all said roads during the ensuing year, which shall include the making of needed repairs and the preservation of a reasonably smooth surface considering the type of the road, but not extraordinary repairs or reconstruction. The board of county commissioners shall levy on all taxable property in said county a tax sufficient to raise the amount so certified by the state highway commission. The county treasurer shall collect said tax in the same manner in which other taxes are collected and shall pay out the same on orders drawn by the county board against vouchers approved by the state highway commission. This levy shall be made in addition to all other levies fixed by law, and the funds so collected shall be kept in a separate account and shall not be used for any other purpose than herein specified. [L. 1917, ch. 264, § 3; March 7.]

68-519. County road levy. That the board of county commissioners of each county, at the time prescribed by law for levying county taxes, shall levy a road tax for county roads of not less than one-fourth mill nor more than one and one-half mills on the dollar on all taxable property in their respective counties, for the construction, improvement, repair and maintenance of the county roads of such county under the direction of the county engineer: *Provided*, That if the board deems it advisable to make a levy in excess of one and one-half mills, it may submit the proposition to the qualified electors of the county at a general election. If a majority of the votes cast on the proposition are in favor of such increase the board may make such increased levy for such time as may have been authorized by the proposition submitted: *Provided further*, That the board of county commissioners shall keep all county roads within their respective counties in good condition: *Provided*, That funds raised under the provisions of this section shall not be used to construct or repair bridges or culverts. [L. 1917, ch. 264, § 26; March 7.]

79-1912. Limitation on county road levy. The authority of the board of county commissioners of each county to levy a road tax, as provided in section 9 of chapter 363, Laws of 1901, is hereby limited so that the board shall not levy in excess of four-tenths of a mill on the dollar upon all taxable property in the county. [L. 1909, ch. 245, § 13; March 11.]

Note.—L. 1901, ch. 263, sec. 9, was repealed by L. 1909, ch. 209, sec. 12; L. 1909, ch. 200, was repealed by L. 1911, ch. 243, sec. 44.

Note.—For L. 1911, ch. 243, sec. 44, see ch. 68 on "Roads and Bridges," § 68-101 of seq. Section refers to certain roads established by vote of people. The State, ex rel., v. Cowley County, 86 K. 301, 302.

68-535. Township road levy. That for the purpose of carrying out the provisions of this act the township board of highway commissioners shall certify to the board of county commissioners of their respective counties on the last Saturday of July of each year the aggregate amount determined by them necessary for township road purposes for the year next ensuing. The board of county commissioners at the time fixed by law for levying county taxes shall determine the rate of levy necessary to raise the amount of money certified by dividing the aggregate assessed value of the township outside of cities into the amount so to be raised and of the rate so obtained all decimals beyond hundredths of a mill shall be dropped out but in no case shall the levy exceed three mills. The rate so determined shall be levied on all property.

real and personal, in the township outside of incorporated cities: *Provided*, That any levy in excess of three mills may be authorized by a majority of the votes of all the electors of the township voting on the proposition at any general election or special election called for that purpose for such time as shall be stated in the proposition when submitted. It shall be the duty of the county clerk to extend such levy on the tax rolls, and the county treasurer shall collect the same as other taxes are collected, and when collected shall pay over the same to the township treasurer. [L. 1917, ch. 264, § 42; March 7.]

68-706. Apportionment of cost of such improvements; special assessments; bonds and levies. Upon the completion of any improvement under the provision of this act the county commissioners shall meet at their office and apportion the cost thereof as follows: (a) If all or any portion of said road improvement is entitled to and does receive federal or state aid or donations, the same shall be applied to the cost of the improvement for the purpose and to the extent for which the same was given. (b) The remainder of the cost shall be apportioned: fifty per cent to the county; twelve and one-half per cent to the taxable property within the township or townships in which the benefit district is situated, divided according to the area of the benefit district in each township; twelve and one-half per cent to the taxable property within the township or townships in which the road is located divided according to the length of road in each township: *Provided*, That when the road is located on the township line or within eighty rods of the township line between two townships it shall be considered as located one-half in each township for the purpose of dividing the apportionment; and all cities of the third class shall be a part of the township and subject to the township tax to pay for said improvements; and twenty-five per cent among the several tracts of land within the benefit district designated in the map, according to the benefits accruing to the real property and improvements thereon within the limits shown by said map. When said apportionment to the land within the benefit district is determined, the county commissioners shall appoint a time for holding a special session to hear any complaint that may be made as to the apportionment of cost, and the county clerk shall mail a written or printed notice to the owner or owners of any tract of land liable to special assessments, which notice shall set forth the time for hearing complaints and the amount assessed against each tract within the benefit district, and the last day for paying the assessment in full. Such notice shall be mailed at least two weeks prior to the time for hearing the complaints. At the hearing, the commissioners may alter or change the apportionment for good cause shown. If the amount assessed to any tract is changed, the county clerk shall mail a second notice to the owner of such tract, which shall set forth the amount assessed and the last day for paying the assessment in full. If the owner of any tract within the benefit district shall pay the full amount assessed against such tract within thirty days after the issuance of the first notice, such tract shall not be subject to any further annual special assessments for such improvement. Upon completion of a section of road which forms a part of the improvement of a road petitioned for under the provisions of this act, for the grading, draining and culverts forming a part of the improvement under a petition specifying that the road shall be hard-surfaced, the board of county commissioners may levy assessments against the lands benefited thereby for eighty per cent of the benefit district's share of the

cost of the completed work and shall levy additional assessments for the remainder of the cost, equitably adjusting the apportionments when the entire improvement is completed. The board of county commissioners may levy assessments against the land in the benefit district at any time after a contract has been awarded or work started with the county's forces, using the approved estimate of cost as a basis for apportioning the cost: *Provided*, That when all the improvement specified in the petition is completed any deficiency in the benefit district's share of the cost shall be apportioned or surplus refunded on the same basis as the original apportionment. In the event that a benefit-district road is constructed to the city limits of a city of the third class, the city officials shall apply to the board of county commissioners for assistance in the continuation of said improvement through the city or from the end of the benefit-district road to the center of the city. The board of county commissioners shall then appropriate from the county funds, or issue bonds if necessary, to pay for fifty per cent of the cost of the improvement after deducting all federal and state aid and donations, and the city at large the remaining fifty per cent apportioned, on an equitable ratio among the taxpayers as prescribed by the council or other governing bodies, and may issue city bonds to pay the city's share of the cost of such improvements, unless the city council decides to pave and does pave the streets to be included in such improvement with pavement of equal quality under the law authorizing paving in such cities. In such case the county's share of improving such city street as provided herein shall be applied toward the cost of such pavement: *Provided further*, That the type and width shall be the same as constructed outside the city limits. If the city officials desire to use a different width or method of construction, the additional cost of such width and method shall be borne by the city. When a benefit-district hard-surfaced road is constructed alongside the corporate limits of any city, the city shall pay fifty per cent of the cost of the construction thereof, apportioned on an equitable ratio among the taxpayers as prescribed by the council or other governing bodies, and may issue city bonds to pay the city's share of the cost of such improvements: *Provided further*, That if the land adjoining the city limits and abutting or adjacent to the hard-surfaced road and within one mile thereof is not in the benefit district, it may be so considered by the board of county commissioners and be taxed in like ratio as other lands in the benefit district and township assessments. All bonds issued or taxes levied under the provisions of this section shall be in addition to all other tax levies or bond issues authorized by law. [L. 1909, ch. 201, § 6; L. 1911, ch. 249, § 1; L. 1917, ch. 265, § 6; L. 1919, ch. 246, § 5; L. 1921, ch. 218, § 2; April 4.]

63-708. Bonds and levies for benefit-district roads; application of general road funds. After the approved estimates have been filed with the county clerk and the cost to be assessed against the taxable property of the county and township and benefit district has been approximately determined by deducting from the total estimated cost all donations, subscriptions, state aid or federal aid that have been granted or promised, the board of county commissioners may issue from time to time as required, bonds of the county, bearing not to exceed six per cent interest, payable within the time fixed in the petition for levying special assessments: *Provided*, The total amount of bonds issued previous to completion of the improvement shall not exceed the amount of the estimated cost to be assessed against the county and townships, and the

several tracts of land within the benefit district. Said bonds shall be issued in series and shall be payable in equal amounts each year as nearly as practicable, and shall be disposed of by the county board in the manner provided by law, and the proceeds thereof shall be deposited with the county treasurer in the special fund for the improvement. After completion of the improvement, the application of state and federal aid, the ascertainment of apportionments to be charged against the taxable property in the county and township and the amount assessed against the several tracts of land within the benefit district, the board of county commissioners shall issue bonds of the county in the same manner as above provided in this section, and the proceeds thereof shall be used in paying the remaining outstanding warrants for the improvement. After any such bonds are issued the board of county commissioners shall make an annual levy upon all the taxable property of the county and upon the taxable property of the township and upon the lands within the benefit district according to the apportionment of cost fixed upon said lands in all cases in proportion of the respective liabilities, which tax shall be sufficient to pay the bonds falling due each year and the interest upon outstanding bonds; these bonds shall be in addition to any other bonds which the county may by law be authorized to issue: *Provided*, That the board may in its discretion pay the county's proportion of the cost out of the general fund and road fund of the county if such funds are sufficient for that purpose after deducting all other proper charges against said funds, and after such payment no general county levy shall be made for payment of the bonds, or if any portion of the county's proportion of the cost is paid in such manner the county levy shall be reduced proportionately thereto: *Provided further*, That the township board or boards of the township or townships affected by the benefit district may, in their discretion, deposit with the board of county commissioners sufficient funds to pay the township's proportion or any part thereof, of the cost of the road out of the general funds or road funds of said township or townships, if such funds are sufficient for that purpose, and if any of the township's proportion of the cost is paid in such manner, the township levy shall be reduced proportionately thereto: *Providing further*, That the board of county commissioners are hereby authorized and empowered to levy an additional county levy against the taxable property of the county in an amount not to exceed one mill in order to pay the county's portion of the cost of the benefit-district road without the issuance of bonds and the board of township highway commissioners are authorized to levy not to exceed one mill against the taxable property of the township for the purpose of paying the township's share of the cost of the benefit-district road without the issuance of bonds. There shall be no levy or collection of double taxes if several petitions have been filed to change the course of one continuous road, and where the course of such road has been changed by the filing of more than one petition and it is not necessary to construct a part of the road contained in the first petition to complete the road, such unnecessary part of the road shall not be built and no taxes shall be levied for the construction thereof. [L. 1909, ch. 201, § 9; L. 1911, ch. 249, § 3; L. 1917, ch. 265, § 9; L. 1919, ch. 246, § 6; L. 1921, ch. 218, § 3; April 4.]

68-715. **Refund of taxes for roads abandoned.** Whenever any road project has been inaugurated by petition or otherwise, in accordance with the laws of this state, and the same, or any part thereof, has been abandoned and said projected road not constructed, and whenever the taxpayers of any such

road district have paid into the county treasury one or more installments of taxes levied for the construction of such proposed road, the board of county commissioners of any county in this state, where such condition arises, is hereby empowered to refund to each person owning land in such road district, or in the township through which such abandoned road district is located, the amount of taxes paid by them for the construction of said road: *Provided however*, That before the amount to be refunded to the taxpayers, in said road district and township, entitled to the same shall be paid, the board of county commissioners shall make an order in which it shall describe specifically the metes and bounds of said abandoned road district and the township or portions of the townships through which said abandoned road district is located and shall also insert in their said order a finding setting forth the name of each taxpayer in said road district and township entitled to a refund of the taxes paid by him and the amount of money which he is entitled to have refunded to him, and said order and findings shall be recorded in the office of the county clerk, and the county clerk is hereby authorized and empowered to draw vouchers upon the county treasurer payable to the persons named in the order and findings of said board of county commissioners for the respective amounts so found to be due to them, and the county treasurer shall pay said vouchers out of the fund held in said abandoned road account: *And provided further*, That the remaining one-half of said road fund collected from all of the taxpayers in any such county for the construction of said abandoned road project, shall be transferred from said abandoned road district fund to the general road fund of said county and be used by said county in the improvement of its system of county highways. [L. 1923, ch. 237, § 1; Feb. 10.]

68-730. Improvement of intercounty and city highways. The governing body of any city of the first class having a population of more than 20,000 and less than 25,000, and located in a county having a population exceeding 60,000 and having an assessed valuation of not less than \$48,000,000 and having two divisions of the district court, may, by ordinance, request the board of county commissioners of the county in which said city is situated, to permanently improve any main public road, not exceeding four in number, extending from the principal business center of said city and leading to and from said city. Said ordinance shall describe the road to be permanently improved by name or terminal points or other specially fixed locations, the type of permanent improvement and width of roadway desired which may be different for different sections of the road. Said governing body may provide for the said road to extend from the city limits in any direction for any distance not beyond the county line of the county in which said city is situated, and if said road is not extended to the said county line by the first ordinance providing for the same, the said road may be extended by subsequent ordinance or ordinances: *Provided*, That said road shall be connected with a permanently improved street or road: *Provided further*, That the cost of such road for any one year shall not exceed one-fourth of one per cent of the taxable property of the said city. Immediately after the passage and publication of said ordinance, the city clerk of said city shall send a certified copy of the same to the board of commissioners of said county and a copy of the same shall be spread upon the records of said board. [L. 1919, ch. 247, § 1; April 7.]

68-723. Apportionment and payment of cost of such work. Upon the completion of such improvement, under the provisions of this act, the county commissioners shall meet at their office and apportion the costs thereof as follows: (a) If all or any portion of said improvement is entitled to and does receive federal or state aid or donations, the same shall be applied to the costs of the improvement for the purposes and to the extent for which the same were given. (b) The remainder of the costs shall be apportioned two-thirds to the county and one-third to the city. The county commissioners at the time of receiving a certified copy of said ordinance provided for in section 1 of this act, shall set aside in a separate fund that proportion of the county road fund that the assessed valuation of the taxable property in the said city bears to the assessed valuation of the taxable property in said county, which said fund so set aside shall be used in paying the county's proportion for such improvement, or as much thereof as can be paid out of said fund. If the amount so set aside is not sufficient to pay the county's proportion for such improvement then the county commissioners shall issue noninterest-bearing warrants for the balance and shall levy a tax on all the taxable property of the county to pay said balance. After ascertaining the cost of such improvement the county commissioners shall certify to the governing body of said city the amount due from said city for such improvement. The governing body of said city may receive subscriptions and donations to apply on said amount and the same shall be so applied. The governing body of said city shall levy a tax on all of the taxable property of the city to pay said amount, or the balance of said amount if donations and subscriptions are received, or may issue bonds of the city bearing not exceeding six per cent interest and payable within ten years. Said bonds shall be issued in series and shall be payable in equal amounts each year as near as practicable, and a tax shall be levied each year by the said governing body to pay said bonds falling due each year and interest on outstanding bonds. After the collection of said tax or issuance of said bonds and the sale thereof the said city shall pay said money, or as much thereof as is necessary to pay said city's proportion of the cost of said improvement, to the county treasurer of said county to be applied by said board of county commissioners on the payment of the outstanding warrants issued for said improvement. [Revised, 1923; old section, L. 1919, ch. 247, § 4.]

68-806. Apportionment of costs of improvements. Upon the completion of any improvement hereunder said commissioners shall apportion one-half of the costs of said improvements among the several tracts of land designated in the map filed as aforesaid according to the benefits accruing to the real property and improvements within the limits shown by said map; one-fourth of such costs shall be charged to the county and one-fourth to the township or townships in which such improvement shall be made, which shall be raised in the manner now provided by law for raising taxes for all county and township purposes. Upon the completion of such apportionment of the cost of such improvement, the county clerk shall enter the same upon the duplicate tax rolls of the county and the taxes shall be collected as other taxes. [L. 1915, ch. 293, § 6; March 17.]

68-1102. Estimates, plans and levies for bridges. That it shall be the duty of the county engineer of each county to make a careful inspection of all

bridges and culverts in his respective county (these inspections shall be made, so far as practicable, in connection with his other work between April and July), and make an estimate of the cost of all repairs and maintenance on each existing bridge and culvert necessary to keep the same in a reasonably safe and fit condition for public traffic, and make report of the same and file with the county clerk, for the use of the board of county commissioners, before the regular July meeting of the board. Such report shall give the exact location, the character of the repairs needed, the materials that should be used, and the estimated cost of such repairs for each structure. The board of county commissioners shall at its regular or special meeting in June determine what new bridges or culverts shall be built during the next ensuing year, the location, the type, and the materials to be used in the construction of each such bridge and culvert, and furnish a list of the same to the county engineer. The county engineer shall visit the sites of all proposed new structures, and shall prepare plans, specifications, and estimates of cost for each structure, and submit the same, together with his recommendations, to the board at its regular meeting in July. Based upon the county engineer's estimates and recommendations, the board shall determine the amount of tax which in its judgment should be raised for such repair and construction. To the amount of tax so determined the board shall add an amount equal to 20 per cent of the same for a contingent bridge fund: *Provided*, That whenever such contingent fund on hand equals 19 per cent or less, the county board shall make only such levy as will increase the contingent fund to 20 per cent of such estimated cost of repair and construction. Before the levies are finally determined upon the county board shall hold a public meeting and hear protests, if any, against the said levies and the said bridge and culvert improvements contemplated: *Provided*, That notice of such hearing shall be published in two consecutive issues of the official county paper at least ten days prior to the date of such meeting, which notice shall contain the following information, to wit: The location of each bridge and culvert which the board proposes to repair; the character of repairs to be made; the estimated amount of money necessary to repair each such structure; the location, the type, the materials to be used in construction, and the estimated cost of each new structure, and the time and place of such meeting; but failure to publish the notice or hold the public meeting herein required shall in no wise vitiate the levies authorized by this section. After the termination of the hearing the county board shall make an order and spread the same upon the journal of its proceedings, stating the exact location of the bridges and culverts to be constructed and repaired, the character of the construction and repairs contemplated, and the amount of money to be appropriated for such bridges and culverts. The board of county commissioners at the time prescribed by law for levying county taxes shall levy a tax of not more than one and one-half mills on the dollar on all taxable property in the county, to be collected as other taxes, and when collected shall be expended for the repairs and construction of bridges and culverts. The board of county commissioners shall not be prohibited from using bridge funds on other bridges than the ones designated when in their judgment necessary. Whenever a county by vote decides to operate under the county road unit, the board of county commissioners of said county shall have the authority to increase the bridge levy to three and one-fourth (3¼)

mills. This levy shall be in addition to all other county levies authorized by law. [L. 1917, ch. 80, § 2; L. 1919, ch. 98, § 1; April 7.]

68-1103. Construction or repair of bridges on county roads. That whenever it is necessary to construct or repair any bridge or culvert on any county road in any county of the state, the county engineer's estimated cost of which does not exceed \$40,000 the board of commissioners of such county shall appropriate from the bridge fund a sum sufficient to meet the entire expense of said work and the board shall immediately make all contracts for labor, material and all other expense necessary for the construction or repair of such work in the manner provided in this act or shall make and let a contract for the construction or the repair thereof: *Provided*, That in any county having a population of more than 30,000 and containing two or more cities of the second class, the board of county commissioners shall determine the necessity of building or repairing any bridge or bridges; shall pass a resolution declaring that such a necessity exists and shall immediately build such bridge or bridges at a cost to be determined by the county engineer's estimate of not to exceed \$50,000 per bridge and appropriate money therefor: *Provided*, The levy for such purpose shall not exceed two mills upon the assessed valuation of the county: *Provided further*, That in any such county or counties where there has been constructed prior to the passage of this act or shall be hereafter constructed any bridge or bridges which shall have been destroyed or rendered impassable or shall be hereafter destroyed or rendered impassable by flood or high water, then such board of county commissioners shall immediately thereafter repair and reconstruct such bridge or bridges; shall adopt a resolution finding and determining a necessity for such repair or reconstruction and shall at once proceed to repair or rebuild the same at a cost to be determined by the county engineer's estimate not exceeding \$50,000 per bridge and shall appropriate a sufficient amount of money therefor. Such board is hereby authorized and empowered to levy and collect taxes for the purpose herein named which shall not exceed three mills upon the assessed valuation of the county, any prior limit on said levy to the contrary notwithstanding: *Provided further*, That under the provisions of this section those bridges which are situated across any stream on any county road are hereby declared to have a preference over the bridges on other roads and shall be repaired and reconstructed before any other bridges are repaired and reconstructed. [L. 1917, ch. 80, § 3; L. 1919, ch. 98, § 2; L. 1920, ch. 8, § 1; L. 1923, ch. 4, § 1 (Special Session); August 15.]

68-1106. Resolution and election for construction or repair of bridges. That whenever the board of county commissioners of any county shall determine that it is necessary to build or repair any bridge, the cost of which shall exceed the sum of forty thousand dollars (\$40,000), it shall pass a resolution declaring such construction or repairs a necessity. Before making the appropriation therefor it shall submit the question to the qualified voters of the county at either a general or special election, or when a petition signed by ten per cent (10%) of the legal voters of the county, based on the total number of votes cast for the secretary of state at the last preceding election, shall be presented to the board of county commissioners requesting that the question of building such a bridge be submitted to the people, the board of county commissioners shall order such election; and if a majority of the

votes cast on the proposition submitted shall be in favor thereof, the board shall make the appropriation, and shall provide for the payment of the same by orders on the county treasurer, payable in such sums and at such times as may be agreed upon by the board; but in no case shall the orders be given for a longer time than five (5) years from the completion of the building or repairing of said bridge; and for the payment of such orders the board of county commissioners shall levy a county bridge tax, in addition to all other levies, sufficient to pay the same as they become due: *Provided*, That nothing in this section shall apply to any bridge work or bond issue therefor under the provisions of chapter 604, Laws of 1909, as amended by Laws 1913, chapter 68. [L. 1917, ch. 80, § 6; L. 1919, ch. 98, § 4; L. 1920, ch. 8, § 2; Jan. 29.]

NOTE.—For L. 1909, ch. 64, as amended, see § 68-1401 *et seq.*

Annotation to L. 1917, ch. 80, § 6:

Cost of bridges; statute construed. *The State, ex rel., v. Raub*, 106 K. 196, 204.

Annotation to L. 1919, ch. 98, § 4:

Section cited in construing kindred statutes. *The State, ex rel., v. Deck*, 106 K. 518, 523.

68-1201. Bridge levy in counties having city of the second class not less than ten thousand. That the board of county commissioners in counties in which there is a city of the second class with a population of not less than ten thousand inhabitants, shall have the power to levy an annual tax of not to exceed two mills on the dollar upon all the taxable property in the county for the purpose of building a necessary bridge and approaches thereto whenever in their judgment such bridge and approaches are necessary: *Provided*, No power granted herein shall be exercised by said board of county commissioners until authority has been authorized by a vote of a majority of the people voting on said proposition at some general or special election called for that purpose under such rules as may be prescribed by said board. [L. 1913, ch. 71, § 1; March 19.]

68-1202. Special bridge fund. The money so collected by the levy of the tax as provided in section 1 of this act, shall be known as the special bridge fund, and shall never exceed the sum of two hundred thousand dollars for the construction of any one bridge and its necessary approaches. [L. 1913, ch. 71, § 2; March 19.]

Section limits amount that may be raised by taxation. *Schaak v. Douglas County*, 98 K. 801.

68-1205. Laying of levies. That after the board of county commissioners have determined the character and style of and the material with which such bridge shall be constructed and the cost thereof, they shall at once levy a tax upon all the taxable property of the county wherein such bridge is to be located, for the purpose of defraying the cost of the construction of such bridge and its approaches. Which tax, however, shall not exceed two mills upon the dollar on all the taxable property in such county. All money collected from said tax shall be placed in what is known as the special bridge fund. [L. 1913, ch. 71, § 5; March 19.]

68-1213. Certain bridges in counties 38 to 40 million valuation. Whenever any county having an assessed valuation of over thirty-eight million dollars and not to exceed forty million dollars, and in which is located two bridges across the same stream at different points that have been constructed more than fifty years, the board of county commissioners of such county may levy

a tax of not to exceed five mills to provide a fund for the purpose of rebuilding or replacing any such bridge or bridges, whenever such bridge or bridges shall be washed away by floods or shall become so unsafe as to be impractical to repair such bridge or bridges. Any money collected under the provisions of this act shall be paid to the county treasurer the same as any other tax and shall not be used for any other purpose except that as provided by this act except as hereafter provided. [L. 1921, ch. 83, § 1.]

68-1214. Bridges, certain counties under 30,000. That the board of county commissioners of any county having a population of less than 30,000, and containing a city of the second class, may determine by resolution the necessity of rebuilding bridges which have been destroyed by flood or fire, and having determined such necessity, may levy a tax not to exceed one mill upon the assessed valuation of such county, in addition to all other taxes now authorized by law, for the purpose of rebuilding such bridge: *Provided*, That the contract for such bridge shall be awarded as provided by sections 12, 13, 14, 15, 17 and 18 of chapter 80, of the Laws of 1917. [L. 1921, ch. 84, § 1.]

68-1301. Bridges across rivers. That the board of county commissioners of any county in this state which has or may hereafter have a population of one hundred and twenty thousand inhabitants or more, may locate, erect and construct one bridge and the necessary approaches thereto across any river which flows through said county, at a point where a public street, highway or trafficway crosses, or if prolonged would cross said river, and for the purpose of paying the cost and expense of the erection and construction of such bridge and approaches may issue the bonds of such county without the same being authorized by any election called or held for such purpose, not exceeding in amount the estimated cost of the bridge and approaches determined as hereinafter set forth; and none of the restrictions or limitations respecting the amount of county indebtedness contained in any of the laws of the state of Kansas shall apply to or in any way affect the issuance of the bonds authorized by this act or any bonds so issued; and such bonds shall be subject only to the limitations contained herein and any bonds issued hereunder shall not be computed in determining the amount of county indebtedness under any limitation statutes relative to the limit of county indebtedness: *Provided*, That nothing contained in this act shall preclude the application to any bridge erected and constructed hereunder of the provisions of chapter 215, Session Laws of 1905, and acts amendatory thereof or supplemental thereto: *Provided further*, That no bridge shall be constructed under this act at any location where a bridge exists at the time the rights conferred by this act are exercised: *And provided further*, That if, within fifty days after the board of county commissioners of any such county had adopted a resolution declaring it necessary to construct any bridge and the approaches thereto under this act, a petition containing the names of not less than twenty-five per cent of the qualified voters of said county shall be presented to said board praying that a special election be held for the purpose of voting upon the question of issuing bonds for the construction of such improvements, then, and in that event, said board of county commissioners shall, within thirty days after such presentation, make a finding as to the sufficiency of such petition, and if such petition be found sufficient, the

said board of county commissioners shall, within thirty days after such finding, call a special election for the purpose of voting upon the question of issuing bonds for the construction of such improvements, first giving thirty days' notice of said special election in the official county paper, said special election to be held in conformity to the election laws of the state of Kansas in effect at the time of the calling of said special election. [L. 1923, ch. 76, § 1; March 23.]

68-1303. Bond issues. The bonds authorized to be issued by section 1 hereof may be issued by the contractor constructing such bridge, in payment thereof, or the said board of county commissioners may sell the same and pay said contractor out of the proceeds thereof. Such bonds shall be made payable in twenty years or less from the date thereof, and shall bear interest at a rate not to exceed six per cent per annum, and shall have semiannual interest coupons attached thereto. It shall be the duty of the board of county commissioners of any county issuing such bonds, annually at the time of levying other taxes, to levy a tax each year sufficient to pay the interest on said bonds as the same become due, on all taxable property of said county, and before the date of the maturity of said bonds, to levy a tax for the payment of the same at their maturity. No bonds issued in pursuance of this act shall be sold for less than their par value, nor shall any commission be paid for the sale thereof, and all moneys realized from the sale of such bonds shall be used only for the purpose herein specified. Said bonds shall be signed on behalf of the county issuing the same, by the chairman of the board of county commissioners, and attested by the county clerk of said county with the seal of said county thereto affixed and shall be registered by said county clerk in his office; and such registration shall be certified to by said county clerk upon said bonds, under his official signature and the seal of said county. Said bonds shall also be registered by the auditor of state, and he shall certify on said bonds to the registration thereof, under his official signature and seal of office. All bonds issued under the provisions of this act shall contain a recital that the same are issued under the provisions of this act and in conformity with the provisions, restrictions and limitations thereof, and that such bonds and the interest thereon are to be paid by a general tax levied upon all of the taxable property of the county issuing the same, and such recital shall be conclusive in favor of all persons purchasing such bonds, that all proper acts have been done, proceedings had and conditions precedent performed to authorize the issue of such bonds and the levy of all taxes necessary for the payment of principal and interest thereof, when the same become due by the terms thereof. [L. 1923, ch. 76, § 3; March 23.]

68-1304. Injunction. No suit shall be brought or maintained to enjoin the construction or erection of a bridge under the provisions of this act or the issuance of bonds as herein provided unless the same shall be commenced within thirty days after the letting of a contract for such bridge by the board of county commissioners. [L. 1923, ch. 76, § 4; March 23.]

68-1401. Reconstruction of bridges. Board of directors of drainage district to prescribe, regulate or fix height of bridges in said district; locate harbor lines or establish channel; county commissioners may issue bonds for

payment for such reconstruction without any special election. [L. 1909, ch. 64, § 1; March 25.]

Drainage district; power to order reconstruction of bridge. *Drainage District v. Wyandotte County*, 110 K. 566.

68-1403. Authorization of bonds for bridges. In order to pay for the reconstruction, improvement, removal or relocation of any bridge and approaches thereto, provided for in this act, the board of county commissioners of such county shall be and are hereby authorized and empowered for and on behalf of such counties to issue negotiable bonds of such counties as provided by law. Such bonds and the interest thereon shall be paid by a general tax levied upon all the taxable property of the county. [Revised, 1923; old section, L. 1909, ch. 64, § 3.]

68-1408. Issuance of bonds. The bonds authorized to be issued by section 1 hereof shall be issued and sold as provided by law, and such bonds and the interest thereon shall be paid by a general tax levied upon all the taxable property of the county. [Revised, 1923; old section, L. 1913, ch. 69, § 3.]

13-1058. Levy for bridges. That all cities of the first class are hereby authorized to levy a tax each year of not to exceed one-half of one mill on the dollar on all taxable property in such cities, for the purpose of paying the cost of building, rebuilding and repairing bridges. [L. 1913, ch. 93, § 1; March 10.]

Annotation to L. 1881, ch. 87, § 11, subdiv. 31:

Duty of city to keep streets and bridges in safe condition. *Commr's of Shawnee Co. v. City of Topeka*, 39 K. 197, 200.

EDUCATIONAL

School Districts.

72-307. New districts formed from old districts. When a new district is formed, in whole or in part, from one or more districts possessing a school-house or entitled to other property, such new district shall be formed only between April 1 and September 1 of the same year, and the county superintendent shall determine the value of the school property of the school district, including taxes due, and deducting all indebtedness excepting bonded indebtedness. There shall be due to the new district from the old district the proportion of the value of the school property that the assessed valuation of the property of the new district bears to the assessed valuation of the property of the old district. The county superintendent shall certify to the county clerk the proper tax levy against the taxable property of the old district and pay the amount due the new district. [L. 1876, ch. 122, art. 3, § 4; L. 1909, ch. 207, § 1; May 29.]

72-312. Levy of taxes by union district. The said union district may levy taxes for the purpose of purchasing a building or furnishing proper buildings for the accommodation of the school, or for the purpose of defraying necessary expenses and paying teachers, but shall be governed in all respects by the law provided for levying and collecting district taxes. [L. 1876, ch. 122, art. 7, § 4; L. 1913, ch. 280, § 1; March 25.]

Annotation to L. 1876, ch. 122, art. 7, § 4:

Levy of tax by "graded-school district;" limit of levy. *Railway Co. v. Alexander*, 68 K. 72.

72-406. Powers of meetings. The inhabitants qualified to vote at a school meeting lawfully assembled shall have power: *First*, to appoint a chairman to preside over said meeting in the absence of the director; *second*, to adjourn from time to time; *third*, to choose a director, clerk and treasurer, who shall possess the qualifications of voters; *fourth*, to designate by vote a site for a district schoolhouse; *fifth*, to vote a sum annually not exceeding the limit fixed by law, as the meeting shall deem sufficient, for the various school purposes and for the payment of any floating indebtedness of the district, and distribute the amount as the meeting shall deem proper in the payment of teachers' wages, and to purchase or lease a site (provided, when not included within the limits of a town or village, said site shall not contain less than one acre), and to build, hire or purchase such schoolhouse, and to keep in repair and furnish the same with the necessary fuel, apparatus and appendages, and to pay any floating indebtedness of the school district; *sixth*, to authorize and direct the sale of any schoolhouse, site or other property belonging to the district when the same shall not longer be needful for the use of the district; *seventh*, to give such direction and make such provision as may be deemed necessary in relation to prosecution or defense of any suit or proceedings in which the district may be a party. [Revised, 1923; old sections, L. 1876, ch. 122, art. 3, § 11; L. 1885, ch. 181, § 1; L. 1905, ch. 351, § 1; L. 1907, ch. 318, § 1; L. 1909, ch. 214, § 1.]

Annotations to L. 1876, ch. 122, art. 3, § 11:

- County commissioners cannot reduce school-tax levy made by district. *Seward v. Rheiner*, 2 K. A. 95, 109.
- Authority to erect schoolhouse; liability of district. *School District v. Brown*, 2 K. A. 209, 210.
- Inhabitants, qualified to vote, may designate new site for schoolhouse. *Moore v. The State*, 9 K. A. 489, 491.
- Designation of schoolhouse site; right of alternative selection provided. *Moore v. The State*, 9 K. A. 489, 491.
- District bound by contract of board for repairs. *Conklin v. School District No. 37*, 22 K. 521, 525.
- Electors of school district may ratify irregular acts of board. *School District v. Swayze*, 39 K. 211, 216.
- Word "appendage" should be construed broadly; well a necessary appendage. *Hemme v. School District*, 30 K. 377, 381.
- Right of district to levy tax must clearly appear. *Railway Co. v. Alexander*, 62 K. 72, 74.
- Erection of schoolhouse; power of district meeting to suspend work. *The State v. Umbarger*, 69 K. 67, 69.

Annotations to L. 1907, ch. 318, § 1:

- School-district officer must reside in district; change of boundaries. *School District v. Wolf*, 78 K. 805, 810.
- Control of litigation; authority of director and district meeting, considered. *School District v. School District*, 79 K. 407, 409.
- Power of annual meeting to levy taxes; effect of mistake. *School District v. School District*, 80 K. 641.
- Power of annual school meeting; calling of special meetings. *The State v. School District*, 80 K. 667, 670.
- School warrants, drawn on empty treasury, become floating debt. *Bank v. School District*, 103 K. 98, 103.
- Notice of special school-district meeting; purchase of additional site. *Griebel v. School District*, 110 K. 317, 321.
- School districts may acquire more than one schoolhouse site. *Griebel v. School District*, 110 K. 317, 321.
- Annual meeting has no power to prescribe course of study. *The State, ex rel., v. School District*, 112 K. 64, 67.

79-1934. General limitation on levies for general school purposes. The authority of the qualified voters of any school district at the annual meeting, as provided, to vote a tax for general school purposes is hereby limited to the extent that no tax shall be voted for such purpose at any such meeting

which shall be in excess of six and three-fourths mills upon the dollar of all the taxable property of any such school district: *Provided*, That any school district in which is located a city of the third class and which maintains an accredited high school may vote a tax which shall not be in excess of nine mills upon the dollar of the taxable property of said district. [L. 1909, ch. 45, § 24; L. 1915, ch. 358, § 1; L. 1920, ch. 52, § 1; Jan. 25.]

DISORGANIZATION OF DISTRICTS.

72-801. Levy to pay indebtedness of depopulated districts. That when a school district having a floating indebtedness consisting of outstanding school orders is now or shall thereafter become depopulated, it shall be the duty of the county commissioners, on information furnished by the county superintendent, to provide for the payment of such outstanding indebtedness by making a levy of taxes therefor upon the property of such depopulated district, which shall be extended by the county clerk on the tax roll the same as other taxes: *Provided*, That no levy shall exceed twenty mills on the dollar in any one year. [L. 1893, ch. 135, § 1; April 19.]

72-805. Disorganization of partially depopulated districts. That the superintendent of public instruction in any county is hereby empowered to disorganize partially depopulated school districts in his county; or in counties where joint school districts exist, the superintendent having jurisdiction over the major portion of said school districts shall have full power to act, and the officers in said county shall have full control to levy tax, and certify the same to the proper officers out of said county having taxable property in said joint school districts, who shall place the same on the tax rolls of their respective counties, and collect the same as other school tax levied in their respective counties, and when collected they shall pay the same to the proper officers of said county in which said major portion is located, taking a receipt therefor, and the county treasurer and county superintendent shall proceed to disburse said funds so collected the same as in section 7 of this act. [L. 1901, ch. 307, § 1; May 1.]

72-809. Bonded indebtedness of disorganized district. That if any disorganized school district has a legally existing bonded indebtedness at the time of its disorganization, such indebtedness shall attach to and be a charge against the territory comprised in such disorganized district at the time of its disorganization; and it shall be the duty of the county commissioners of such county annually to cause to be levied upon the property, real or personal, in such disorganized territory a tax sufficient to meet the interest and provide a sinking fund for the payment of such indebtedness. Whenever the bonded indebtedness of any disorganized district can be advantageously compromised and refunded, the officers of the school district to which such disorganized district shall be attached, or has heretofore been attached, or into which it has been merged, shall have the power, and it shall be their duty, to issue refunding bonds for such purpose, in the same manner and under the same restrictions and regulations now provided by law for the refunding of other school-district bonds. [L. 1901, ch. 307, § 5; L. 1905, ch. 383, § 1; Feb. 28.]

72-810. Payment of floating indebtedness of disorganized district. That if any school district so disorganized shall at the time of its disorganization

have a floating indebtedness consisting of outstanding school orders, it shall be the duty of the county commissioners of the county, on information furnished by the county superintendent, to provide for the payment of such outstanding indebtedness by making a levy of taxes therefor upon all the real and personal property in the territory of the disorganized school district, which tax shall be entered by the clerk of the county on the tax roll the same as other taxes: *Provided*, That no such levy shall exceed ten mills on the dollar of the assessed valuation in any one year. [L. 1901, ch. 307, § 6; May 1.]

School warrants drawn on empty treasury, become floating debt. *Bank v. School District*, 108 K. 98, 102.

72-815. Dissolution of union districts. That whenever two or more school districts have united to form a union school district under the provisions of Laws of 1876, chapter 122, article 7, section 1, as amended by Laws of 1915, chapter 301, section 1, and when there is established and maintained in one of the original districts composing said union district a high school under the act commonly known as the Barnes high-school act, said union district may be dissolved in the following manner: Upon a written petition of twenty-five per cent of the voters of every original district comprising such union school district asking that said district be disorganized as herein provided, the clerk of said union school district shall post printed notices such as are now required by law for school-district meetings, calling a school-district meeting of such union district at the schoolhouse of said district for the purpose of voting upon the proposition of disorganization of said union district as stated in said notices. In any school district voting on the proposition, a majority of the votes cast shall be sufficient to carry the proposition. The vote at such school meeting shall be by ballot, which shall read "For disorganization" or "Against disorganization." Upon such proposition being carried, the clerk of said school district shall thereupon, in writing, notify the county superintendent of such action. Upon receiving such notice, it shall be the duty of the county superintendent to make an order dissolving said union district and to file said order with the county clerk, and the county superintendent shall publish in the official county paper for three consecutive weeks a notice of such dissolution and of the order by him, which publication notice shall be completed not less than sixty days after the receipt by the county superintendent of the notice from the clerk of said union district as herein provided, and upon the completion of said notice and the filing of proof of publication, the said district shall be disorganized and dissolved, and the districts composing said union district shall be and become separate school districts, with their boundaries remaining the same as they were at the time of the original consolidation of said districts into a union district. [L. 1919, ch. 260, § 1; March 29.]

72-819. Indebtedness of such district. If any school district disorganized as provided in this act shall, at the time of its disorganization, have a floating indebtedness consisting of outstanding school orders, it shall be the duty of the county commissioners, on information furnished by the county superintendent of public instruction, to provide for the payment of such outstanding indebtedness by making a levy of taxes therefor upon the taxable property in the territory of such district, which tax levy shall be entered by the county clerk on the tax roll the same as other taxes: *Provided*, That no such levy

shall exceed four and one-half mills in any one year. The county treasurer shall pay all school orders herein mentioned out of any funds standing to the credit of the school district or collected from the tax created by the special levy herein provided for: *Provided*, That no such school order shall be paid unless accompanied by an order from the county superintendent of public instruction directing its payment. [L. 1917, ch. 275, § 2; May 26.]

COMBINATION AND CONSOLIDATION OF DISTRICTS.

72-901. Combination of districts having less than five pupils. The county superintendent of public instruction may, when any two or more adjoining school districts have less than five pupils each of school age, combine the pupils of such districts, and provide for a term of school, which shall be divided among the districts so combined as he shall deem most convenient, and to which the pupils of each shall be admitted. He shall prorate the expense between the districts in proportion to the number of pupils from each, and shall certify same to the county clerk on or before the 1st day of August of each year, and the board of county commissioners shall levy a tax against the property of said districts sufficient to raise the amount shown by the said certificate: *Provided*, That whenever the school population of such districts so combined or of any school district shall become less than five, no term of school shall be held, but provision shall be made by the county superintendent for sending pupils to other schools, as now provided by law in the case of districts which vote to have no school; and in no case shall more than one school be held at the same time in any school district, consolidated or otherwise, unless there be a regular attendance of at least five *bona fide* pupils for each of the additional schools in said district. All contracts with teachers shall be made subject to the provisions of this act. [L. 1901, ch. 307, § 11; May 1.]

DUTIES OF SCHOOL-DISTRICT OFFICERS.

72-1019. School-district tax voted but not levied. Where a school-district tax has been voted, and from the fault or negligence of any officer or any other cause has not been levied and collected in any year, the same shall be added to and collected with the taxes of the year following; and the county treasurer shall pay over to the treasurers of the respective school districts all taxes he may have collected for the said districts, on the order of the district clerk, countersigned by the director, subject to the proviso contained in the preceding section. [L. 1876, ch. 122, art. 4, § 17; April 7.]

72-1031. District levies. It shall be the duty of the school-district clerk to certify to the county commissioners of their respective counties, on or before the 25th day of July, annually, the aggregate amount by them determined in each district to be necessary for school purposes. Upon the receipt of such certification the county commissioners shall, on or before the first Monday in August, annually, levy on the real and personal property in each district, as returned by the assessment roll of the county, a percentage which will produce an amount equal to and not exceeding by more than five per cent the amount certified by the district clerk: *Provided, however*, No levy shall exceed four and one-half mills. And the county clerk is hereby authorized and required to place the same on the tax roll of said county, in a separate column or columns, designating the purpose for which such taxes were levied;

and the said taxes shall be collected by the county treasurer and paid over to the treasurers of the respective school districts in the county, with the same power and restrictions and under the same regulations and in all respects as to the sale of real or personal property. He shall be authorized and he is hereby required to act according to the provisions and requisitions of the law for the collection of taxes for state and county purposes. [L. 1876, ch. 122, art. 4, § 30; L. 1909, ch. 214, § 2; L. 1911, ch. 271, § 1; April 3.]

Annotations to L. 1876, ch. 122, art. 4, § 30:

Extension of tax on tax rolls is ministerial duty. *School District v. School District*, 80 K. 641.

Effect of mistake in extending tax on tax rolls. *School District v. School District*, 80 K. 641.

Act does not repeal L. 1909, ch. 245, sec. 27. *School District v. Coughlin*, 88 K. 1, 5.

Clerk to place levy on tax roll; statutes directory. *Rural High-school District v. Raub*, 103 K. 757, 759.

72-1032. Levy to pay judgment; execution. Whenever any final judgment shall be obtained against any school district, the district board shall levy a tax on such taxable property in the district for the payment thereof; such tax shall be collected as other school-district taxes, but no execution shall issue on such judgment against the school district; and in case the district board neglect to levy a tax as aforesaid for the space of thirty days after such judgment shall become final or in case the proper officer shall neglect to collect the tax levied within the time and in the manner provided by law, then the judgment creditor of the district may have and recover a judgment against the officer or officers so in default, for the amount due him on such judgment against the district, with costs, upon which execution shall issue. [L. 1876, ch. 122, art. 4, § 31; April 7.]

Act containing similar provisions construed. *Wilson v. School District*, 17 K. 104.

Judgment irregular but not void, when enforced. *School District v. Lumber Co.*, 41 K. 618, 620.

SCHOOL DISTRICT LIBRARY.

72-1501. Levy for district library. That the several school districts of the state may at the annual meeting in each year vote a tax upon all the taxable property of the district, not to exceed two mills on the dollar, which tax shall be certified by the district clerk to the county clerk, at the same time and manner as other school-district taxes are certified; and the county clerk shall place the same on the tax roll of the county in a separate column, designating the purpose for which such tax was levied; and said tax shall be collected and paid over to the treasurer of said district in all respects as other school-district taxes are collected and paid: *Provided, however,* That in the districts where the taxable property of the district is more than twenty thousand dollars and not more than thirty thousand, there shall not be levied more than one and a half mills on the dollar; and where the taxable property is more than thirty thousand dollars and not more than fifty thousand, there shall not be levied more than one mill on the dollar; and in all cases where the taxable property of the district shall exceed fifty thousand dollars, there shall not be levied more than one-half mill on the dollar. [L. 1876, ch. 122, art. 8, § 1; April 7.]

SCHOOL-DISTRICT BONDS.

72-2001. Authorization. That for the purpose of erecting and equipping or purchasing and equipping, one or more schoolhouses in and for any school district in the state of Kansas, the board of directors of the same shall have power to issue the bonds of the district in an amount not to exceed five per cent of its taxable property, as shown in the last assessment thereof: *Provided*, That this limitation shall not apply to bonds heretofore legally voted. And for the purpose of extending the time of payment of the bonded indebtedness of any school district, the board of directors of the same shall have power to issue the bonds of the district in a sum not to exceed in amount its outstanding bonded indebtedness, which bonds shall be issued as provided by law: *Provided*, That no such bonds shall be issued until at an election called for that purpose the question shall have been submitted to the qualified electors of the district, and a majority of all the qualified electors voting on the proposition shall have declared by their ballots in favor of issuing the same: *And provided further*, That no such election shall be ordered unless a petition, stating the purpose for which the bonds are to be issued, and signed by at least one-half of the qualified electors of said district, shall have been presented to the district board praying that a vote be taken for the issuing of such amount of bonds as may be asked for therein: *And provided further*, That it shall be unlawful for any school district to create any bonded indebtedness unless there are at least fifteen persons between the ages of five and twenty-one years actually residing within the limits thereof, as shown by a sworn census return, taken by the direction of the board of directors of such school district. [Revised, 1923; old sections, L. 1879, ch. 49, § 1; L. 1883, ch. 132, § 1; L. 1909, ch. 62, § 4; L. 1920, ch. 53; § 1.]

NOTE.—For increase of limitation on bond issues for school buildings on application to state board of school fund commissioners, see chapter 75, on "State Departments and Officers," §§ 75-2315 to 75-2318.

Annotation to L. 1909, ch. 62, § 4:

Proceedings held to be in conformity with statutory provisions.

Cowles v. School District, 88 K. 603, 604.

Annotations to L. 1920, ch. 53, § 1:

School district may acquire more than one schoolhouse site. *Griebel v. School District*, 110 K. 317, 321.

Notices of election held sufficient in form. *Stanhope v. Rural High-school District*, 110 K. 739, 743.

72-2004. Tax levy. It shall be the duty of the board of county commissioners of each county to levy annually upon all the taxable property in each district in such county a tax sufficient to pay the interest and the bonds issued by such district as they mature, such levy to be made with the annual levy of the county, and the taxes collected with other taxes, and when collected shall be and remain in the hands of the county treasurer, a specific fund for the payment of the interest upon such bonds and for their payment as they mature. [Revised, 1923; old section, L. 1879, ch. 49, § 5.]

Annotations to L. 1879, ch. 49, § 5:

County commissioners cannot reduce levy of tax made by district. *Seward v. Rheimer*, 3 K. A. 95, 100.

Restriction on levy of taxes under previous acts, considered. *Tootle v. Savage*, 18 K. 193.
Writ of mandamus to compel levy of taxes, when issued. *Cassatt v. Commissioners of Barber Co.*, 39 K. 505, 514.

72-2006. Union district bonds. That for the purpose of building, erecting, constructing or purchasing one or more schoolhouses, the union or graded-school districts organized and existing under chapter 122 of the Laws of 1876

and the acts amendatory thereof and supplemental thereto, the boards of directors of such union or graded-school districts are hereby authorized to issue bonds. Said bonds shall be issued in all respects in conformity with the provisions of the law relative to the issuance of bonds of school districts and subject to the same limitations. [L. 1913, ch. 281, § 1; April 30.]

NOTE.—See § 72-810.

72-2007. Refunding of outstanding warrants March, 1909. Laws 1909, chapter 205, included by reference. [Act authorized all school districts having outstanding warrants exceeding \$1,000 at time of passage of act to compromise and refund such warrants and issue bonds therefor.]

AID TO SCHOOL DISTRICTS.

72-5002. State and county aid to districts. That for the purpose of providing at least eight months of school each year for all the youth of this state, whose parents or guardians live in public-school districts, the funds of which are not sufficient to maintain school for eight months, there shall be paid to each such district by the state as hereinafter provided, three-fourths of the difference between the amount necessary to maintain eight months school and the annual income of the district from all sources, and the remaining deficiency to the amount of one-fourth shall be a proper charge upon the county and paid as other county expenditures: *Provided*, That no aid shall be given any public-school district unless said district shall have voted an amount of money representing not less than ten mills of the assessed valuation of such district: *And provided further*, That all districts receiving aid under the provisions of this act shall follow the course of study as prescribed by the state board of education and shall employ a qualified teacher recommended by the county superintendent. [L. 1911, ch. 268, § 2; L. 1923, ch. 181, § 2; March 26.]

72-5003. Estimates and levies. That it shall be the duty of the superintendent of each county within the state on or before August first of each year, under oath, to certify to the county clerk an estimated amount that will be due the several school districts under the provisions of this act from the county, (and it shall then be the duty of the commissioners to provide a levy sufficient to raise the amount required for the current school year): *Provided*, That such estimate shall include a statement as to each district concerned as to valuation, area, school census and proposed total expenditures for teacher and incidental expenses. [L. 1911, ch. 268, § 3; March 2.]

72-5006. Amendment of 1923. That upon the failure of any school district to carry out the provisions of section 1 of this act, the county superintendent shall make the required tax levy and certify the same to the county clerk and proceed to carry out said provisions; and after September first, the school district neglecting to act, he shall employ a teacher and make all necessary provisions for an eight months' term of school, and the district treasurer shall pay such itemized expenses as are certified to by the county superintendent. The county superintendent shall be liable under Laws 1881, chapter 152, section 15, for neglect or refusal to perform his duties as provided in this act. [L. 1911, ch. 268, § 6; L. 1923, ch. 181, § 4; March 26.]

Cities—First and Second Class.

72-1814. Tax levy. That the board of education in cities of the second class shall, on or before the 15th day of July of each year, levy a tax for the support of the schools of the city for the fiscal year next ensuing, not exceeding in any one year twenty mills on the dollar on all personal, mixed and real property within the district which is taxable according to the laws of the state of Kansas, which levy the clerk of the board shall on or before August 1 certify to the county clerk, who is hereby authorized and required to place the same on the tax roll of said county, to be collected by the treasurer of the county as are other taxes, and paid over by him to the treasurer of the board of education, of whom he shall take a receipt in duplicate, one of which he shall file in his office and the other he shall forthwith transmit to the clerk of the board of education. [L. 1876, ch. 122, art. 11, § 18; L. 1905, ch. 399, § 1; June 8.]

Annotation to L. 1876, ch. 122, art. 11, § 18:

Tax levy in cities; approved by city commission. *School District v. Ryker*, 64 K. 612, 614.

72-1824. Location and building of schoolhouses. The board of education of all cities of the second class, having a population of over thirty-five hundred and less than fifteen thousand population, are hereby authorized to locate and build schoolhouses or additions thereto within the district. Before any contract is let, the board of education shall record upon the journal of its proceedings, a finding that the erection of such schoolhouse, schoolhouses, or such addition or additions thereto, is a public necessity for the accommodation of its schools and shall certify to the county clerk of the county an annual levy for a period of not more than four years, said levy not to exceed two mills upon the dollar of all taxable property in the school district, including attached territory, if any, which taxes may be levied in addition to all taxes now levied under the law, and shall be levied, entered upon the tax roll, and collected in the same manner as other taxes: *Provided*, that the question shall have been submitted to the qualified electors of the district, and a majority of all the qualified electors voting upon the proposition shall have declared by their ballots in favor thereof. [L. 1913, ch. 120, § 1; April 30.]

72-1825. Payment of cost thereof. The board of education may divide the cost of said structure, structures, or additions, into equal installments and, in its discretion, provide for the payment of any one of them, either by an annual levy of not to exceed two mills on the dollar, or by time warrants or bonds of the school district, signed by the president and clerk, and countersigned by the treasurer of the district, in denominations of not less than one hundred dollars nor more than five hundred dollars, each bearing interest at not to exceed six per cent per annum. Said time warrants or bonds shall not be sold below par, and shall mature not later than the close of the period of four years or less in which the required amount might have been raised by the annual levy as hereinbefore provided, and a sufficient levy, not to exceed two mills, shall be certified and made in each year to pay said warrants or bonds and all accruing interest thereon. No one school building or addition to school building built under this act shall cost more than seventy thousand dollars. [Revised, 1923; old section, L. 1913, ch. 120, § 2.]

79-1932. School levies in cities of second class. That the authority of boards of education in cities of the second class to levy taxes as provided in chapter 399, Laws of 1905, is hereby limited so that the board of education of any such city shall not fix a rate of levy for the respective purposes in excess of the following named rates: For the support of the schools of the city the rate of levy shall not exceed 12 mills; for the purchase of sites and for the construction and repairing of school buildings the rate of levy shall not exceed 2 mills: *Provided*, That in cities of the second class in which the schools have a floating indebtedness of \$10,000, or more, the board of education may in addition to said levy for the support of said schools and for building purposes and repairs of school buildings, levy not in excess of 6 mills for the payment of said indebtedness until said indebtedness is paid. [L. 1909, ch. 245, § 23; L. 1913, ch. 326, § 1; L. 1917, ch. 362, § 1; L. 1920, ch. 52, § 8; Jan. 25.]

Nota.—For L. 1906, ch. 399, see § 72-1814.

79-1933. School levy in cities of second class having valuation of less than one million dollars. The authority of boards of education in cities of the second class having an assessed valuation of less than one million dollars to levy taxes as provided in Laws of 1905, chapter 399, section 1, is hereby limited so that the board of education of any such city shall not fix a rate of levy for the support of the schools of the city in excess of nine mills. [L. 1911, ch. 265, § 1; May 22.]

79-1927. Levies by boards of education in cities of first or second class. If in the judgment of the board of education in any city of the first or second class the tax levy authorized by law for the support of the schools of such city shall not be sufficient to maintain the schools of such city, said board of education may publish a notice in at least two issues of any newspaper having general circulation in said city stating the amount of money necessary for the support of the schools and the tax levy which would produce said amount, and if after the publication of such notice a petition shall be presented to said board of education, signed by not less than fifty-one per cent of the resident taxpayers of such city and territory attached thereto for school purposes, upon a certain date fixed in said petition; or if a petition shall be presented to said board of education, signed by not less than seventy-five per cent of the legal voters of such city and territory attached thereto for school purposes upon a certain date fixed in said petition, either petition requesting that the proposed levy as stated in the aforesaid published notice be made for the ensuing year, then the board of education shall have authority to make such levy, which levy the clerk of the board of education shall, on or before the first day of August, certify to the county clerk, who is hereby authorized and required to place the same on the tax roll of the county to be collected and paid over to the treasurer of the board of education as are other taxes levied for school purposes: *Provided*, That nothing in this act shall prohibit the increase of the tax levy for school purposes in any manner otherwise provided by law: *And further provided*, That such total tax levied for support of such school shall not exceed twenty (20) mills for any one year. [L. 1917, ch. 270, § 1; May 26.]

72-1762. Tax levy. That the board of education in cities of the first class shall, in the month of August of each year, levy a tax for the support of the

schools of the city, including building and repairs of school buildings, for the fiscal year commencing on the 1st day of July last preceding the month of August in which such levy shall be made, not exceeding in any one year twenty mills on the dollar on all personal, mixed and real property within said city which is taxable according to the laws of the state of Kansas, which levy the president and clerk of the board shall, on or before August 25, certify to the county clerk, who is hereby authorized and required to place the same on the tax roll of said county, to be collected by the treasurer of the county as are other taxes and paid over by him to the treasurer of the board of education, subject to the order of said board of education: *Provided*, That in all cities of the first class having a population of exceeding thirty-eight thousand inhabitants, the board of education of such city shall have power and is hereby authorized to levy a tax for the support of the schools of such city for such fiscal year of not to exceed seventeen mills on the dollar of all taxable property in such city; and shall have power, in addition thereto, to levy a tax upon all the taxable property in such city of not exceeding three mills on the dollar of the assessed valuation for building purposes and repairs of school buildings in such city: *And provided further*, That each and all of the foregoing levies hereby authorized shall be exclusive of and in addition to the amounts necessary to be levied under existing laws for the payment of interest upon bonds heretofore issued or which may be hereafter issued by boards of education of cities of the first class and for a sinking fund for the redemption of such bonds, as provided by the laws under which such bonds have been or may be issued. [L. 1899, ch. 252, § 1; L. 1907, ch. 330, § 1; Feb. 21.]

Inaccuracies in stating purpose of tax levy held not fatal. *Wright v. Board of Education*, 106 K. 469, 475.

72-1716. City as district for taxation; subdivision into districts. The whole city shall compose a school district for all purposes of taxation, but may be subdivided by the board of education into as many districts as they may think proper. [L. 1876, ch. 122, art. 10, § 16; April 7.]

72-1735. Playgrounds. That the school boards and boards of education in all cities of this state are hereby authorized to purchase or lease grounds for public recreation places and playgrounds and to establish and maintain for children on such grounds and in the public school buildings and on the public school grounds, under the custody and management of such school boards or boards of education, public recreation places and playgrounds and necessary accommodations for the same. Such school boards or boards of education are also hereby authorized to cooperate with the officers having the custody and management of public buildings and public parks and other public grounds in such cities, and, by making satisfactory arrangements with such officers, to provide for the supervision, instruction and oversight necessary to carry on public educational and recreational activities as described in this section in such buildings and upon such parks and grounds. [L. 1915, ch. 309, § 1; L. 1917, ch. 274, § 1; March 26.]

72-1736. Levy therefor. That, in addition to the taxes which school boards and boards of education in all cities of the state are empowered to levy under existing statutes, such school boards and boards of education are hereby authorized to levy a tax not exceeding, in any one year, one-fourth of one mill on

the dollar on all personal, mixed and real property, within such cities, taxable according to the laws of the state of Kansas, for the purpose of paying the cost of the activities mentioned in the preceding section. Such tax shall be levied at the same time and in the same manner, and collected and disbursed by the same officers, as other taxes levied by such school boards and boards of education. [L. 1915, ch. 309, § 2; L. 1917, ch. 274, § 2; March 26.]

72-1737. Bond issue and budget, cities over 95,000. Laws 1921, chapter 127, sections 1-3, inclusive, included by reference. [The title to the act is in part as follows: "An act authorizing boards of education in cities of the first class having a population of more than ninety-five thousand, as ascertained by the United States census for the year 1920, to issue bonds to meet expenses of operating the schools and costs of buildings and repairs for one-half of the fiscal year 1921-1922, changing the fiscal year to begin January 1 and to close December 31, inclusive; requiring the adoption of a complete budget system by such boards of education. . . ." Omitted because by provisions of the act bond issue authorized required to be made before June 30, 1921.]

EXTENSION OF HIGH-SCHOOL COURSE.

72-3301. Extension of high-school course to six years. The board of education of any city of the first or second class and the board of trustees of any county high school may provide for an extension of the high-school course of study by establishing for high-school graduates a two-year course in advance of the course prescribed for accredited high schools by the state board of education: *Provided*, That at a general election or at a special election called for that purpose, in the manner provided by law, a majority of the electors voting on the proposition shall favor such an extension of the high-school course of study. For maintenance of such extension, either wholly or in part, the board of education in any city of the first or second class may levy a tax not exceeding two mills on the dollar of the assessed valuation of the city, and the board of trustees of any county high school may levy a tax not exceeding one-tenth of a mill on the dollar of the assessed valuation of the county, and such levy or levies may be in addition to any other levy or levies provided by law for the support of schools in cities of the first and second class or for the support of county high schools. [L. 1917, ch. 263, § 1; March 16.]

72-3302. Election thereon. For the purpose mentioned in the preceding section, the mayor of any city of the first or second class shall call a special election or shall cause the question to be submitted at a general election at the request of the board of education of such city, or upon petition of two-fifths of the electors of such city; and the county commissioners of any county shall call a special election or shall cause the question to be submitted to a general election at the request of the board of trustees of the county high school or upon petition of two-fifths of the electors in such county; and if a special election is called, the same shall be held in the manner provided by law for holding general elections so far as the same is applicable: *Provided*, The expenses of such special election shall be paid from the school funds by the board of education or the board of high-school trustees at whose request the election shall have been called. [L. 1917, ch. 263, § 2; March 16.]

INDUSTRIAL TRAINING SCHOOLS OR DEPARTMENTS.

72-4201. Levy for industrial-training schools or industrial-training departments. The board of education in each city of the first class and second class, and the annual school meeting of any school district, may, in addition to the other levies, levy a tax not to exceed one-half mill upon the dollar of assessed valuation in cities of the first and second class, and not to exceed one mill on the dollar of the assessed valuation in all other cities and school districts, for the equipment and maintenance of industrial-training schools or industrial-training departments of the public schools. The sum raised by such levies shall be expended for the purpose named in this act and no other. [L. 1903, ch. 20, § 1; March 18.]

Taxes for erection and maintenance of industrial-training school building. *Wright v. Board of Education*, 106 K. 469, 471.

County High Schools.

79-1913. Levy for maintenance of county high schools. For the purpose of maintaining the county high schools provided for by chapter 147, Laws of 1886, the board of trustees shall not levy to exceed seven and one-half tenths of one mill on the assessed valuation of the county. [L. 1909, ch. 245, § 14; L. 1920, ch. 52, § 5; Jan. 25.]

NOTE.—L. 1886, ch. 147, referred to, as amended, printed as § 72-2601 *et seq.*, except sec. 15 of said act, which was repealed by L. 1917, ch. 291.

79-1914. High school levy in counties having valuation of fifteen million dollars or less. For the purpose of building and maintaining county high schools provided for by chapter 147, Laws of 1886, the board of trustees shall not levy to exceed three mills on the assessed valuation of the county: *Provided*, This act shall not apply to counties having a valuation of more than fifteen million dollars. [L. 1917, ch. 327, § 1; March 16.]

79-1915. Petition for such levy. The board of county commissioners of each county are hereby given authority to levy annually not to exceed three mills upon the assessed valuation of the county for the purpose of building and maintaining county high schools provided for by chapter 147, Laws of 1886: *Provided*, This section shall not apply to counties having a valuation in excess of fifteen million dollars: *Provided*, That the levies provided for in sections 1 and 2 of this act shall not be made except on the presentation of a petition signed by at least 51% of the qualified electors of the district affected hereby. [L. 1917, ch. 327, § 2; March 16.]

79-1916. High school levy in counties having valuation of forty-five million dollars or less. For the purpose of maintaining county high schools provided for by chapter 147, Laws of 1886, or any special act now in force, the board of trustees shall not levy to exceed one and three and one-half tenths mill on the assessed valuation of the county: *Provided*, This act shall not apply to counties having a valuation in excess of forty-five million dollars: *Provided*, That this act shall not apply to counties having high schools, which were established after 1906. [L. 1911, ch. 261, § 1; L. 1913, ch. 279, § 1; L. 1915, ch. 317, § 1; L. 1917, ch. 288, § 1; L. 1920, ch. 52, § 6; Jan. 25.]

72-3401. Apportionment of county high-school fund to county high schools and districts maintaining accredited high schools. That hereafter in every county in this state in which there is a county high school and also

one or more city high-school districts or other high-school districts or parts of high-school districts each maintaining in addition to the county high school, a high school accredited by the state board of education, the board of county high-school trustees, or the board of county commissioners in counties not having county high-school trustees, shall apportion the county high-school fund as levied and collected so that each such district shall receive such proportion of the county high-school fund as the taxable property of the county lying within such district bears to the taxable property of the entire county, and the county treasurer of such county is hereby authorized and directed to place to the credit of each high-school district coming under the provisions of this act such part of the county high-school fund as they shall be entitled to under the apportionment made by the board, and the remainder of the county high-school fund shall be for the support of the county high-school: *Provided*, That no member of the board of county high-school trustees shall be elected from a district maintaining any such other accredited high school, except in those counties in which county high schools are under the control of the board of county commissioners: *Provided further*, That this act shall not apply to any county coming under the provisions of chapter 276 of the Session Laws of Kansas for 1919. [L. 1921, ch. 247, § 1; March 4.]

NOTE.—For. L. 1919, ch. 276, see article 32.

Statute held constitutional and valid. *The State, ex rel., v. French*, 111 K. 820, 821, 825.

72-3402. Levies hereunder. That for the purpose of maintaining county high schools and of carrying into effect the provisions of this act, each board of county high-school trustees, and each board of county commissioners, as provided in this act, is hereby authorized and directed to make such levies as may be necessary, and the maximum limit permitted for county high-school support in counties coming under this act is hereby increased fifty per cent. [L. 1921, ch. 247, § 2; March 4.]

72-2606. Tax levy. That the board of trustees of any county high school in the state of Kansas shall at its first meeting, and annually thereafter before the first day of August of each succeeding year, make an estimate of the amount of funds needed for building purposes, for the payment of teachers' wages, for contingent purposes and all other educational purposes connected with said high school, and having made such estimate shall make an annual levy sufficient to raise the amount desired for such purposes. But in no case shall the tax for such purposes exceed in one year the amount of the levy allowed by law on the taxable property of the county. [L. 1888, ch. 147, § 6; L. 1909, ch. 211, § 1; April 1.]

72-2604. Teachers; expenses; levies. For the purpose of carrying this act into effect the boards of county commissioners in such counties may employ such teachers in addition to those regularly employed by the district at the county seat, and shall make such other expenditures as shall in their judgment be necessary for the purpose of conducting such schools, and pay the expenses so incurred from a fund to be raised by a special tax to be levied and collected as other taxes are levied and collected, not to exceed two mills on the dollar of valuation. [L. 1897, ch. 180, § 4; L. 1921, ch. 238, § 1; May 25.]

72-2502. Levy for buildings for county high schools established by special acts. In any county in the state of Kansas not exceeding 4,800 in

population in which a county high school has been established by special act of the legislature the county commissioners, upon a petition signed by one-fourth of the legal electors of said county as shown by the poll books of the last preceding general election, shall submit to the voters of said county the following proposition: Shall the county commissioners levy a tax for the purpose of building and furnishing a building for the county high school at _____ (inserting the name of the location of said school)? The said proposition may be voted on at any general election or at a special election called for this purpose by the county commissioners, notice of which election shall be given as provided by law. If said proposition shall be favored by a majority of those voting thereon, the county commissioners shall levy annually for a period of not more than four years a tax not exceeding four mills on the dollar of all the taxable property in said county; and said taxes shall be levied, entered upon the tax roll, and collected in the same manner as other taxes, and the funds so provided shall be used for the purpose of building and furnishing a building for the county high school of said county and any surplus shall be turned into the general county high-school fund. All payments authorized by the provisions of this act shall be made in the manner provided by law for paying the other expenses of said county high school. [L. 1915, ch. 318, § 1; May 22.]

Community High Schools.

72-2501. Establishment of community high schools; disorganization of county high schools. That upon the taking effect of this act, all county high schools in the state of Kansas, regardless of acts under which created, shall be disorganized and in their stead shall be created community high schools whose territory shall include all the territory in said counties not included in the territory of other accredited high schools. Such schools so organized and established shall be known and styled "community high schools." [L. 1923, ch. 187, § 1; March 20.]

72-2504. Community high-school levy. That the community high-school board shall make an annual levy for the support and maintenance of said community high school, which levy shall not exceed four mills on the dollar on all taxable property in said community high-school district. Said levy shall be certified to the board of county commissioners of said county on or before the first day of August of each year and said board of county commissioners shall cause said levy to be entered upon the tax rolls against all property within said community high-school district. [L. 1923, ch. 187, § 4; March 20.]

"Barnes" High Schools.

72-3001. Levy for general high-school fund. In every county in the state of Kansas in which one or more school districts or cities of less than sixteen thousand inhabitants shall have maintained high schools with courses of instruction admitting those who complete the same to the freshman class of the college of liberal arts and sciences of the university of Kansas, the county commissioners shall levy a tax each year of not less than one-fourth of a mill nor more than four and one-half mills on the dollar of the assessed valuation of the taxable property within such counties for the purpose of creating a general high-school fund: *Provided*, That in counties of less than

4,000 inhabitants and in which there is only one high school operating under the provisions of this act, the county commissioners of such county may levy three-fourths mill for the purpose of aiding such high schools in the construction, maintenance and up-keep of such high-school buildings. [L. 1905, ch. 397, § 1; L. 1913, ch. 277, § 1; L. 1920, ch. 52, § 10; Jan. 25.]

72-3002. Annual levy for such fund. The first levy shall be made when the result of the election or petition is determined, and a similar levy shall be made each year thereafter: *Provided*, No levy shall be made until one or more such high schools shall have been maintained in the county the preceding school year. [L. 1905, ch. 397, § 2; March 3.]

72-3003. Collection and use of fund. Said tax shall be levied and collected in the same manner as other county taxes, and, when collected, the county treasurer shall pay the same to the treasurers of the school districts maintaining high schools according to the provisions of this act, as required by law, but no part of said general high-school fund shall ever be used for other than high-school purposes. [L. 1905, ch. 397, § 3; March 3.]

Mandamus to compel treasurer to pay over school-district money. The State v. Pauley, 88 K. 456, 457.
Rural high schools cannot share in levy under Barnes law. Fisher v. Beck, 99 K. 180, 184.

72-3005. Levy according to number of teachers employed. It shall be the duty of the county superintendent of public instruction on or before the twenty-fifth day of July in each year to certify to the board of county commissioners the number of teachers employed in the several high schools complying with the provisions of this act in the county during the year ending on the thirtieth day of June preceding, counting, for the purpose of this act, each superintendent and each principal as one teacher, and the county commissioners shall levy a tax, not in excess of the limit prescribed for this purpose by law, which levy shall be sufficient to produce an amount equal to \$800 multiplied by the number of teachers employed during the preceding year in the high schools complying with the provisions of this act, which number shall have been determined and certified by the county superintendent as herein provided; and in case the county commissioners shall fail to make such levy, then the county superintendent of public instruction shall make a suitable levy and shall certify the same to the county clerk, who shall enter upon the tax rolls the levy so made by the county superintendent. [L. 1905, ch. 397, § 6; L. 1907, ch. 333, § 1; L. 1917, ch. 281, § 1; March 31.]

72-3007. Apportionment of teachers. Whenever any high school to which this act shall apply shall be maintained in any joint school district or in any rural high-school district, lying partly in two or more counties in each of which the provisions of chapter 397 of the Laws of 1905 and amendments thereto shall be in force, the county superintendent having jurisdiction over such joint school districts, or the county superintendent of the county in which such rural high school is located, shall apportion the number of teachers employed in said high school to the several counties in which any part of said joint school district or said rural high-school district shall lie, in the proportion which the number of days of attendance in said high school of the pupils residing in each county shall bear to the total number of days of attendance in said high school during the school year preceding the levy of the tax provided for in section 1 of this act, and said county superintendent shall report

said apportionment to the county superintendents of the several counties in which any part of said joint school district or said rural high-school district shall lie, and said county superintendents shall certify the same to the county commissioners of their respective counties. Whenever any high school, meeting the requirements of chapter 397 of the Session Laws of 1905 and its amendments, shall be maintained in any joint school district or in any rural high school district, any part of which district shall lie in any county in which the provisions of chapter 397 of the Laws of 1905 and amendments thereto shall be in force and part in a county in which said law is not in force, it shall be the duty of the county superintendent having jurisdiction over said joint school district or rural high-school district to make an equitable apportionment of the teachers employed based on the attendance of the pupils residing in the county in which said chapter 397 is in force, and he shall on or before July 25 in each year certify the same to the county superintendent of the county in which chapter 397 of the Laws of 1905 and the amendments thereto is in force, together with a statement of the total number of days of actual attendance of pupils in such high school residing in such county during the school year immediately preceding, and said county superintendent shall certify said number of teachers so apportioned to the board of commissioners of his county, and thereupon such number of teachers shall be included in the computation of the tax to be raised as provided in section 1 of chapter 281 of the Laws of 1917, and shall certify such attendance of pupils to the county treasurer of his county, who shall disburse the fund produced by the tax levied under the provisions of section 1 of chapter 281 of the Laws of 1917 to the treasurer of such joint school districts or rural high-school district in proportion as provided in section 1 of chapter 54, of the Laws of 1920. [L. 1911, ch. 272, § 1; L. 1917, ch. 281, § 4; L. 1919, ch. 266, § 1; June 17.]

NOTE.—Section originally referred to disbursement of funds as provided by L. 1917, ch. 281, §§ 2 and 3. Said sections superseded by L. 1920, ch. 54, § 1; see preceding section. Annotation to L. 1911, ch. 272, § 1:

Rural high schools not within operation of Barnes law. *Fisher v. Beck*, 99 K. 180, 188.

72-3008. Supplemental levies by boards of education. The board of education of any city, any school district, and any rural high-school district board may levy a tax, within the limits prescribed by law, to supplement the funds produced by the county tax provided for in this act. [L. 1917, ch. 281, § 5; March 31.]

72-3009. Application of laws to counties of 85,000 to 110,000. That every county in the state having a population not less than 85,000 and not more than 110,000, which has heretofore complied with the provisions of Laws of 1905, chapter 397 and amendments thereto, shall certify the tax for the maintenance of the high schools of said county (excluding high schools in cities of the first class) and shall also distribute said tax in the manner hereinafter provided. [L. 1921, ch. 248, § 1; May 25.]

72-3010. Levies therein. It shall be the duty of the county superintendent of public instruction, on or before the 25th day of July in each year, to certify to the board of county commissioners the number of teachers necessary for the several high schools complying with the provisions of this act in the county during the year ending on the 30th day of June preceding, counting, for the purpose of this act, each superintendent and each principal as one teacher, and

the county commissioners shall levy a tax not in excess of the limit prescribed by law, which levy shall be sufficient to produce \$1,500 multiplied by the number of teachers in the high schools complying with the provisions of this act, which number shall have been determined as hereinafter provided and certified by the county superintendent: *Provided*, That in determining the number of teachers necessary for any high school, a high school that has less than twenty pupils shall be considered a two-teacher high school when so approved by the state board of education as such; and a high school that has twenty pupils shall be considered a three-teacher high school, and for every twenty additional pupils or major fraction thereof, an additional teacher shall be added until a school has 80 pupils, and for each additional 35 pupils or major fraction thereof over 80 pupils an additional teacher shall be added; and in determining the number of pupils for the provisions of this act, pupils shall not be counted unless they have been in attendance at least 50 per cent of the days in the school term; and in case the county commissioners shall fail to make such a levy, then the county superintendent of public instruction shall make a suitable levy and shall certify the same to the county clerk, who shall enter upon the tax rolls the levy so made by the county superintendent. [L. 1921, ch. 248, § 2; May 25.]

Nota.—See, also, § 72-3008.

72-3012. Limitation of such levies. The authority of the board of county commissioners of each county aforesaid, as provided in chapter 397 of Session Laws of 1905, to levy annually a tax by means of which to raise the necessary funds for the support of the high schools provided for by said chapter 397 of the Laws of 1905, is hereby limited so that the said boards shall levy a tax each year of not less than five-tenths of a mill nor more than one and one-quarter mills on the dollar upon all taxable property in the county, or in that part of the county subject to the taxation for the support of high schools established pursuant to said chapter 397 of the laws of 1905. [L. 1921, ch. 248, § 4; May 25.]

72-3016. Cities and counties exempt from Barnes law. That cities having more than 15,000 inhabitants and counties having heretofore established county high schools or which may hereafter establish county high schools under the laws now in force shall be exempt from the operation of this act. [L. 1905, ch. 397, § 9; L. 1921, ch. 240, § 1; March 23.]

Tuition in city high schools; statute construed. Blake v. Board of Education, 113 K. 266, 267.

72-3017. Adoption of Barnes law. This act shall not be in force in any county, or part of county, until its provisions are adopted therein by a majority vote of the electors voting on said proposition. At the next general election after the passage of this amendment, the following proposition shall be submitted in each county, or part of county, to which this law may apply, namely: "Shall the provisions of the high-school act of 1905, as amended by later enactments, apply in this county?" The election shall be conducted and such proposition shall be voted on and the votes then canvassed and returns made in all respects as provided by law. Whenever a majority of the voters voting on this proposition in any county, or part of any county, to which this law may apply, at such election shall be in favor of such proposition, the provisions of this act shall apply in such county, or part of county, from the time

such result is ascertained. If the proposition fails to carry at the next general election, it may be submitted in each county, or part of county, to which this law shall apply, upon petition to the board of county commissioners, signed by twenty-five per cent of the taxpayers of such county, or part of county, at any general election hereafter. [Revised, 1923; old sections, L. 1905, ch. 397, § 10; L. 1908, ch. 69, § 2.]

Annotation to L. 1905, ch. 397, § 10:

Act of 1905 required majority of voters voting at election. *Humboldt v. Klein*, 79 K. 209. Effect of curative statutes, considered. *The State v. Pauley*, 83 K. 456; *Armstrong v. George*, 84 K. 248; *Board of Education v. Shepherd*, 90 K. 628.

72-3019. Debt levy in such case. The board of county commissioners of any county, containing any such consolidated school district, is hereby directed to levy from time to time taxes upon the property located in each such original school district, sufficient to pay off any and all indebtedness and obligations of such district existing at the time of such consolidation. [L. 1921, ch. 229, § 2; April 5.]

72-3020. Liability for indebtedness of districts consolidated. That whenever two or more school districts shall have consolidated for the purpose of providing educational facilities for the children therein, and have agreed, under authority of chapter 229, Session Laws of 1921, that any specific or outstanding obligation shall be a charge upon the property of the district that incurred the obligation, and that the consolidated or joint district shall not be made liable for said obligation, said obligation shall not be considered as an indebtedness of the joint or consolidated school district under the existing laws pertaining to debt limitations in the issuance of bonds: *Provided, however*, This act shall not apply to any indebtedness created subsequent to the passage of this act. [L. 1923, ch. 196, § 1; March 24.]

NOTE.—For L. 1921, ch. 229, see §§ 72-3018, 72-3019.

72-3021. Tax levy to pay indebtedness. Laws 1917, chapter 287, section 1, included by reference. [Related to indebtedness contracted by certain high schools, such indebtedness existing at the time of passage of act, and providing for a tax levy to pay same.]

79-1917. County high school levy under Barnes law. The authority of the board of county commissioners of each county, as provided in chapter 397 of the Session Laws of 1905, to levy annually a tax by means of which to raise the necessary funds for the support of the high schools provided for by said chapter 397 of the Laws of 1905, is hereby limited so that the said board shall not levy in excess of seven and one-half tenths of one mill upon the dollar upon all taxable property. [L. 1909, ch. 245, § 15; L. 1920, ch. 52, § 2; Jan. 25.]

NOTE.—L. 1905, ch. 397, referred to, as amended, printed as §§ 72-3001 to 72-3017.

Annotations to L. 1909, ch. 245, § 15:

Duty of county commissioners to make levy, within maximum levy. *Board of Education v. Allen County*, 82 K. 782, 783.

Limitation herein provided supersedes provision of act of 1907. *School District v. Wilson County*, 82 K. 806, 811.

Limitation herein supersedes limitation provided by original high-school act. *Board of Education v. Shepherd*, 90 K. 628, 628.

79-1918. Such levy in counties having valuation of twenty-eight million dollars or less. That the authority of the board of county commissioners of each county as provided in chapter 397 of the Session Laws of 1905, to levy

annually a tax by means of which is raised the necessary funds for the support of the high schools provided for by said chapter 397 of the Session Laws of 1905, is hereby limited so that the board shall not levy in excess of one and three and one-half tenths of a mill upon all taxable property in the county, or in that part of the county subject to taxation for the support of high schools established pursuant to Laws 1905, chapter 397, as amended: *Provided*, That this act shall not apply to counties having a valuation in excess of twenty-eight million dollars, except such counties or parts of counties as have a population in excess of 25,000 and as support eight or more high schools established pursuant to said Laws 1905, chapter 397, as amended. [L. 1911, ch. 261, § 2; L. 1913, ch. 279, § 2; L. 1915, ch. 317, § 2; L. 1917, ch. 285, § 1; L. 1917, ch. 288, § 2; L. 1920, ch. 52, § 3; Jan. 25.]

79-1919. Such levy in counties having valuation of forty-five million dollars or less. The authority of the board of county commissioners of each county, as provided in chapter 397 of the Session Laws of 1905, to levy annually a tax by means of which is raised the necessary funds for the support of the high schools provided for by said chapter 397 of the Session Laws of 1905, is hereby limited so that the said board shall not levy in excess of one and three and one-half tenths mills upon all taxable property: *Provided*, That this section shall not apply to counties having a valuation in excess of forty-five million dollars. [L. 1911, ch. 261, § 2; L. 1913, ch. 279, § 2; L. 1915, ch. 317, § 2; L. 1917, ch. 288, § 2; L. 1920, ch. 52, § 4; Jan. 25.]

Aid to Certain High Schools.

72-3101. Aid to high schools in counties of less than 10,000. That the county superintendent and county commissioners of any county in Kansas having a population of less than 10,000 inhabitants are hereby authorized to make provision for aid to a certain high school or high schools in such county, and to provide for the support of the same as hereinafter prescribed. [L. 1911, ch. 263, § 1; March 8.]

72-3106. County levy. For the purpose of carrying this act into effect, the board of county commissioners in such county shall annually levy such tax only as may be necessary, not to exceed one and one-half mills on the dollar of the assessed valuation of the taxable property in counties having a population of 3,000 inhabitants or less, and not to exceed two mills on the dollar of the assessed valuation of the taxable property in counties having a population of more than 3,000 inhabitants: *Provided*, That in counties having a population of less than 3,000 inhabitants, such levy shall not be less than one-half mill on the dollar of assessed valuation of the property of the county. [L. 1911, ch. 263, § 6; L. 1915, ch. 315, § 2; L. 1917, ch. 286, § 1; L. 1921, ch. 291, § 1; March 5.]

72-3110. Petition and levy for aid to certain districts. If, upon the presentation of a petition addressed to the county commissioners of any county by a majority of the school electors of such county, asking that certain aid be extended to a certain school district or school districts therein, as provided for herein, and said county superintendent and county commissioners decide to provide the aid petitioned for, said board of county commissioners shall, at the regular meeting held by it on the first Monday in August there-

after, levy such tax on the taxable property of the entire county, sufficient to raise the amount necessary to aid such district or districts as said county superintendent and said board of commissioners believe proper. [L. 1911 ch. 263, § 10; March 8.]

72-3111. County superintendent to certify amount necessary for aiding high schools. It shall be the duty of the county superintendent to certify to the county commissioners and to the county treasurer on or before the first day of July in each year, the amount of money necessary to aid the district or districts maintaining high schools under the provisions of this act, for the year ending on the 30th day of June preceding, and the county commissioners shall thereupon make such a levy only, within the limitations herein prescribed, as may be necessary to produce the amount of aid herein provided for such high school or high schools, within their respective counties. [L. 1911, ch. 263, § 12; March 8.]

When aid decided upon, county commissioners must levy tax. *The State, ex rel., v. Haskell County*, 92 K. 961.

"Aid"; mandamus not allowed for amount sufficient to "maintain." *The State, ex rel., v. Levitt*, 96 K. 450.

Independent of § 72-3105, before amendment, and § 72-3112, act not unconstitutional. *The State, ex rel., v. Hilty*, 97 K. 91.

Amount certified shall be amount necessary for succeeding year. *The State, ex rel., v. Hilty*, 97 K. 91.

72-3112. Counties exempt from act. Counties maintaining a county high school and counties having high schools in operation under the provisions of chapter 397 of the Laws of 1905, or the provisions of said chapter as amended, shall be exempt from the provisions of this act. [L. 1911, ch. 263, § 12; March 8.]

AID TO ALL HIGH SCHOOLS IN COUNTIES HAVING A HIGH SCHOOL UNDER CONDITIONS PROVIDED BY LAWS 1919, CHAPTER 276.

NOTE.—L. 1923, ch. 187, providing for community high schools, does not apply to this article. See article 25, § 72-2506.

72-3201. County aid for city high schools in certain counties. That in every county in this state having a county high school located in the county seat and said county seat being a city of the second class, and in which said county there are, including joint districts, at least seven other high schools maintaining a university preparatory high-school course approved by the state board of education, a general county tax for the aid of all such high schools shall be levied each year in such county and apportioned and distributed as provided for by this act. [L. 1919, ch. 276, § 1; July 1.]

Does not provide for organization of high school. *The State, ex rel., v. School District*, 112 K. 66, 67.

72-3203. Estimates and levies. The county high-school trustees shall each year on or before the last Thursday in July make an estimate of the amount which in their judgment should be raised for the purposes described in this act, and report said amount to the county clerk, who shall thereupon make a levy sufficient to raise the same upon all of the taxable property within such county: *Provided*, That such levy shall not exceed the rate of three-fourths of a mill upon the dollar for valuation. [L. 1919, ch. 276, § 3; L. 1921, ch. 249, sec. 1; May 25.]

72-3297. City aid. The board of education of the city in which is located the county high school shall appropriate to the support of such county high school an amount equal to or greater than the proportion of county high-school funds apportioned to the support of such county high school under the levy referred to in section 3 of this act; and board of education is hereby authorized to make any levy necessary for that purpose. [L. 1919, ch. 276, § 7; July 1.]

Note.—"Section 3 of this act" is L. 1921, ch. 249, sec. 1, which amended L. 1919, ch. 276, sec. 3. (§ 72-3208.)

72-3211. Schools deemed part of county high school. For the purpose of this act, in making levy and collection of taxes and distribution of funds, all high schools participating therein shall be considered portions of the county high school, but nothing in this section shall affect the distribution of funds or control of schools as provided in this act. [L. 1919, ch. 276, § 11; July 1.]

79-1934. General limitation on levies for general school purposes. The authority of the qualified voters of any school district at the annual meeting, as provided, to vote a tax for general school purposes is hereby limited to the extent that no tax shall be voted for such purpose at any such meeting which shall be in excess of six and three-fourths mills upon the dollar of all the taxable property of any such school district: *Provided*, That any school district in which is located a city of the third class and which maintains an accredited high school may vote a tax which shall not be in excess of nine mills upon the dollar of the taxable property of said district. [L. 1909, ch. 245, § 24; L. 1915, ch. 358, § 1; L. 1920, ch. 52, § 1; Jan. 25.]

Rural and Township High Schools.

72-3506. Annual school election and levy. The annual school meeting for the election of officers shall be held at two o'clock p. m. on the day preceding the date of the annual meeting of school districts. The high-school board of each rural high-school district shall meet annually on the third Monday in April at two o'clock p. m. at the high-school building or at such other place as they may agree upon and shall make the necessary levy for taxes not to exceed six mills on the dollar of valuation on all taxable property in the rural high-school district, to pay teachers, to create a certain fund to retire any indebtedness and pay interest on the same, to purchase a site, to build, hire or purchase a schoolhouse, and to pay the incidental expenses of said high-schools. The clerk of said district shall certify the levy to the county clerk, who shall extend the amount on the tax roll, and the county treasurer shall collect and pay over such taxes in the manner provided by law for school districts. [L. 1915, ch. 311, § 5; L. 1917, ch. 284, § 4; L. 1920, ch. 52, § 7; Jan. 25.]

72-3508. Rural high-school district lying in two or more counties. In case any rural high-school district shall lie partly in two or more counties, the clerk of said high-school district shall certify the tax levy to the county clerk of each county in which any part of said high-school district lies, and said county clerk shall place the same on the tax roll, and the county treasurer of each of said counties shall collect and pay over such taxes to the

treasurer of the high-school district as provided in section 5; and such rural high-school district shall be under the supervision and control of the county superintendent of that one of the counties in which at any time lies the greatest portion of the territory comprising said district. [L. 1915, ch. 311, § 7; March 16.]

NOTE.—For "section 5" referred to, see L. 1920, ch. 52, sec. 7, which amended L. 1917, ch. 284, sec. 4, which amended L. 1916, ch. 311, sec. 5 (§ 72-3506).

72-3512. Township high schools. Township high schools heretofore established under the provisions of chapter 262 of the Session Laws of 1911 or chapter 278 of the Session Laws of 1913 shall hereafter be governed by the laws relating to rural high-school districts. [L. 1917, ch. 284, § 10; March 22.]

NOTE.—L. 1911, ch. 262, and L. 1913, ch. 278, repealed by L. 1916, ch. 311, sec. 12.

72-3516. Tax levy to pay indebtedness. Laws 1921, chapter 253, sections 1 and 2, included by reference. [Authorized tax levy to pay indebtedness represented by warrant February 1, 1921.]

72-3701. Application of rural high-school laws. Township high schools heretofore organized and presently established under special acts are hereby declared to be rural high schools, and shall hereafter be governed by the laws relating to rural high school districts. [L. 1921, ch. 251, § 1; May 25.]

Joint Districts Maintaining High Schools.

72-3901. Certification of levies where part of joint high-school district within county. That every county having a county high school organized under a general act or under any special act, and in which is a part of any joint rural high-school district or a part of any other joint school district offering high-school instruction, any part of which is located in a county not having a county high school, then, and in that event, the county commissioners of such counties having a county high school shall certify to such other county commissioners having a part of such joint districts, the rate of their tax levy for the support of their county high school, as soon as made. [L. 1923, ch. 193, § 1; March 20.]

72-3902. Equalization of levy in such case on property of joint district. That the county commissioners of counties having no county high school, but in which are located a part of any joint rural high-school district, or any other joint district offering high-school instruction the other part of which joint districts is located in a county having a county high school, then, and in that event, such county commissioners are authorized and directed to make an additional levy, for the purpose of equalization, on their part of the property of such joint district equal to the levy for the support of the county high school in such adjoining county. [L. 1923, ch. 193, § 2; March 20.]

High-school Tuition.

72-2705. Attendance of accredited high school by rural pupils; levy for tuition. That any student graduating from the common schools of any county adopting the provisions of this act and residing outside of the boundaries of any accredited high school within such county shall be deemed a rural pupil, and shall have the right to attend any accredited high school within such county as he may choose, without paying a tuition fee, and said board

of commissioners shall cause to be paid to the treasurer of such accredited high school the sum of \$8 for each and every month such student shall attend such high school, and for the payment of such sum shall annually, not later than the second Monday of August of each year, levy a tax not exceeding one mill on the dollar on the assessed valuation of all of the property, both real and personal, within said county, excluding from said levy the property of any district or city in which is maintained a four-year accredited high school or rural high school: *Provided*, That if the levy for any year be insufficient, such board of county commissioners shall issue their warrant therefor, and such deficiency shall be taken up in the next annual levy: *And provided further*, That any surplus remaining from any one year shall be used for like purpose during the following year: *And provided further*, That no such student shall be counted as in attendance in any school month if he shall be absent for more than one-half of said school month. Such attendance shall be certified in writing to the board of county commissioners by the superintendent or principal of such accredited high school at the end of each month, and shall state the full name of the student, his residence, and the actual attendance in days for said month, and said board of county commissioners shall draw their warrant therefor, within thirty days after the receipt of the same. [L. 1921, ch. 245, § 5; May 25.]

72-3801. Admission to accredited high schools. That in every county in this state in which provision is not otherwise made for free high-school tuition for every qualified pupil residing in said county, any pupil residing in any school district which does not maintain a high school with a four-year course accredited by the state board of education shall be admitted to any accredited high school in said county, on presentation of a common-school diploma signed by the county superintendent of public instruction and certifying that said pupil has completed the course of study prescribed by the state board of education for elementary, rural, or graded school; and the tuition of such pupils shall be paid as hereinafter provided: *Provided*, That any pupil residing in any school district, which does not maintain a high school with a four-year course accredited by the state board of education, shall, if he desires, be admitted to the high school nearest his residence in the county of his residence, or adjoining county (or adjoining county of any adjoining state), whether such high school maintain a four-year course or less, and his tuition shall be paid in the same manner and from the same fund as provided when attending an accredited high school maintaining a four-year course. [L. 1915, ch. 314, § 1; L. 1923, ch. 192, § 1; June 9.]

Note.—See, also, article 27.

Annotations to L. 1915, ch. 314, § 1:

Property taxable for high school tuition; statute construed. *Railway Co. v. Greenwood County*, 104 K. 818, 819.

Mandamus, asking free tuition in city high school; writ denied. *Blake v. Board of Education*, 118 K. 266, 268.

72-3802. Levy for tuition. The county superintendent of public instruction shall, on or before the 25th day of July in each year, certify to the board of county commissioners the number of qualified pupils as provided in section 1 of this act, and the amount necessary to pay the high-school tuition of said pupils for the ensuing year at the rate of two dollars per week or fraction thereof; and the county commissioners shall levy on all the taxable property

in said county, excluding from said levy the property of any district or city in which is maintained a four-year accredited high school, or rural high school, a tax sufficient to pay said high-school tuition as certified by the county superintendent, and in case the county commissioners shall fail to make such levy, then the county superintendent of public instruction shall make a suitable levy and shall certify the same to the county clerk, who shall enter upon the tax rolls the levy so made by the county superintendent; the county treasurer shall collect said tax in the same manner in which other taxes are collected and shall pay the same to treasurers of school districts and treasurers of boards of education as hereinafter provided. [L. 1915, ch. 314, § 3; L. 1921, ch. 242, § 1; May 25.]

72-4003. Funds for payment of tuition under preceding sections. That county high-school boards and the school boards of other school districts are authorized to pay the tuitions herein provided for from the general school fund of such districts; or such county high-school boards and school boards of such other school districts are authorized and empowered to make any levy of taxes necessary for the payment of the high-school tuitions provided for by this act. [L. 1923, ch. 194, § 3; June 9.]

23.—MEMORIALS.

73-404. Issuance of bonds and laying of levies. In the event such proposition so submitted shall receive a majority of the votes cast therein, the proposition shall be declared carried and the bonds shall be issued or tax levied in accordance with the provisions of this act. [L. 1921, ch. 256, § 4; Feb. 22.]

73-405. Execution and terms of bonds; limitations. That in case bonds shall be issued, such bonds shall run for not more than thirty years and bear interest at the rate of not more than six per cent per annum, and shall be executed, and the aggregate amount thereof shall not exceed the cost of said memorial, and the site thereof, and the expenses of said election, nor shall bonds be issued for more than two per cent of the assessed valuation of the county or the city in which said memorial is located. [Revised, 1923; old section, L. 1921, ch. 256, § 5.]

73-406. Use of levy without bond issue. That in case it shall be decided to pay for said memorial by taxation without the issuance of bonds, the board of county commissioners or governing body of such city, shall levy a tax of not more than two mills each year until the amount voted, including cost of site and expense of election, shall have been collected; but in no event shall the total amount collected for such purposes by taxation exceed 2 per cent of the assessed valuation of each county or city, and the proceeds of such tax shall be used for the payment of such memorial, site and election expenses: *Provided*, That no contract shall be entered into or the construction of such memorial commenced until at least twenty-five per cent (25%) of the amount voted shall have been actually collected. [L. 1921, ch. 256, § 6; Feb. 22.]

73-408. Specific authorization of bonds or levies. That the bonds herein provided for, and all taxes herein provided for, may be issued or levied in ad-

dition to all other bonds or levies now permitted by the statutes. [L. 1921, ch. 256, § 9; Feb. 22.]

73-413. Validating bond issue under act of 1919. Laws 1921, chapter 80, included by reference. [The title to the act follows: "An act validating and legalizing bonds issued under the act published in the statute book as chapter 279, Laws of 1919, or chapter 58, Special Session Laws of 1920, and authorizing and directing the issuance of bonds and subsequent proceedings for erection of military memorials where elections have been held under said act and validating all proceedings thereunder." The act of 1921 (ch. 256) contains the same provisions as the act of 1919 above referred to.]

73-414. Validating bond issue, consolidated cities first and second class. Laws 1923, chapter 214, included by reference. [The title of the act follows: "An act authorizing and directing the issuance of bonds and subsequent proceedings for the erection of military memorials by cities of the first class, with which there has been consolidated a city of the second class under the provisions of chapter 98 of the Laws of Kansas 1921, entitled 'An act providing for the consolidation of cities,' and in which city of the second class, an election has been held under the provisions of chapter 256, Laws of Kansas 1921, and validating all proceedings thereunder, notwithstanding that such city of the first class has heretofore issued bonds for the erection of military memorials."]

73-415. Increased bond issue authorized. Laws 1923, chapter 215, included by reference. [The title to the act follows: "An act authorizing certain cities to increase their bonded indebtedness heretofore authorized for the erection of a memorial building."]

73-416. Validating bond issue, cities second class. Laws 1923, chapter 216, included by reference. [The title to the act follows: "An act relating to the issuance of military memorial building bonds by cities of the second class, and validating the proceedings already begun by certain second-class cities in the state."]

73-421. Bond issues. The board of county commissioners of any county within this state or any city of the first or second class within this state may issue bonds in any sum that they may deem proper for the purposes herein set forth; said bonds to be issued as provided by law: *Provided*, That before any money shall be appropriated or bonds issued the question shall be submitted to the qualified voters of the county or city at a general or special election. [Revised, 1923; old section, L. 1903, ch. 362, § 5.]

73-424. Levies in counties of over 70,000. The board of county commissioners of any county of this state having a population of over 70,000, as shown by the federal census of 1910, are hereby authorized and empowered to levy a tax, not exceeding one-half mill on the dollar, of the taxable property of the county for one year, the proceeds thereof, when collected, to be used in building and equipping a soldiers' memorial and monument in such county. [L. 1911, ch. 289, § 1; Feb. 28.]

73-425. Collection of tax and expenditure of funds; supervision of building operations. Such tax shall be collected in the same manner as other taxes, and the money so raised shall be expended, and said soldiers' memorial and monument constructed, in the same manner as is now provided

by law for the construction of public buildings and paying therefor by the board of county commissioners, and the Grand Army of the Republic and its auxiliaries of such county shall have charge of the building of such soldiers' memorial and monument within such county. No part of such money shall be paid for salaries nor for any other purpose than that above specified. [L. 1911, ch. 289, § 2; Feb. 28.]

73-427. County levy for their erection and equipment. The board of county commissioners of any county of this state are hereby authorized and empowered to levy a tax, not exceeding one-fourth mill on the dollar, of the taxable property of the county for one year, the proceeds thereof, when collected, to be used in building and equipping a soldiers' memorial and monument in such county. [L. 1917, ch. 141, § 1; May 26.]

24.—TOWNSHIP.

TOWNSHIPS BODIES CORPORATE; POWERS.

80-101. Corporate status of townships. Each organized township in this state shall be a body politic and corporate, and in its proper name sue and be sued, and may appoint all necessary agents and attorneys in that behalf, and may make all contracts that may be necessary and convenient for the exercise of its corporate powers. [G. S. 1868, ch. 110, § 1; March 11.]

NOTE.—For provisions relating to cities third class as part of corporate limits of municipal townships, and provision for certain cities becoming separate townships for township purposes, see chapter 15, on "Cities Third Class," § 15-104; see, also, § 90-1404.

Townships are quasi corporations, rather than corporations proper. *Beach v. Leahy, Trustee*, 11 K. 23, 29. Each township is a body politic and corporate. *Riley v. Garfield Township*, 54 K. 468, 472. A township is not liable for personal injuries to employees. *Fisher v. Township*, 87 K. 674, 680; *Gratney v. Wyandotte County*, 111 K. 160, 167. Levy of taxes; duty of township trustee. *Board of County Commissioners v. Wilson*, 109 U. S. 621.

80-102. Division of funds when township divided. Whenever any township which has no indebtedness, but which has money, either in its treasury or in course of collection, not required for the payment of current expenses, shall be divided, or any part of it attached to another township, there shall be a division of such money between the old township and the new one, or the township to which any portion of the old township shall be attached, in proportion to the taxable property remaining, and that detached. [L. 1873, ch. 154, § 1; March 20.]

Authority of township board to levy taxes to pay judgment. *Super v. Modell Township*, 94 K. 403, 405.

80-103. Application of preceding section to prior divisions. This act shall apply to all townships which may have been heretofore divided, and in which no disposition of the surplus funds of such township shall have been made. [L. 1873, ch. 154, § 2; March 20.]

80-104. Public buildings. The township trustee, clerk and treasurer of the several organized townships in the state of Kansas, in addition to the powers that are now conferred upon them by law, shall have power to procure not to exceed two acres of land for the township, and to build thereon permanent buildings, the same to be used for public purposes, such as meetings relating

to township business, political gatherings, township fairs, entertainments, whether for free use or for hire and profit, at which an admission price may be charged, and such other meetings as may be authorized by the township board, and other sheds and buildings that may be necessary for the storage and protection of the township tools and implements. *Provided, however,* That in no event shall the total cost of said buildings and lands exceed ten thousand dollars, except in townships where there is located a city of the third class, where the total cost of said buildings and lands shall not exceed twenty thousand dollars: *And provided further,* That in no event shall said township officers proceed to procure said land or erect said buildings thereon or appropriate any of the moneys of said township or levy any tax therefor without first submitting the question to a vote of the electors of said township, and said election shall be governed by and the returns thereof made in accordance with the laws governing the election of township officers: *And provided further,* That no levy or expenditure shall be made unless authorized by a majority of all the qualified electors residing in said township, as shown by the vote cast for secretary of state in the last preceding election. [L. 1899, ch. 278, § 1; L. 1909, ch. 259, § 1; L. 1917, ch. 329, § 1; L. 1920, ch. 69, § 1; March 22.]

80-105. Election for buildings. Whenever a petition is presented to said township officers signed by one-third of the electors of said township requesting them to submit the question to a vote as to whether or not there shall be erected in said township township buildings, in accordance with the provisions of this act, it shall be the duty of said township officers to call an election for said purpose and submit such proposition at the next general election, or at a special election if a general election will not occur within six months of the date of the presentation of the petition to said township officers, and give thirty days' notice thereof by posting five written or printed notices in as many public places thereof in said township, or, if the board deems it advisable, by publication in some paper in general circulation in said township. If a majority of the votes cast be in favor of the erection of township buildings, then it shall be the duty of said township officers to at once procure the land and cause said buildings to be erected, at a cost not to exceed the amount specified in the call for said township election, and in the manner and under the restrictions that in the judgment of said board will procure the best buildings for the money expended. [L. 1899, ch. 278, § 2; L. 1909, ch. 259, § 2; May 29.]

80-106. Bonds for buildings. Whenever any township board is authorized by virtue of an election held in any township in the state of Kansas, as provided in the preceding section, to erect a township hall, the township board of such township is hereby authorized and empowered for and on behalf of such township to issue negotiable bonds of such township in a sum not to exceed \$10,000, except in townships in which there is located a city of the third class, where the total cost of said buildings and lands shall not exceed \$20,000, for the purpose of raising a fund to pay for a site and the erection and construction of such township halls, such bonds to be made payable in ten years from the date thereof, and bear interest at a rate not to exceed six per cent per annum and shall have semiannual interest coupons attached thereto. It shall be the duty of the township board of any township issuing said bonds, annually at the time of levying other taxes, to levy a tax each year to pay

the interest on said bonds as the same becomes due, on all taxable property of such township, and such township board is hereby further empowered, and it shall be their duty before the date of maturity of any series of such bonds, to levy a tax for the payment of said bonds at the maturity thereof, and all money realized from the sale of such bonds shall be used only for the purpose of paying for the erection of such township halls and the site thereof, as provided for in the preceding section of the act to which this is amendatory. No bonds issued in pursuance of this act shall be sold for less than their par value nor any commission paid for sale thereof. Said bonds shall be signed on behalf of the township issuing the same by the township board of such township, and duly registered in the office of the county clerk of the county in which such township is located, and such registration shall be certified to by said county clerk upon said bonds by his official signature and the seal of the county in which the township is located. Said bonds shall also be registered by the auditor of the state of Kansas, and he shall certify on such bonds the registration thereof by his official signature and seal of office. Said bonds may be issued at any time after the awarding of the contract for the construction of such township halls. All bonds issued under the provisions of this act shall contain the recital that the same are issued under the provisions of this act and in conformity with the provisions, restrictions and limitations thereof, and that such bonds and the interest thereon are to be paid by a general tax levied upon all the taxable property of the township issuing the same; that such recital shall be conclusive in favor of all persons purchasing such bonds; that all prior acts have been done, proceedings taken and conditions precedent performed and existing to authorize the issue of such bonds and the levying of a tax necessary for the payment of the principal and interest thereon as and when the same become due by the terms thereof. [L. 1899, ch. 278, § 3; L. 1911, ch. 337, § 1; L. 1917, ch. 329, § 2; L. 1920, ch. 69, § 2; March 22.]

80-107. Joint township halls. In any two or more adjoining townships in the same county, otherwise entitled to come within the provisions of this act, the township trustee, clerk and treasurer of such adjoining townships are authorized to submit to a vote of the electors of such townships the question of the erection of a joint township hall for the joint benefit and use of said two or more adjoining townships: *Provided*, That in no event shall the total cost of said joint building and lands exceed \$30,000. [L. 1920, ch. 69, § 3; March 22.]

80-108. Bonds therefor. Whenever two or more township boards authorized by virtue of an election held in such townships in the state of Kansas, as provided in section 3 of this act, to erect a joint township hall, the township boards of such townships are hereby authorized and empowered for and on behalf of such townships to issue negotiable joint bonds of such townships in a sum not to exceed \$30,000, for the purpose of raising a fund to pay for a site and the erection and construction of such joint township hall and such bonds and the proceedings concerning the execution and issuance thereof shall be as provided by law. [L. 1920, ch. 69, § 4; March 22.]

FREE LIBRARIES.

80-801. Establishment. That upon the written petition of fifty taxpayers of any township having more than one thousand inhabitants as shown by the last preceding assessor's return to the board of county commissioners, said

board shall cause to be submitted to the legal voters of such township at the first annual election thereafter, or, if the petition so request, at a special election to be called for that purpose, the question of the establishment and maintenance of a free library and reading room by such township; and if a majority of the votes cast at such election shall be in favor of the establishment and maintenance of such library and reading room, the township board of such township shall annually thereafter levy a tax of not to exceed three mills on the dollar on all the taxable property in such township, such tax to be collected as other township taxes, and to be known as the "library fund." [L. 1889, ch. 169, § 1; May 25.]

PUBLIC PARKS AND CEMETERIES.

80-901. Establishment. That any municipal township in any county in the state is authorized to provide and secure to the inhabitants thereof, either by purchase or by acquisition, from any person or persons, or from any cemetery organization, corporation or association of persons already in existence, a park or parks or a cemetery or cemeteries, or both such park or parks and cemetery or cemeteries within such township in the manner and form hereinafter designated: *Provided*, That nothing in this act shall be construed to restrict or modify other public cemetery acts. [L. 1887, ch. 235, § 1; L. 1921, ch. 295, § 1; L. 1923, ch. 240, § 1; Feb. 28.]

80-902. Bond issue. That in order to pay any expenditures for the purposes contemplated by this act, as amended, such municipal township may issue the bonds of such township in the manner provided by law, in an amount not to exceed two per cent of the assessed valuation thereof: *Provided*, That no township in any case shall issue bonds in an amount exceeding twenty thousand dollars by virtue of this act. [Revised, 1923; L. 1887, ch. 235, § 2.]

80-903. Tax levy. That any township issuing bonds under this act shall annually levy a tax sufficient to pay the interest thereon, and after five years an amount sufficient to create a sinking fund to pay the principal at maturity; and any township purchasing or acquiring or acting as trustee for grounds for a park or parks, or cemetery or cemeteries is empowered and authorized to annually levy and collect a tax, not exceeding in any one year two mills on the dollar to provide a fund for the purpose of meeting the annual expense of such grounds. [L. 1887, ch. 235, § 3; L. 1909, ch. 260, § 1; L. 1921, ch. 295, § 3; L. 1923, ch. 240, § 3; Feb. 28.]

80-907. Sinking fund; annual levy. That any township, or townships, issuing bonds under this act shall annually levy a tax sufficient to pay the interest thereon, and after five years an amount sufficient to create a sinking fund to pay the principal at maturity; and any township, or townships, purchasing or acquiring or acting as trustee for grounds for a park or parks, or cemetery or cemeteries, is empowered and authorized to annually levy and collect a tax, not exceeding in any one year two mills on the dollar, to provide a fund for the purpose of meeting the annual expense of such grounds. [L. 1923, ch. 241, § 3; March 3.]

80-908. Joint city and township parks and cemeteries. That whenever any cities of the second or third class located within the county shall desire to cooperate with any municipal township, or townships, under the provisions

of this act, the governing body of any such cities of the second or third class and whenever such township, or townships, are willing to accept such co-operation of any such city or cities the petition shall state such fact and if the residents and taxpayers of any such city or cities desire to accept such coöperation and shall present a petition of the same character to the governing body of any such city or cities and such governing body shall enact an ordinance joining with such township, or townships, then and in that event such townships and said cities shall become the joint owners of said parks and cemeteries under the provisions of the preceding section and the township trustee of every such township and the mayor of every such city shall constitute a board of trustees having full power and control of said parks and cemeteries and shall annually determine the tax that shall be levied by every such city or township to comply with the provisions and limitations prescribed by section 3 of this act. [L. 1923, ch. 241, § 4; March 3.]

80-909. Act of 1923 supplemental. That this act shall be supplemental to and in no wise contradictory of the provisions of chapter 295 of the Laws of Kansas for 1921. [L. 1923, ch. 241, § 5; March 3.]

NOTE.—L. 1921, ch. 295, was amended by L. 1923, ch. 240. See preceding sections in this article. This section originally contained a saving clause, which has been omitted as it is covered by L. 1923, ch. 144, the act adopting the revised statutes. See chapter 77 on "Statutes."

80-910. Order for election. The county commissioners, for such township, upon the presentation of the foregoing petition and such other conditions as may be deemed advisable, to the chairman of the board, shall convene and make an order, which order shall embrace the terms and conditions set forth in the petition, and shall fix the time for holding such election, which shall be within sixty days from the day on which the commissioners shall be convened. [L. 1887, ch. 235, § 5; March 15.]

80-911. Issuance of bonds. If a majority of the qualified electors voting at such election shall vote for such purchase and use, and issue of bonds, the board of county commissioners, for and in behalf of such township, shall cause such bonds with coupons attached as may be required by said proposition to be issued in the name of such township; which bonds when issued for such township shall be signed by the chairman of the board of county commissioners, and attested by the county clerk, under the seal of such county. [L. 1887, ch. 235, § 7; March 15.]

80-917. Cemetery chapel. That any township in the state of Kansas owning or operating as trustees a cemetery is authorized and empowered to procure, acquire and control a building to be used as a chapel in connection with such cemetery in which to hold burial or funeral services and such other devotional or religious exercises as the board may, from time to time, allow: *Provided*, That the title to such chapel shall be vested in the township maintaining such cemetery. [L. 1921, ch. 91, § 1; Feb. 27.]

80-918. Petition for chapel. That the township board shall not acquire, secure nor operate a chapel as provided in section 1 of this act except upon the application so to do through a petition presented to it signed by at least twenty-five per cent of the resident taxpayers of the township. [L. 1921, ch. 91, § 2; Feb. 27.]

80-919. Election; erection of chapel. That upon the receipt of such petition the township board shall call an election at which the question of the acquiring of a site for and the building of a chapel as provided hereinbefore shall be submitted to the electors of the township, at which election the proposition submitted shall be "Shall the township build and maintain a chapel in connection with the township cemetery at an initial cost of —— dollars?" If the majority of the votes cast at said election shall favor such proposition to construct and operate a chapel the township board shall proceed to procure a site for such chapel adjacent to the cemetery not exceeding one acre in area and to build and maintain a suitable building for a chapel thereon. The mode of acquiring the site shall be by purchase, donation and contribution, condemnation, or gift. The board of township commissioners is authorized and empowered to levy a tax sufficient to pay for the site and erect the building thereon: *Provided*, That in no event shall the combined cost of the site and the building exceed the amount of money to be raised by an annual levy of two mills on every dollar of taxable property in the township for a period of five (5) years. [L. 1921, ch. 91, § 3; Feb. 27.]

TOWNSHIP COMMUNITY BUILDING.

80-1001. Authorization; use and control. That the township trustee, clerk and treasurer of any township in the state of Kansas in which there is located a city of the third class and a county high school are hereby authorized and empowered to enter into a contract with the board of trustees of the county high school for the erection of a community building upon the high-school grounds in accordance with the plans and specifications furnished by the board of trustees of the said county high school, in consideration of which the use and control of the building shall be and remain in the township board for the following purposes, and no others: Meetings relating to township business, political gatherings, township fairs, polling place for elections and the meetings held under the auspices of the Chautauqua association. Such building shall at all other times and for all other purposes be under the control of the board of county high-school trustees, including its use as a gymnasium, library or other community and educational purposes. [L. 1921, ch. 294, § 1; May 25.]

80-1002. Cost of building; election. That the township board of such township is hereby authorized and empowered to expend for the erection and building of such community building upon such site the sum of fifteen thousand dollars (\$15,000): *Provided, however*, That in no event shall such township board erect said building or appropriate any of the moneys of said township, or levy any tax therefor, without first submitting the question of erecting a building to a vote of the electors of said township, and said election shall be governed by and the returns thereof made in accordance with the laws governing the election of township officers, and be determined by a majority of the qualified electors voting at said election. [L. 1921, ch. 294, § 3; May 25.]

80-1004. Bond issue. That whenever any township board is authorized by virtue of an election held in such township as provided in the preceding section to erect a community building upon the grounds of any such county high school, the township board of such township is hereby authorized and empowered for and on behalf of such township to issue negotiable bonds of

such township in a sum not exceeding the sum of fifteen thousand dollars (\$15,000), for the purpose of raising a fund to pay for the erection and construction of such community building. [Revised, 1923; old section, L. 1921, ch. 294, § 4.]

DISORGANIZATION OF TOWNSHIPS.

80-1101. Petition. That when the number of electors of any township in the state of Kansas shall become less than twenty-five, it shall be the duty of the board of county commissioners of the county in which such township is situated to disorganize such township and attach the territory thereof to any other township or townships of such county, as a part thereof, upon the filing of a petition asking such disorganization, signed by a majority of the electors of such township, as shown by the returns of the last general election next prior to the filing of such petition with the county clerk; such petition to be filed at least five days prior to the meeting of such board at which the order of disorganization is made. [L. 1899, ch. 277, § 1; May 15.]

80-1102. Disorganization without petition. That when the number of electors of any township shall not exceed ten, it shall be the duty of the county commissioners to disorganize said township, as provided in section 1 of this act, without the filing of a petition by the electors of said township. [L. 1899, ch. 277, § 2; May 15.]

80-1103. Floating indebtedness. That if any township so disorganized shall at the time of its disorganization have a floating indebtedness, it shall be the duty of the county commissioners of the county to provide for the payment of such outstanding indebtedness by making a levy of taxes therefor upon all real and personal property in the territory comprising such disorganized township at the time of its disorganization, which tax shall be entered by the clerk of the county on the tax roll the same as other taxes: *Provided*, That no such levy shall exceed ten mills on the dollar of the assessed valuation in any one year; that the county treasurer shall keep the money collected from such township in a special fund, and the county commissioners are authorized to audit the floating indebtedness of said disorganized township, and issue warrants upon the funds thus provided in payment of said floating indebtedness. [L. 1899, ch. 277, § 3; May 15.]

PRAIRIE DOGS AND GOPHERS.

80-1203. Expenses. The trustees of the several townships infested by prairie dogs shall appear before the board of county commissioners of their respective counties at their annual meeting in August of each year, when they convene to make the annual tax levy, and make a report of the probable expense to exterminate the prairie dogs in their respective townships. And the commissioners of the respective counties, after receiving said reports, shall cause to be levied on real estate assessed for taxation in each township thus infested by prairie dogs the approximate amount estimated by the several trustees as herein provided, or any part thereof: *Provided, however*, That no assessment for this purpose shall be greater than seventy cents on each one hundred dollars valuation as herein provided. [L. 1909, ch. 181, § 2; May 29.]

DUTIES OF TOWNSHIP OFFICERS.

12-1403. Township levy. That for the purpose of providing a fund to obtain land for cemetery purposes, the township trustees shall have authority to levy a tax not exceeding, in any one year, one mill on the dollar upon all of the taxable property in such township, to be levied and collected as other taxes for township purposes are levied and collected. The funds derived from such tax shall not be applied to any purpose other than the object of the levy. [L. 1913, ch. 73, § 8; April 30.]

12-1404. Townships may join in procuring lands. Any two or more townships having or providing a fund applicable to the procurement of lands for cemetery purposes may, if so determined upon by their several township boards at a joint meeting of such boards to be called and held as the several township trustees may agree, join in the purchase or procurement of such lands in such manner as may, by law now in force or hereafter enacted, be provided. [L. 1913, ch. 73, § 9; April 30.]

79-1943. Township boards; levy for township purposes. The trustees, treasurers and clerks of the several townships in the several counties of the state of Kansas shall constitute township boards for their respective townships, and such boards shall have power and authority to determine and fix the levy and rate of taxation in their respective townships for township purposes and said township boards are hereby authorized and empowered annually, at their regular meeting on the last Saturday in July, to levy a tax of not to exceed three-quarters of one mill on the dollar of all taxable property for township purposes. [L. 1909, ch. 256, § 1; May 29.]

Section considered with rock road law; no conflict between acts. Hill v. Johnson County, 83 K. 813, 820.

Limitation does not apply to levy to pay judgment. Super v. Modell Township, 92 K. 979, 981; Super v. Modell Township, 94 K. 402, 403.

79-1944. Levy to pay judgment against township; execution. Whenever any final judgment against any township shall remain unpaid on the last Monday in June of any year the township board shall on said date levy a tax on the taxable property in said township for the payment thereof; such tax shall be collected as other township taxes are collected, but no execution shall issue on said judgment against such township. The rate of levy shall be the amount required to pay such judgment, but not exceeding three mills in any one year. If two or more judgments be payable in any one year, they shall be paid in the order of their rendition. The rate of levy herein provided for the payment of judgments, shall not affect the levies allowed by law for the liabilities which have not been reduced to judgment. [L. 1915, ch. 366, § 1; May 22.]

25.—COLLECTION OF TAXES.

79-2001. Entry of taxes by treasurer on roll. As soon as the county treasurer shall have received the tax roll of his county he shall enter in a column opposite the description of each tract or parcel of land the amount of unpaid taxes, and the date of unredeemed sales (if any) for previous years on such land, and he shall cause a notice to be published in a newspaper published in his county, or if there be none, then in a paper having general

circulation therein, for two consecutive weeks, stating in said notice the amount of taxes charged for state, county, township, school, city or other purposes for that year, on each one hundred dollars valuation. [L. 1876, ch. 34, § 88; L. 1886, ch. 30, § 1; Nov. 1.]

79-2002. Receipts by treasurer. When the treasurer shall receive any tax he shall give a receipt therefor. If upon land or town lot, the receipt shall describe the land as it is described in the tax roll, and give the valuation thereof, and a statement shall be entered on such receipt showing the amount of unpaid taxes and the date of unredeemed tax sales (if any) for previous years upon such land or town lot; and if upon personal property, it shall state the value thereof, and on the reverse side it shall give the amount of each kind of tax for that year on each one hundred dollars valuation. [L. 1876, ch. 34, § 89; L. 1886, ch. 30, § 2; Nov. 1.]

Annotation to L. 1876, ch. 34, § 89:

Tender of part of taxes; receipt therefor. *Julien, Sheriff, v. Ainsworth*, 27 K. 446, 448.
Tax-receipt stub book admissible in evidence. *Hudson v. Herman*, 81 K. 627, 638.
Mandamus to compel issuance of tax receipts; pleading. *Skinner v. Mitchell*, 108 K. 861, 869.

79-2003. Treasurer to receive warrants in payment of taxes. The county treasurer is required to receive in payment of taxes state warrants and matured coupons of the state bonds in payment of state taxes, county warrants in payment of county tax, township warrants in payment of the tax of the proper township, city warrants in payment of the proper city tax, or other such evidence of indebtedness as the city may authorize the treasurer to receive; and warrants shall only be received in payment of the tax for the fund to which such warrants may be drawn. [L. 1876, ch. 34, § 90; March 11.]

Priority of payment of warrants; receiving for taxes is payment. *Thorpe v. Cochran*, 7 K. A. 726, 727.

79-2004. Time for payment. That any person charged with taxes on the tax books in the hands of the county treasurer may at his option pay the full amount thereon on or before the twentieth day of December of each year, or the one-half thereof on or before the twentieth day of December and the remaining one-half thereof on or before the twentieth day of June next ensuing; and that if any of the said first half of said taxes remain unpaid after the twentieth day of December, the whole amount of tax charged against such person failing to pay the first half of the tax as herein provided shall be collected as provided by law; and all taxes due and unpaid on the twenty-first day of December of each year shall be subject to have added thereto a penalty of five per cent; and all taxes of the preceding year which remain due and unpaid on the twentieth day of June of each year shall be subject to have added thereto an additional penalty of five per cent; and the county clerk of each county, on the twenty-first day of December and June or as soon thereafter as practicable (provided in no case shall it be later than January and July 1 thereafter), in each year, shall place on the tax rolls of his county, in a separate column and opposite to each description of property upon which the taxes then remain due and unpaid, the amount of the penalty thereon, to be added to such taxes as hereinbefore provided, and he shall charge the amount of such penalty to the county treasurer: *Provided*, all penalties shall be credited to the county fund. [L. 1876, ch. 34, § 91; L. 1893, ch. 110, § 1; L. 1919, ch. 309, § 1; June 17.]

Annotation to L. 1876, ch. 34, § 91:

Tender of part of taxes; receipt therefor. *Julien, Sheriff, v. Ainsworth*, 27 K. 446, 448.

Annotation to L. 1898, ch. 110, § 1:

Effect of erroneous computation of penalties; fraction of a cent. *Glenn v. Stewart*, 78 K. 606, 606.

City, first class, entitled to penalties; rebates charged to county. *Sedgwick County v. Wichita*, 62 K. 704, 706; *Kansas City v. Stewart*, 90 K. 846, 847.

Writ of mandamus unavailable by reason of lapse of time. *School District v. Stanton County*, 99 K. 768, 764.

26.—SALE OF PERSONAL PROPERTY FOR TAXES.

79-2101. Mode of collection of tax on personal property. All taxes on personal property that shall remain due and unpaid on the first day of January, or the first day of July, shall be collected in the following manner: The county treasurer shall between the tenth and fifteenth days of January and July, respectively, send a notice by mail to the person to whom such taxes were assessed, to his post-office address, as shown by the records in the office of the county clerk. However, failure to receive such notice shall not relieve such person defaulting in payment of personal taxes from any penalty and costs attached thereto. Should such taxes remain unpaid for a period of thirty days after mailing such notice, the county treasurer shall forthwith issue a warrant under his hand directed to the sheriff of the county, commanding him to levy the amount of such unpaid taxes and the penalty thereon, together with his fees for collecting the same, of the goods and chattels of the person to whom such taxes were assessed; thereupon said sheriff shall proceed to collect said taxes the same as upon execution, and after collecting the said taxes pay the same to the county treasurer, and return such warrants within sixty days from the date thereof. [L. 1876, ch. 34, § 92; L. 1895, ch. 256, § 1; L. 1913, ch. 325, § 1; March 18.]

Annotations to L. 1876, ch. 34, § 92:

Sheriff's fees on tax warrant where no property found. *Thrall's v. Com'm's of Sumner Co.*, 24 K. 594, 596.

Levy before return day, sale after return day of warrant, held valid. *Blain v. Irby*, 46 K. 499, 500.

Taxes not debts; action will not lie for recovery. *Com'm's of Stafford Co. v. National Bank*, 48 K. 561, 563.

Tax warrant cannot be levied on bank's property for shareholder's tax. *Bank v. Lyman*, 59 K. 410, 412, 413.

79-2162. Affidavit of poverty or infirmity. If any one to whom such fact is known, or if the person against whom such unpaid tax is charged, shall make and file with the treasurer an affidavit that such person is unable, by reason of poverty or infirmity, to contribute to the public charge, such warrant shall not be issued or executed. The treasurer shall note such fact on the tax roll opposite such tax, and shall preserve all such affidavits, and shall submit them together with uncollected taxes to the county commissioners. For the purpose specified in this section the county treasurer is authorized to administer oaths. [L. 1876, ch. 34, § 93; March 11.]

79-2163. Notation of removal of taxpayer. It shall be the duty of the several sheriffs of this state, in making their returns of the delinquent tax warrants to the treasurers of their respective counties, to note in their return the county to which any such delinquent taxpayer may have removed or resides, with the date of his removal, if he shall be able to ascertain such

fact; and it is hereby made his duty to make diligent inquiry therefor. [L. 1876, ch. 34, § 94; March 11.]

Duty of sheriff in making return of tax warrant. *Lumber Co. v. Chandler*, 90 K. 561, 563.

79-2104. Alias tax warrant to sheriff of county to which taxpayer has removed. It shall be the duty of the several county treasurers in the state, immediately after their receiving said warrants returned as provided in the preceding section, to issue an alias tax warrant, directed to the sheriff of any county in this state into which any such taxpayer may have removed or may reside, or in which his personal property may be found, who shall proceed to collect said taxes the same as upon execution, together with his costs upon the same, and after collecting the said taxes to forward the same to the treasurer of the county who issued said warrant, together with the warrant, and his return indorsed thereon. [L. 1876, ch. 34, § 95; March 11.]

79-2105. Entry of abstract of delinquent tax on judgment docket; warrant by district court clerk. On the return of any unsatisfied tax warrant by the sheriff to the county treasurer of any county, it shall be the duty of said county treasurer, if he believe such delinquent taxpayer has property which cannot be reached by said tax warrant, to file with the clerk of the district court of his county an abstract of the amount of taxes, penalty and costs, accompanied by the last tax warrant, and said clerk shall enter the amount on his judgment docket, which said unpaid tax shall become a lien on real estate, in the same manner as a judgment, and a tax warrant may thereupon be issued by said clerk, which shall have the same force as an execution, and such real estate shall be sold without appraisalment. [L. 1876, ch. 34, § 96; March 11.]

79-2106. Fees for services specified in preceding sections. For the services specified in the preceding sections the sheriffs shall be entitled to the same fees as they are allowed by law on executions, and the treasurers to receive for furnishing the clerk of the district court with such abstract the same fee as is provided by law for issuing tax warrants. [L. 1876, ch. 34, § 97; March 11.]

79-2107. Return of sheriff on such warrants; failure to issue or serve and return tax warrants. All warrants returned by the sheriff shall be indorsed with date of service, date of collection, and amount collected, and if no property is found, so state; and if any treasurer or sheriff fail to issue or serve and return the warrants as provided by this act, such treasurer or sheriff shall be held liable for the amount of tax upon which warrants have so failed to be issued, served or returned. [L. 1876, ch. 34, § 98; March 11.]

PAYMENT OF TAXES TO STATE TREASURER.

79-2201. Payment of taxes into state treasury. That between the 1st and 20th days of January and the 1st and 20th days of July in every year, the county treasurer shall prepare a statement in duplicate, showing the amount of taxes collected in his county and due the state, which statement shall be duly sworn to before some officer authorized to administer oaths, and the county treasurer shall forward one copy of the same to the state auditor and the other to the state treasurer on or before the 20th days of January and July, respectively, in every year. A like statement shall be prepared and

forwarded to the state auditor and state treasurer by the county clerk immediately after the annual settlement of the county commissioners with the county treasurer, in October of every year, and said statement by the county clerk shall show the total state taxes collected, the total amount paid the state treasurer by the county treasurer, and the balance of state taxes remaining in the county treasury; and the state treasurer and the state auditor shall compare the amounts specified in such statements with the total amount of taxes assessed against the county. Whenever he shall deem it necessary, the state auditor shall prepare, between the 25th day of any calendar month and the 10th day of the month immediately succeeding the same, an estimate of the amount of money necessary to be drawn from the several counties to meet the current expenses of the state for the succeeding month and shall file a statement of the same with the state treasurer. The total sum shall be apportioned among the several counties in proportion to the taxes assessed against every item respectively. Immediately after making such apportionment the state treasurer shall draw his draft on each county treasurer for the amount so apportioned with exchange, which draft shall be countersigned and registered by the state auditor, who shall charge the state treasurer with the amount of such drafts and credit every of the several counties with the amount apportioned to it. The state treasurer shall at once deposit such warrants in the depository banks hereinafter provided. Any county treasurer who shall willfully fail to promptly pay the draft drawn by the state treasurer on presentation shall be deemed guilty of embezzlement, and upon conviction thereof shall be punished by a fine of not less than \$500 nor more than \$5,000, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment, and shall forfeit his office as county treasurer. Upon the return of any draft to the state treasurer unpaid, he shall immediately notify the attorney-general, whose duty it shall be to at once cause proceedings to be commenced against such county treasurer or treasurers in the name of the state. The state treasurer shall also notify the state auditor of the default in payment of such draft or drafts. All moneys, other than taxes, shall be forwarded to the state treasurer by the county treasurer on or before the 10th days of January and July in every year. [L. 1876, ch. 34, § 99; L. 1891, ch. 41, § 1; L. 1905, ch. 471, § 1; L. 1923, ch. 224, § 1; March 24.]

79-2202. Forfeiture by county treasurer for failure to pay money into state treasury. If any county treasurer shall fail to pay into the state treasury any moneys in his hands for that purpose within the time prescribed by law, he shall in addition to other penalties be liable to the following: If he fail for the space of ten days, he shall forfeit to the state ten per cent of the amount withheld; and if he fail for thirty days after such specified time, he shall forfeit his office as treasurer and be deemed guilty of embezzlement, and shall be punished in the same manner as for the larceny of the amount withheld: *Provided*, That if he can show sufficient reason for such delay he shall not be subject to any penalty. [L. 1876, ch. 34, § 101; March 11.]

79-2203. County responsible to state for levies. Each county is responsible to the state for the full amount of the taxes levied by law for state and other purposes, excepting such amount as is certified by the board of county commissioners and attested by the county clerk to be double or

erroneous assessments, or returned by the sheriff "Not found," and "No property," which certified amount shall be credited to the county by the auditor and treasurer of state. [L. 1876, ch. 34, § 102; March 11.]

Commissioners can maintain suit to recover state and county funds. *Comm'rs of Harvey Co. v. Munger*, 24 K. 205, 209.

Liability of county for delinquent state taxes. *Harper County v. Cole*, 62 K. 121, 124, 126.

79-2204. County treasurers not required to pay more than taxes collected. County treasurers shall not be required to pay into the state treasury more state taxes than shall have been actually collected by them in their respective counties. [L. 1876, ch. 34, § 104; March 11.]

Section construed; counties liable for delinquent state taxes. *Harper county v. Cole*, 62 K. 121, 124, 126.

SALE OF REAL ESTATE FOR TAXES.

79-2301. Real estate subject to sale. All real estate on which the taxes shall not have been paid as provided by law on or before the twentieth day of June in each year shall be subject to sale as hereinafter provided. [L. 1876, ch. 34, § 105; March 11.]

79-2302. Notice of sale. The county treasurer shall between the first and tenth of July in each year make out a list of all lands and town lots subject to sale, describing such lands and town lots as the same are described on the tax roll, with an accompanying notice stating that so much of each tract of land or town lot described in said list as may be necessary for that purpose will, on the first Tuesday of September next thereafter, and the next succeeding days, be sold by him at public auction at his office, for taxes and charges thereon. And if any county treasurer shall at any time discover that any tract of land or town lot had been omitted to be put on the list of delinquent taxes and sold for any preceding year, the said treasurer shall be required to place such omitted tract of land or town lot on the list of delinquent taxes for the current year, and sell the same as directed by this act in other cases. [L. 1876, ch. 34, § 106; March 11.]

Notice must state that sale will be made by treasurer. *Casner v. Gahlman*, 6 K. A. 295, 296.

Notice must state place of sale. *Russell v. Hudson*, 24 K. 571.

Effect of omission of words "at public auction"; deed voidable. *Hafey v. Bronson*, 33 K. 598, 599.

Effect of delay in making out list; publication within time. *Stout v. Costes, Assignee*, 35 K. 382, 384.

Variance in descriptions held sufficient to avoid deed. *Gibson v. Walters*, 86 K. 101.

79-2303. Publication and posting of such notice. The county treasurer shall cause the said list with the accompanying notice to be published in some newspaper published in said county, or if no newspaper be published in said county, then in one of general circulation in his county, once in each week for four consecutive weeks prior to the day of sale; and shall also cause to be posted up a copy of said list and notice in some conspicuous place in his office. [L. 1876, ch. 34, § 107; March 11.]

Treasurer publishes tax list under order of county board. *Wren & Clawson v. Comm'rs of Nemaha Co.*, 34 K. 301, 304, 305.

Loss or destruction of notice does not render sale void. *Davis v. Harrington*, 35 K. 196.

Publication of notice; time of first publication; notice held valid. *Tidd v. Grimes*, 66 K. 401.

79-2304. Affidavit of publication. Every printer who shall publish such list and notice shall immediately after the last publication thereof transmit to the treasurer of the proper county an affidavit of such publication, made by such person to whom the fact of publication shall be known; and no printer

shall be paid for such publication who shall fail to transmit such affidavit within fourteen days after the last publication. The county treasurer shall also make, or cause to be made, an affidavit or affidavits of the printing of such list and notice as above required; all of which shall be carefully preserved by him, and deposited as hereinafter specified. [L. 1876, ch. 34, § 108; March 11.]

Statement and affidavit of printer held substantial compliance with statute. *Mims v. Comm'rs of Finney Co.*, 3 K. A. 622, 625.
 Transmission of affidavit to treasurer; presumed transmitted to treasurer. *Douglass v. Craig*, 4 K. A. 99, 104. Reversed, *Douglass v. Craig*, 58 K. 814.
 Curative act relating to Graham County held constitutional. (L. 1895, ch. 371.) *Inlow v. Graham County*, 6 K. A. 391.
 Affidavit prima facie evidence of time and manner of publication. *City Rly. Co. v. Cheney*, 30 K. 199, 201.
 Prima facie evidence furnished by deed overthrown by affidavit. *City Rly. Co. v. Cheney*, 30 K. 199, 201.
 Omission of affidavit of county treasurer is mere irregularity. *Stout v. Coats, Assignee*, 25 K. 383, 384.
 Charge for printing illegal when affidavit not transmitted as prescribed. *Fox v. Cross*, 39 K. 350, 355.
 Tax sale vitiated by including illegal fee for printing notice. *Blanchard v. Hatcher*, 40 K. 350.
 Printer cannot recover pay for printing when affidavit not transmitted. *Moriarity v. Comm'rs of Morris Co.*, 52 K. 199, 200.
 Deed voidable if fee included when affidavit not transmitted. *Douglass v. Walker*, 57 K. 329, 330.
 Requirement concerning proof by printer not applicable to redemption notice. *Morrow v. Inge*, 39 K. 481.
 Erroneous inclusion of printer's advertising fee; sufficiency of evidence. *Lyle v. Reynolds*, 113 K. 365, 368.

79-2305. Publication of lists during years 1909 and 1910. Laws 1913, chapter 221, section 1, included by reference. [Provides for payment for publication of tax-sale notice during the years 1909 and 1910 within five years after such publication. Validates all deeds issued based upon tax-sale notice with relation to proof of publication.]

79-2306. Time of sale. On the day designated in the notice of sale the county treasurer shall commence the sale of those lands and town lots on which the taxes and charges have not been paid, and shall continue the same from day to day (Sundays excepted) until each parcel or so much of each parcel shall be sold as shall be sufficient to pay the taxes and charges thereon, including the costs of advertising and the fees for selling. [L. 1876, ch. 34, § 109; March 11.]

Illegal amount charged by county for advertising; tax deed invalid. *Gentner v. Lewis*, 24 K. 309, 310.
 Sale other than at public auction; sale illegal and voidable. *Young v. Rheinecker*, 25 K. 366.
 Ten-cent fee "for selling" each tract or town lot, illegal. *Haggood v. Morten*, 28 K. 764, 768.
 Bidders not bidding against each other; sale held not void. *Davis v. Harrington*, 25 K. 194.
 Sale must follow assessment; county treasurer cannot apportion taxes. *Hail v. Redden*, 28 K. 253.
 Showing of time of sale on face of deed; validity. *Edwards v. Sims*, 46 K. 235.
 Purchaser at tax sale entitled to compensation for improvements. *McDonald v. Kelson*, 79 K. 105, 108.

79-2307. Sale of school lands; bond; certificate of purchase. When school lands are sold for taxes a deed shall not be given to the purchaser until he shall have paid all the installments and the interest due thereon at the time, and shall have given a bond as required from the purchaser in the first instance; and upon filing with the county clerk such bond, such clerk shall give him a certificate of purchase. [L. 1876, ch. 34, § 110; March 11.]

Rights of purchaser; patent issued to purchaser at tax sale. *Larabee v. Prather*, 51 K. 743, 745.
 School lands sold on deferred payments; sale for taxes, etc. *Russell County v. Mahoney*, 69 K. 661, 662.

79-2308. Sale of part of tract or lot. The person at such sale offering to pay the taxes and charges against any one piece or parcel of land or town lot for the smallest quantity of land off the north side of the tract or piece of land or town lot shall be the purchaser of such quantity, located as aforesaid. [L. 1876, ch. 34, § 111; March 11.]

79-2309. Sale of whole tract or lot. If no person will bid for a less quantity than the whole, the treasurer may sell any tract or piece of land or town lot or description of real estate to any one who will take the whole of such tract or piece of land, town lot or description of real estate, and pay the taxes and charges thereon. [L. 1876, ch. 34, § 112; March 11.]

79-2310. Payment of purchase money. The county treasurer may in his discretion require immediate payment of every person to whom any such parcel of land shall be sold; and in all cases where payment is not made in twenty-four hours after the bid he may declare such bid canceled and sell the land again, or may sue the purchaser for the purchase-money and recover the same with costs and ten per centum damages; and any person neglecting or refusing to make such payment shall not be entitled after such neglect to have any bid made by him received by the treasurer during the sale. [L. 1876, ch. 34, § 113; March 11.]

79-2311. Purchase by county. If any parcel of land cannot be sold for the amount of taxes and charges thereon, it shall be bid off by the county treasurer in the name of the county for such amount. [L. 1876, ch. 34, § 114; March 11.]

Land bid off by treasurer; certificate issued; distribution of taxes. *Smith v. City of Frankfort*, 2 K. A. 411, 418.
 Recital showing sale to county without other offering; deed void. *Norton v. Friend*, 13 K. 532.
 Sale en masse including two descriptions lying adjacent, held not void. *Dodge v. Emmons*, 34 K. 732.
 Omission of statutory recital in deed supplied by inference. *Gibson v. Trieler*, 73 K. 397, 400.

79-2312. Kind of funds received in payment. Where the treasurer sells any lands or lots for delinquent taxes he shall receive the same kind of funds in payment therefor as he is required to receive in payment of taxes, except the costs of sale. [L. 1876, ch. 34, § 115; March 11.]

79-2313. Certificate of purchase. The county treasurer shall give each purchaser, on payment of his bid, a certificate dated the day of the sale, describing the lands purchased, the amount paid therefor, and the time the purchaser will be entitled to a deed, which certificate shall be assignable, and any person's interest therein may be transferred by a written assignment indorsed upon or attached to the same, and such assignment shall have the same force and effect as the assignment of bonds for the conveyance of lands; and such certificate, if acknowledged by the treasurer, and certified by a person authorized to take acknowledgments of deeds, may be recorded in the office of the register of deeds of the proper county. All assignments shall be entered on the treasurer's sale book and the clerk's duplicate. [L. 1876, ch. 34, § 116; March 11.]

Land bid off by treasurer; certificate issued; distribution of taxes. *Smith v. City of Frankfort*, 2 K. A. 411, 418.
 Assignment of certificate to person having interest in land; redemption. *Priser v. Taylor*, 8 K. A. 690, 693.
 Quitclaim deed from holder of certificate not assignment of certificate. *Clippinger v. Tuller*, 10 K. 377.

Treasurer's fee for issuing certificate properly included in sale charges. *Kregio v. Flint*, 25 K. 698, 696.
 Tender to purchaser when assignment not recorded held valid. *Douglass v. McKeever*, 54 K. 787, 769.
 Assignment not recorded; no recovery until taxes, interest, etc., paid. *Black v. Johnson*, 68 K. 47, 48.
 Assignment must be shown on certificate; deed to another void. *Morris v. Bird*, 71 K. 619, 630.
 Certificate issued under "compromise act" is assignable. *Trust Co. v. Davis*, 75 K. 639, 640.
 Recitals in deed failing to show assignment of certificate, effect. *Rynearson v. Conn*, 77 K. 100, 103.
 Certificate may be recorded as an instrument affecting title. *McDonald v. Kelson*, 79 K. 106, 108.

79-2314. Record of county purchase; certificate to person making payment in such case. When any land or town lots shall at any tax sale be bid off by the county treasurer for the county, it shall be the duty of the county treasurer to enter the same on the book of tax sales in the same manner as though such land or town lots were sold to other purchasers, and he shall number each tract or town lots as though they were sold to other purchasers, and he shall number such tract of land or town lots consecutively, in like manner as though a certificate of sale had been made; but no certificate of sale shall be made except as follows: Whenever any person shall pay into the county treasury a sum of money equal to the cost of redemption at that time of any such tract of land or town lot, the county treasurer shall give such person a certificate, dated the day when it was issued, describing the land or town lots bid off for the county, the amount for which it was so bid off, the amount paid into the county treasury by such person for such tract of land or town lot, the time when the owner of such certificate will be entitled to a deed, and shall number said certificate to correspond with the number of the tract of land or town lot, as numbered in the book of tax sales, which certificate before it shall be of any validity shall be assigned to such person by the county clerk, who shall make an assignment on his duplicate book of tax sales; and such certificate so assigned by the county clerk shall vest all the interest of the county in or to such land or town lot in such person, and such certificate shall be assignable to the same extent and in like manner as certificates given to purchasers at tax sales. [L. 1876, ch. 34, § 117; March 11.]

Lots purchased less than costs of redemption, proceedings void. *Noble v. Cain*, 32 K. 493, 497.
 Tender of amount with insufficient interest, not sufficient tender. *Brisco v. Comm'rs of Ellsworth Co.*, 28 K. 354, 337.
 Recital that assignment made by county, held sufficient. *Sanger v. Rice*, 43 K. 580, 587.
 Delinquent taxes not chargeable when certificate assigned, not a lien. *Gibson v. Trister*, 73 K. 397, 399.
 "Cost of redemption" means amount land sold for with interest. *Phares v. Cortright*, 76 K. 63.

79-2315. Name in which land sold. When any lands or town lots are offered for sale for any taxes, it shall not be necessary to sell it as the property of any person or persons; and no sale of any land or town lot for taxes shall be considered invalid on account of its having been charged on the tax roll in any other name than that of the rightful owner, but such land must be in other respects sufficiently described on the tax roll, and the axes for which it is sold must be due and remain unpaid at the time of such sale. [L. 1876, ch. 34, § 118; March 11.]

Sale not vitiated by failure to enter owner's true name. *Pritchard v. Madron*, 24 K. 406, 402.
 Omission of name of owner from notices; sale not invalidated. *Shoop v. C. B. U. F. Bld. Co.*, 34 K. 547, 562.

79-2316. Description of land in sale proceedings. It shall be sufficient to describe lands in all proceedings relative to assessing, advertising or selling the same for taxes by initial letter, abbreviations and figures, to designate the township, range, section or parts of section, and also the number of lots and blocks. [L. 1876, ch. 34, § 119; March 11.]

Abbreviated description of land held not void. *Comm'rs of Jefferson Co. v. Johnson*, 23 K. 717, 720, 721.

79-2317. Record of sales. The county treasurer shall immediately after the close of the sale of land for taxes record a list of all lands and town lots in a book prepared for that purpose. Said list shall contain: 1. The number of certificate of sale, and the date thereof. 2. The name of the owner or owners, if known. 3. The description of each tract of land or town lot. 4. The name of purchaser. 5. The total amount of taxes at the time of sale. 6. Columns for amount of subsequent taxes paid by the purchaser, and the date of payment. 7. To whom assigned, and amount of principal and interest paid thereon. 8. Name of person redeeming, and date of redemption. 9. Total amount paid for redemption. 10. Name of person to whom conveyed, and date of deed. 11. The county clerk shall also make a duplicate thereof. [L. 1876, ch. 34, § 120; March 11.]

79-2318. Filing papers with county clerk. The county treasurer shall file with the county clerk all affidavits, notices of papers of reference to such tax sale, to be preserved by him. [L. 1876, ch. 34, § 121; March 11.]

Redemption notice certified by treasurer; not by clerk, incompetent evidence. *Bergman v. Bullitt*, 48 K. 709, 712.

Copy of official county paper found among treasurers' files admissible. *Morrow v. Inge*, 89 K. 481, 483.

Evidence did not require finding that printer's fees erroneously included. *Lyle v. Reynolds*, 112 K. 365, 368.

79-2319. Taxation and sale of lands purchased by county. All lands and town lots bid off for the county at any tax sale shall continue liable to be taxed in the same manner as if they were property of individuals, and such taxes and charges shall be a lien upon such lands and town lots; but no lands or town lots so bid off for the county shall be sold for any taxes levied subsequent to such bid until they have been redeemed, or shall be sold by the county, or the tax certificate issued to the county shall have been assigned. If the subsequent taxes shall not be paid by any other person, such lands and town lots shall be advertised with, and in the same manner as, the other lands and town lots on which the taxes are not paid, and shall be subject to the same charges as if they should be sold. The treasurer shall enter such taxes and charges in the book of tax sales of the year in which said lands were sold to the county, opposite such lands or lots, and such taxes and charges shall constitute an additional lien. All tracts of land and town lots of less value than fifty dollars so bid off for the county shall not again be advertised or sold unless so ordered by the board of county commissioners. [L. 1876, ch. 34, § 122; L. 1911, ch. 327, § 1; May 22.]

Annotations to act of 1876:

Land sold to county not to be again sold, etc. *Bels v. Bird*, 81 K. 139, 143; *Flint v. Dulany*, 87 K. 832, 835; *Nicholson v. Hale*, 78 K. 599, 600.

Tax sale after land bid in by county held void. *Trustees v. Hewitt*, 87 K. 107, 109.

Delinquent taxes not chargeable when certificate assigned, not a lien. *Gibson v. Trioler*, 78 K. 897.

Taxes for subsequent years entered in deed; deed not void. *Milburn v. Beatty*, 81 K. 697, 699.

Notice should not include delinquent tax for year preceding notice. *Jones v. Harper*, 102 K. 630, 640.
Wife disqualified to acquire tax title to husband's land. *Purl v. Purl*, 107 K. 814, 816.

79-2320. Payment of subsequent taxes by holder of tax-sale certificate. Any person desiring to pay any subsequent taxes on lands or town lots for which he holds the tax-sale certificates shall produce such certificates to the treasurer, who shall indorse thereon the amount of such subsequent tax and the date of payment thereof, and enter the same in the book of tax sales opposite such land or town lots; but no payment of subsequent taxes shall be made and indorsed prior to the twentieth day of December of each year. [L. 1876, ch. 34, § 123; L. 1877, ch. 38, § 1; May 1.]

79-2321. Sale of lands where injunction dissolved. In all cases where the collection of any tax has been enjoined, and the injunction dissolved, it shall be the duty of the county treasurer to proceed to sell the lot or land upon which such tax was charged, first giving ten days' notice published in some newspaper of the proper county, or in some newspaper of general circulation in said county, of the time and place of sale and the amount of said taxes; said sale and proceedings to be conducted in the same manner as herein provided for the sale of lands or lots for delinquent taxes: *Provided*, The court dissolving such injunction may declare the just amount of taxes due on any lots or lands a lien on the same, and order the same sold without appraisement to satisfy said lien, as in other cases of sale of real estate; and the sheriff shall pay any money so received on any such sale over to the treasurer, and take duplicate receipts therefor, and shall deliver one of said receipts to the county clerk, who shall charge the treasurer with such money. [L. 1876, ch. 34, § 124; March 11.]

79-2322. Failure to sell lands in September. If any county treasurer shall unavoidably omit or fail to sell any lands or town lots for unpaid taxes on the first Tuesday of September, he shall advertise and sell such lands or town lots on the fourth Monday of October next ensuing, and such advertisement and sale shall conform in all respects to the provisions of this act, and shall be as binding and valid as if such sale had been made on the first Tuesday in September. If such lands or town lots have been advertised as provided by law, and have not been sold by reason of any injunction or judicial proceeding, after such injunction shall have been dissolved it shall only be necessary for the treasurer to cause to be published in some newspaper of general circulation in his county a notice stating that such land and lots were not sold, by reason of such injunction; and such lands or lots shall be sold at such time and place as shall therein be specified, which time shall not be less than ten days from the date of publication. [L. 1876, ch. 34, § 125; March 11.]

Construction of recital in deed as to time of sale. *Edwards v. Sims*, 46 K. 235, 242; *Clarke v. Tilden*, 73 K. 574.
Special recitals in deeds based on October sales unnecessary. *Clarke v. Tilden*, 73 K. 574.

79-2323. Penalties and interest on sale after injunction dissolved. In case the county treasurer shall be restrained from selling any real estate by reason of an injunction, and the injunction shall be dissolved, the treasurer, at the sale provided for in the preceding section shall include all penalties and interest that would have accrued had the sale taken place at the time fixed by law. And in cases where the county treasurer or sheriff shall by injunction

be restrained from the collection of taxes due upon personal property, and the injunction be dissolved, the county treasurer or sheriff shall collect the original taxes and penalties, with interest from the date of the injunction at the rate of fifty per cent per annum. [L. 1876, ch. 34, § 126; March 11.]

Section held constitutional and valid; penalty. *Railway Co. v. Labette County*, 9 K. A. 545; *Railway Co. v. Labette County*, 62 K. 550, 551; *Railway Co. v. Miami County*, 67 K. 484, 488.

Tax upon railroad property held tax due on personal property. *Railway Co. v. Labette County*, 9 K. A. 545.

Penalty herein provided applies only to taxes in dispute. *Rogers v. K. C. T. & W. Rld. Co.*, 48 K. 471, 473.

79-2324. Adoption of act relating to purchase by county of delinquent lands. The provisions of this act shall apply only to such counties in this state as shall, by resolution of their respective boards of commissioners, duly accept and adopt the same. Said resolution shall, in writing be substantially as follows: "*Resolved*, That this county accept and adopt the provisions of the act of the legislature of 1921, entitled 'An act regulating the sale of real estate for delinquent taxes, in such counties as shall accept and adopt the provisions of this act.'" That from and after the acceptance and adoption of such resolution, the following provisions of law shall, as to such counties so accepting and adopting the same, govern the enforcement and collection of taxes, the redemption and conveyance thereof in addition to the laws now in force in reference thereto, and where there is a conflict between the laws now in force in reference to the provisions contained in this act, and the provisions of this act, then this act shall control in the counties accepting and adopting the above resolution: *Provided*, That any such resolution so accepted and adopted in any county in this state may be revoked at any time by resolution adopted by such board of county commissioners; however, the revocation of such resolution shall in no way void, destroy, modify or defeat any right, lien or title, any one acting under the provisions of said resolution and this act prior to such revocation may have obtained. [L. 1921, ch. 288, § 1; March 7.]

Annotations to L. 1891, ch. 162, § 1:

Act held constitutional and valid. *Bigger v. Ryker*, 62 K. 482.

Judicial notice taken of adoption of act. *Saum v. Dewey*, 84 K. 811; *Brown v. Going*, 99 K. 268; *Perkins v. Berry*, 104 K. 104, 105.

County not an ordinary purchaser at tax sale. *Warner v. Fife*, 105 K. 724, 726.

79-2325. Purchase of land by county without offering same to other bidders. In all counties accepting and adopting the provisions of this act as aforesaid, it shall be the duty of the county treasurer of such county, to bid off in the name of the county all lands or town lots advertised for sale for delinquent taxes for the amount of the delinquent taxes and the legal charges due thereon, and no bids shall be received by said county treasurer from any other person for the premises so sold. [L. 1921, ch. 288, § 2; March 7.]

79-2326. Holding, redemption or sale of lands so purchased. In all counties accepting and adopting the provisions of this act, and where the property has been bid in by the county for said delinquent taxes and charges as herein provided, the county treasurer of such county shall not accept from any person or persons, except the owner thereof, his heirs, executors, administrators, or other legal representative, assigns, mortgagee of the real estate or some part thereof sold for delinquent taxes, or his assigns, or any person holding the record title to said premises or some part thereof, the amount of money due to redeem said premises at any time after the purchase thereof

for any tract of land or town lot so sold and purchased for such delinquent taxes, and shall not give any person or persons, except the owner or holder of the record title, his heirs, executors, administrators, assigns or any mortgagee or assigns of such real estate so sold for taxes, a certificate showing that said lands had been redeemed from such sale, but all the lands so bid off by the county for such delinquent taxes shall be held by the county until the expiration of three years from the date of sale, subject only to the right of redemption by the owner, holder of record title, his heirs, executors, administrators, assigns or the mortgagee or his assigns of said real estate so sold for taxes, any of whom may redeem the land, lot or lots so sold from said sale at any time after said sale, by paying the amount the said premises were sold for with the legal interest accrued, penalties, costs and expenses of said sale and redemption. And if at the expiration of three years from the date of said sale, said land, lot or lots, shall not have been redeemed therefrom such land, lot or lots shall then be disposed of as provided by Laws 1876, chapter 34, section 117. [L. 1891, ch. 288, § 3; March 7.]

NOTE.—For L. 1876, chapter 34, section 117, see § 79-231A.

Annotations to L. 1891, ch. 169, § 2:

Disposition of land not redeemed in three years. *Gibson v. Branstool*, 82 K. 59, 61.

Presumption that tax sale was made under provision of act. *Saum v. Dewey*, 84 K. 811, 812.

Form of tax deed under this section; omission of recitals. *Crick v. Jones*, 87 K. 93, 94.

Issuance of certificate before period of redemption expired, without authority. *Brown v. Going*, 96 K. 266, 267.

Deed issued on certificate which was prematurely issued held void. *Brown v. Going*, 96 K. 266, 267.

Court may take judicial notice of adoption of act. *Brown v. Going*, 96 K. 266, 267;

Perkins v. Berry, 104 K. 104, 105.

No statutory redemption notice given; tax title void. *Daugherty v. Paxon*, 105 K. 722, 723.

County not an ordinary purchaser at tax sale. *Warner v. Pile*, 105 K. 724, 725.

L. 1918, ch. 263, supplemental to this act. *Warner v. Pile*, 105 K. 724, 725.

27.—REDEMPTION OF LAND SOLD FOR TAXES.

79-2401. Right of redemption. Any owner, his agent or attorney, may at any time within three years from the day of the sale, and at any time before the execution of the deed, redeem any land or town lot or any part thereof or interest therein, by paying to the treasurer of the county where such land was sold, for the use of the purchaser, his heirs and assigns, the amount for which said land was sold, and all subsequent taxes and charges thereon paid by the purchaser or his assigns in accordance with the provisions of this act, or such proportion thereof as the part or interest redeemed shall amount to, with interest at the rate of fifteen per cent per annum on the amount of the purchase-money of sale, and the same rate on all subsequent taxes paid thereon, and indorsed on the certificate of sale, as hereinbefore provided, from the date of payment of same. [L. 1876, ch. 34, § 127; L. 1879, ch. 41, § 1; L. 1893, ch. 110, § 2; May 18.]

Annotations to L. 1876, ch. 34, § 127:

Right of owner to redeem, considered. *Tarr v. Haughey*, 5 K. 625.

Issuance of deed to county, discussed in dissenting opinion. *Tarr v. Haughey*, 5 K. 625.

Tax deed delivered after tender for redemption, void. *Mathews v. Buckingham*, 22 K. 166, 169.

Tender of taxes, etc., with insufficient interest not sufficient tender. *Brince v. Cozans's* of Ellsworth Co., 23 K. 334, 335.

Annotations to L. 1879, ch. 41, § 1:

Purchaser of school land in default; sale for taxes; redemption. *Ewing v. Baldwin*, 26 K. 62, 69.

- Tender required before owner or mortgagee can resort to equity. *Wilder v. Cockshutt*, 25 K. 504, 508.
- Tax deed void; tender before suit; measure of recovery. *Russell v. Hudson*, 28 K. 99, 102.
- Notice may be published while land held by county. *Regents v. Linscott*, 30 K. 240.
- Time for making redemption; computation of time. *English v. Williamson*, 34 K. 212, 214.
- Irregular tax sale; owner must tender taxes, etc., before injunction granted. *Trounatine & Co. v. Sellers*, 35 K. 447.
- Redemption under prior laws; saving clause in act of 1876. *Crawford v. Shaft*, 35 K. 478, 479.
- Insufficient redemption notice; deed voidable; recovery taxes, interest, etc. *Hill v. Timmermeyer*, 38 K. 252, 253; *Jackson v. Challias*, 41 K. 247, 257, 259; *Jones v. Harper*, 102 K. 539, 540.
- Proceedings, etc., begun under prior laws to be completed thereunder. *Pounds v. Rodgers*, 52 K. 558, 559.
- Tender to purchaser of certificate sufficient, when assignment not entered. *Douglas v. McKeever*, 54 K. 767, 769.
- Section fixes cost of redemption when made by owner. *Phares v. Cortright*, 76 K. 63, 64.
- Landowner may redeem in three years or until deed issued. *Pierce v. Adams*, 77 K. 46, 47.
- Effect of deed issued on last day of redemption period. *Pierce v. Adams*, 77 K. 46, 47.
- Second deed to correct defects; tender in interim ineffectual. *Pierce v. Adams*, 77 K. 46, 47.
- "Owner" means anyone who has substantial interest in premises. *Steele v. Dyke*, 81 K. 286, 289.
- Issuance of deed; tax rolls *prima facie* evidence of ownership. *Mathewson v. Hevel*, 82 K. 184, 136.
- Tax deed to owner of portion operates as redemption of tract. *Mathewson v. Hevel*, 82 K. 184, 136.
- Tender by minor for redemption from sale and conveyance, effect. *Hulsman v. Deal*, 82 K. 519.
- County not an ordinary purchaser at tax sale. *Warner v. Pile*, 105 K. 724, 726.

79-2402. Persons under disability. The lands of minors, or any interest they may have in any lands sold for taxes, may be redeemed at any time before such minor becomes of age, and during one year thereafter. And the lands of idiots and insane persons, so sold, or any interest they may have in the same, may be redeemed at any time within five years after such sale, in the manner provided in this act. [L. 1876, ch. 34, § 128; March 11.]

- Minor's land sold for taxes under former law; redemption right. *Crawford v. Shaft*, 35 K. 478, 479.
- Section applies only to land belonging to minors when sold. *Doudna v. Harlan*, 45 K. 484, 488, 491.
- Insane persons not excepted from operation sec. 141, ch. 34, L. 1876. *Cartwright v. Korman*, 45 K. 515, 518.
- Right of minor to redeem not hindered by sec. 141, ch. 34, L. 1876, *post*. *Hulsman v. Deal*, 82 K. 519; *Kington v. Ewart*, 85 K. 292, 293.

79-2403. Certificate of redemption. Upon the redemption of any land or lot sold for taxes, the treasurer shall execute to the person so redeeming, a certificate, specifying the name of the purchaser, the land or lot so redeemed, and the amount of redemption money paid, which said redemption money shall be paid in lawful money of the United States. And the treasurer shall enter on the book of tax sales, opposite such land or lot, the name of the person redeeming, the date of redemption, and the amount paid therefor, which certificate, before it shall have any validity, shall be countersigned by the county clerk, who shall make a like entry on his duplicate of the books of tax sales; and the money so paid into the treasury shall be paid to the purchaser of the property. [L. 1876, ch. 34, § 129; March 11.]

79-2404. Payment of redemption money on surrender of tax certificate. The treasurer shall, on demand of any person entitled to redemption money in his hands, pay the same to such person on his surrendering to him the tax certificate of such land or lot as has been redeemed. If only a portion of the land or lots described in the tax certificate shall have been redeemed, the treasurer shall indorse on such certificate the portion redeemed, and the

amount of money paid to such person, and shall take a receipt therefor. [L. 1876, ch. 34, § 130; March 11.]

79-2405. Loss or wrongful detention of certificate. If there shall be a loss or wrongful detention of such certificate, and the land therein described shall have been redeemed, the owner thereof may exhibit to the treasurer evidence of such loss or detention, and upon his making the same satisfactorily to appear to the treasurer, and upon his executing a bond with sufficient surety that such person will refund such redemption money, with twelve per cent interest thereon, if any person shall thereafter show his right thereto, such treasurer shall pay such redemption money to the person so executing such bond. [L. 1876, ch. 34, § 131; March 11.]

79-2406. Redemption of lands of minors, idiots or insane persons after execution of tax deed. In order to make redemption of lands of minors, idiots or insane persons, after the execution of a tax deed, some person or persons in his behalf shall pay to the county treasurer the sum for which such lands were sold and the cost of the tax deed and the recording of the same, with interest thereon from the date of such sale to the date of the deed at the rate of fifteen per cent per annum, and interest from date of deed to date of redemption at the rate of ten per cent per annum, and other taxes, costs and charges which shall remain unpaid on such lands at the time of making such redemptions, assessed thereon subsequent to the date of the assessment of the taxes for which the same was sold, and all other taxes assessed subsequent to the date aforesaid which shall have been paid by the person to whom said lands were sold, or any other person claiming under him, with interest thereon at the rate of ten per cent per annum from the date of such payment, which can be ascertained from the books and records in the office of such treasurer. And for all moneys so paid the treasurer shall give a certificate of redemption to the person making such payment, from the time of making the redemption hereinbefore mentioned: *Provided*, The deed given upon the sale shall be void as against such minor, idiot or insane person, and all persons claiming under him. [L. 1876, ch. 34, § 132; L. 1889, ch. 198, § 1; L. 1893, ch. 110, § 3; May 18.]

Annotations to L. 1876, ch. 34, § 132:

Title may pass by deed subject to right of redemption. *Douglas, Guardian, v. Dickson*, 31 K. 310, 312.

Redemption under prior law; saving clause in act of 1876. *Crawford v. Shaft*, 35 K. 476, 479.

Right of minor to redeem not hindered by sec. 141, ch. 34, L. 1876, post. *Kington v. Ewart*, 34 K. 292, 295.

79-2407. Lien of person to whom such land sold. The person to whom any land of any minor, idiot or insane person shall have been sold, and those claiming under him, shall have a lien on the same for all other taxes which he or they may have paid on said lands after the date of such sale, and which shall not have been paid by said minor, idiot or insane person, or some one in his behalf, to the county treasurer, as hereinbefore provided; and such lien may be enforced against said lands by civil action, as in other cases. [L. 1876, ch. 34, § 133; March 11.]

Title may pass by deed subject to right of redemption. *Douglas, Guardian, v. Dickson*, 31 K. 310, 312.

79-2408. Redemption money paid over on delivery of quitclaim deed. All moneys received by the county treasurer for the redemption of lands under

the provisions of the preceding section shall be paid over to the person to whom such land was sold, or those claiming under him, on his delivery to such treasurer, for the use of the person redeeming the same, a quitclaim deed of all the title to such land acquired under the tax sale, duly executed and acknowledged. [L. 1876, ch. § 134; March 11.]

79-2409. Certificate for several pieces of land redeemed by same person; fee of treasurer. In any case where any person shall redeem more than one piece of land or lot at the same time, he, she, or they may require the treasurer to include the same in one certificate, and such treasurer shall, in addition to the fee for any such certificate of redemption, be allowed the sum of five cents for each additional piece of land or lot. [L. 1876, ch. 34, § 136; March 11.]

79-2410. Publication of list of unredeemed lands. The county treasurer, at least four months before the expiration of the time limited for redeeming lands as aforesaid, shall cause to be published in some paper published in or of general circulation in his county, once a week for four consecutive weeks (the publication herein provided to be completed at least four months before the day of sale), a list of all unredeemed lands and town lots, describing each tract or lot as the same was described on the tax roll, stating the name of the person to whom assessed, if any, and the amount of taxes, charges and interest calculated to the last day of redemption, due on each parcel, together with a notice that unless such lands or lots be redeemed on or before the days limited therefor, specifying the same, they will be conveyed to the purchaser; and such advertisement shall be charged in the costs of the deed given to the purchaser, for which services the treasurer shall receive for each tract of land ten cents and for each town lot five cents. He shall also cause to be posted for the same length of time such list and notice in at least four public places in the county, one of which shall be in some conspicuous place in his office. And if any county treasurer shall discover at any time that any tract of land or town lot had been omitted to be put on the list of unredeemed lands advertised for any preceding year, if such tract of land or town lot is still unredeemed, the said treasurer shall be required to place such omitted tract or town lot on the list of unredeemed lands advertised for the current year, the same as directed by this act in other cases. [L. 1876, ch. 34, § 137; L. 1905, ch. 499, § 1; March 21.]

Annotations to L. 1876, ch. 34, § 137:

Commissioners may designate who shall publish notice and redemption list. *Petillon v. Comm'rs of Ford Co.*, 5 K. A. 794, 796.

Notice should not contain charges not provided for by statute. *Casner v. Gahlman*, 6 K. A. 295, 297.

Omission from notice of person to whom land assessed; effect. *Shoup v. C. B. U. P. R. Co.*, 24 K. 547, 562.

Inaccuracy in statement of amount due held not fatal. *Watkins v. Inge*, 24 K. 612, 617.

Notice for redemption published while land held by county, valid. *Board of Regents v. Linscott*, 30 K. 240, 262.

Notice in substantial compliance with statute necessary for valid deed. *Blackstone v. Sherwood*, 31 K. 35, 36.

Deed invalid where notice not specific, definite or correct. *Blackstone v. Sherwood*, 31 K. 35, 36.

Notice failing to allow sufficient time for redemption held invalid. *English v. Williamson*, 34 K. 212, 214.

Computation of time when last day falls on Sunday. *English v. Williamson*, 34 K. 212.

Failure to post notice fatal to tax deed. *Stout v. Coates, Assignee*, 35 K. 382, 385, 397.

Notice insufficient where sufficient time not allowed; tax deed voidable. *Hill v. Timmermeyer*, 36 K. 252, 253.

Treasurer presumed to do his duty in posting notice. *Washington v. Hosp*, 43 K. 324, 325.

Tax deed containing levy for university fund cannot be sustained. *Choat v. Phelps*, 63 K. 762.

- Notice stating excessive amount for redemption; deed voidable; tender unnecessary. *Shinkle v. Meek*, 69 K. 368, 369; *Gibson v. McClees*, 86 K. 264, 266.
- Provision concerning amount of taxes, etc., is free from ambiguity. *Harp v. Wilson*, 84 K. 45, 46.
- Amount stated less than amount required to redeem; notice invalid. *Cave v. Rinehart*, 87 K. 81, 82.
- Redemption notices relating to several lots; illegality; tax deeds invalidated. *Wolf v. Wolf*, 88 K. 308, 309.
- Redemption notice not in conformity with statute; interest illegal. *Clark v. Tandy*, 101 K. 328, 329.
- Notice should not include delinquent tax of preceding year. *Jones v. Harper*, 102 K. 589.

79-2411. Redemption or sale of lands purchased by county. Whenever any lands or town lots that may have been or shall hereafter be sold for any taxes due thereon that have been or shall hereafter be bought in by any county for such taxes are or hereafter shall be unredeemed for three years from date of sale, and no person shall offer to purchase the same for the taxes, penalties and costs due thereon, the county commissioners of the county where such lands or town lots are located may permit the owner, his agents or attorney, to redeem the same, or may authorize the county treasurer to execute and the county clerk to assign tax-sale certificates for such lands or town lots for any sum less than the legal tax and interest thereon, as shall be in their judgment for the best interest of the county, which assignment shall have the same force and effect as if the full amount of all taxes, interest and penalties had been paid therefor: *Provided, however*, That no deed shall be issued upon any certificate so assigned until six months after such assignment has been made. [L. 1879, ch. 43, § 1; L. 1893, ch. 110, § 4; May 18.]

Annotations to L. 1879, ch. 43, § 1:

- Certificate and deed depend for validity upon regularity of proceedings. *Hoffman v. Groll*, 85 K. 652, 657.
- Defect in notice for sale of land renders deed voidable. *Hoffman v. Groll*, 85 K. 652, 657.
- Premature issue of tax deed; tender of redemption; evidence. *Noble v. Douglas*, 88 K. 99, 92.
- Liability of county for delinquent state taxes. *Harper County v. Cole*, 62 K. 121, 123.
- Tax-sale certificate issued under "compromise act" is assignable. *Trust Co. v. Davis*, 76 K. 639, 640.
- Act held constitutional and valid. *Trust Co. v. Davis*, 76 K. 639, 640.
- Irregularity in deed issued hereunder; not void on its face. *Gibson v. Freeland*, 77 K. 450.
- Showing of consideration in deed; held void on its face. *Dye v. Railroad Co.*, 77 K. 482.
- Resolution by city council requesting compromise; city not rendered liable. *Atchison v. Friend*, 78 K. 30, 36.
- County commissioners not bound to heed advice of city officers. *Atchison v. Friend*, 78 K. 30, 36.
- Deed void where taxes not a lien upon land included. *Lanning v. Brown*, 79 K. 103.
- Taxes charged in September instead of November; deed valid. *Taylor v. Adams*, 79 K. 360, 361.
- Deed issued before expiration of six months held void. *James v. Manning*, 79 K. 830.
- Residence of grantee not stated; deed not void on face. *Nichols v. Trueman*, 80 K. 89.
- Assignee of certificate required to pay subsequent taxes due. *Tucker v. Shorb*, 80 K. 511, 514.
- Popular name of town used in description; deed not void. *Goodrow v. Stober*, 80 K. 597.
- Excessive amount in deed presumed for subsequent taxes becoming due. *Gibson v. Reynolds*, 81 K. 255, 257; *Doty v. Evans*, 81 K. 463, 464; *Gibson v. Cokrum*, 81 K. 773; *Wood v. Cross*, 82 K. 215.
- Recital that subsequent taxes paid by purchaser; deed not void. *Steel v. Dye*, 81 K. 288.
- Departure from statutory form of deed; deed prima facie evidence. *Ludwick v. Deam*, 81 K. 292, 294.
- Taxes for certain years compromised; subsequent taxes paid by purchaser. *Gibson v. Cokrum*, 81 K. 772.
- Compromise may include all delinquent taxes or for certain years. *Gibson v. Cokrum*, 81 K. 772; *Van Hall v. Goerta*, 82 K. 142, 146.
- County cannot execute deed until six months after certificate assigned. *Gibson v. Bramstool*, 82 K. 59, 63.
- Deed conveying several lots valid although separate considerations not stated. *Leas v. Yeats*, 82 K. 104.
- Compromise need not include taxes for year in which made. *Leas v. Yeats*, 82 K. 105.
- Abbreviated acknowledgment of execution of deed held sufficient. *Leas v. Yeats*, 82 K. 105.
- Conveyance of separate tracts; consideration for each tract; deed valid. *Van Hall v. Goerta*, 82 K. 142, 146.
- Consideration for each of several tracts; presumption; validity of deed. *Investment Co. v. Andrew*, 82 K. 350.

Assignee taking out deed is purchaser at a tax sale. *Nesbit v. Bearman*, 83 K. 122, 124.
 Clerk may be required to include all tracts in deed. *Nesbit v. Bearman*, 83 K. 122, 124.
 Separate tracts sold at separate sales; deed include all tracts. *Nesbit v. Bearman*, 83 K. 122, 124.
 Recitals of deed inconsistent; construed to uphold deed. *Hoffman v. Woodward*, 86 K. 81, 83.
 Deed liberally construed after being on record for five years. *Hoffman v. Woodward*, 86 K. 81, 83.

79-2412. Redemption by owner by payment to holder of tax-sale certificate. If the owner of said land or town lots, or his agent or attorney, desire to redeem the same previous to the issuance of tax deed thereon, the party desiring to so redeem shall pay to the purchaser or holder of the tax certificate, his heirs or assigns, in money, the amount paid for the property, and all subsequent taxes paid thereon, with interest from the date of each payment at the rate of fifteen per cent per annum. [L. 1879, ch. 43, § 2; L. 1893, ch. 110, § 5; May 18.]

79-2413. Distribution of funds arising from compromise of taxes due on land under section 79-2411. That in all cases in which the county commissioners of any county shall hereafter compromise the taxes due on lands or town lots, under the provisions of section 4 of chapter 110 of the Session Laws of 1893, the proceeds arising from such compromise shall be distributed to the several funds entitled to the same in proper proportion, as shown upon the tax roll; and any portion of the tax that may remain uncollected by reason of the redemption or assignment in said section provided for shall be divided among and charged to the respective state, county, city and district funds, according to the tax levies of the various years for which the tax was delinquent and uncollected. [L. 1901, ch. 122, § 1; May 1.]

NOTE.—For L. 1893, ch. 110, sec. 4, referred to, see § 79-2411.

79-2414. Certification to auditor of and credit for amount of state tax uncollected under preceding section. The county commissioners and county clerk of such county on or before the first day of November, shall certify under oath to the auditor of state the amount of the proper proportion of state tax thus uncollected upon compromise heretofore made, and the county commissioners and the county clerk of such county within sixty days after a compromise shall hereafter be made shall certify to the auditor of state such proportionate amount of state tax uncollected and for which the county may be entitled to credit under section 1 of chapter 122, Laws of 1901, and the auditor and treasurer of state shall credit the county with the amounts of the same: *Provided*, That any officer who shall willfully certify to the auditor of state any amount for which the county is not entitled to credit shall be adjudged guilty of a misdemeanor, and upon conviction shall be punished by a fine in double the amount thus wrongfully certified. [L. 1901, ch. 122, § 2; L. 1911, ch. 328, § 1; May 22.]

NOTE.—Section originally read "before the first day of November, 1911," but was evidently not intended to be restricted to that year. For L. 1901, ch. 122, sec. 1, referred to, see the preceding section.

Annotation to L. 1901, ch. 122, § 2:

County not relieved from liability for unrealized portions of taxes. *Harper County v. Cole*, 52 K. 121; *Kearny County v. Davis*, 88 K. 858, 860.

28.—CONVEYANCE OF LAND SOLD FOR TAXES.

79-250L. Execution and effect of deed. If any land sold for taxes shall not be redeemed within three years from the day of sale, the county clerk of the county where the same was sold shall on presentation to him of a certificate of sale execute in the name of the county, as county clerk, under his hand and seal of the county, to the purchaser, his heirs and assigns, a deed to the land so remaining unredeemed, and shall acknowledge the same, which shall vest in the grantee an absolute estate in fee simple in such lands, subject, however, to all unpaid taxes and charges which are a lien thereon; and such deed, duly acknowledged, shall be *prima facie* evidence of the regularity of all proceedings from the valuation of the land by the assessor, inclusive, up to the execution of the deed, and may be recorded with the like effect as other conveyances of land. Said deed shall be substantially in the following form:

Know all men by these presents, That whereas, the following-described real property, viz., _____, situated in the county of _____ and state of Kansas, was subject to taxation for the year A. D. ____; and whereas, the taxes assessed upon said real property for the year aforesaid remained due and unpaid at the date of the sale hereinafter mentioned; and whereas, the treasurer of said county did, on the ____ day of _____, A. D. ____, by virtue of the authority in him vested by law, at (an adjourned sale of) the sale begun and publicly held on the first Tuesday of May, A. D. ____, expose to public sale, at the county seat of said county, in substantial conformity with all the requisitions of the statute in such cases made and provided, the real property above described, for the payment of the taxes, interest and cost then due and remaining unpaid upon said property; and whereas, at the place aforesaid, A. B., of the county of _____ and state of _____, having offered to pay the sum of _____ dollars and _____ cents, being the whole amount of taxes, interest and costs then due and remaining unpaid on said property, for (here follows the description of the property sold), which was the least quantity bid for, and payment of said sum having been by him made to the said treasurer, the said property was stricken off to him at that price; and whereas, the said A. B. did, on the ____ day of _____, A. D. ____, duly assign the certificate of the sale of the property as aforesaid, and all his right, title and interest to said property, to E. F. (or, when the land or lots was bid off for the county); and whereas, at the place aforesaid, said property could not be sold for the amount of tax and charges thereon, and was therefore bid off by the county treasurer for said county for the sum of _____ dollars and _____ cents, the whole amount of tax and charges then due; and whereas, for the sum of _____ dollars and _____ cents, paid to the treasurer of said county on the ____ day of _____, the county clerk did assign the certificate of sale of said property, and all the interest of the said county in said property, to said E. F., of the county of _____ and state of _____, (and when subsequent taxes have been paid, insert the following: and whereas, the subsequent taxes of the year _____, amounting to the sum of _____ dollars, have been paid by the purchaser, as provided by law;) and whereas, _____ years have elapsed since the date of said sale, and the said property has not been redeemed therefrom as provided by law: Now, therefore, I, C. D., county clerk of the county aforesaid, for and in consideration of the sum of _____ dollars and _____ cents, taxes, costs and interest due on said land for the year (or, years) to the treasurer paid as aforesaid, and by virtue of the statute in such case made and provided, have granted, bargained and sold, and by these presents do grant, bargain and sell, unto the said A. B. (or, E. F.), his heirs and assigns, the real property last hereinbefore described, to have and to hold unto him, the said A. B. (or E. F.), his heirs and assigns, forever, subject, however, to all rights of redemption provided by law.

In witness whereof, I, C. D., county clerk as aforesaid, by virtue of authority, aforesaid, have hereunto subscribed my hand and affixed the official seal of said county, on this _____ day of _____, A. D. _____ C. D., County Clerk.

THE STATE OF KANSAS, _____ COUNTY, ss.: I hereby certify that before me, _____, a _____ in and for said county, personally appeared the above-named C. D., clerk of said county, personally known to me to be the clerk of said county at the date of the execution of the above conveyance, and to be the identical person whose name is affixed to and who executed the above conveyance as clerk of said county, and who acknowledged the execution of the same to be his voluntary act and deed as clerk of said county, for the purpose therein expressed.

Witness my hand (and official seal), this _____ day of _____, A. D. _____.

[L. 1876, ch. 34, § 138; March 11.]

- Homestead not exempt from lien and sale for taxes. *Canine v. Finnup*, 5 K. A. 798, 800. *
 Tax-title claimant in possession; replevin improper to determine title. *Rees v. Higgins*, 9 K. A. 832, 834.
 Deed levied on land not subject to taxation, absolutely void. *Taylor v. Miles*, 5 K. 498.
 Tax deed need not be in exact language of statute. *Bowman et al. v. Cockrill*, 6 K. 311.
 Deed fatally defective issued; clerk compelled to issue proper deed. *Clippinger v. Tuller*, 10 K. 377.
 Omission of county and state held not fatal; substantial compliance. *Haynes v. Heller*, 12 K. 381.
 Deed must show upon its face time when property sold. *Haynes v. Heller*, 12 K. 381.
 Description in deed protected from impeachment by statute of limitations. *Maxson v. Huson*, 22 K. 643.
 Sufficiency of statements in tax deed, considered. *Board of Regents v. Linscott*, 30 K. 240, 261, 262, 265.
 Last tax deed issued for taxes of latest year paramount. *Board of Regents v. Linscott*, 30 K. 340, 261, 262, 265.
 Tax deed extinguishes all former rights and titles; occupying claimant. *Board of Regents v. Linscott*, 30 K. 240, 261, 262, 265.
 Tax deed passes title to minor's land. *Douglass, Guardian, v. Dickson*, 31 K. 310, 312.
 Recitals necessary in deed issued under compromise act. *Douglass v. Wilson*, 31 K. 565.
 Deed voidable where insufficient time for redemption stated in notice. *English v. Williamson*, 34 K. 212, 214; *Hill v. Timmermeyer*, 36 K. 252, 253.
 Land designated in tax deed with reasonable certainty. *Dodge v. Emmons*, 34 K. 732, 736.
 Deed is substantial compliance with form valid on its face. *Mack v. Price*, 35 K. 134.
 Proper omission from deed where property bid in by county. *Mack v. Price*, 35 K. 134.
 Omission of statements concerning public auction; deed held valid. *Davis v. Harrington*, 35 K. 196.
 Insufficient amount stated as consideration in deed; held not void. *Davis v. Harrington*, 35 K. 196.
 Conveyance of land sold for taxes, conditional conveyance. *Crawford v. Shaft*, 35 K. 478, 481.
 Purchase by attorney in opposition to client; deed held void. *Cunningham v. Jones*, 37 K. 477.
 Omission of word "remaining"; deed valid on its face. *Heil v. Redden*, 38 K. 255.
 Real property "last hereinbefore described"; conveyance of last description only. *Spicer v. Howe*, 38 K. 465.
 Deed void where tax not carried out on tax roll. *Moon v. March*, 40 K. 58.
 Deed void if printer's fee wrongfully included in charges. *Blanchard v. Hatcher*, 40 K. 350.
 Land not within city subjected to city taxes; deed void. *Hoffman v. Woods*, 40 K. 382.
 Evidence held insufficient to show excessive fees charged for advertising. *Salls v. Barons*, 40 K. 697.
 Copy of deed without showing of seal, record void. *Kelley v. McBlain*, 42 K. 764, 768.
 Tax deed, if sufficient in form, *prima facie*, valid. *Sanger v. Rice*, 43 K. 580, 589.
 Certificate erroneous and irregular; when land should not be conveyed. *Rork v. Comm'rs of Douglas Co.*, 46 K. 175, 183.
 Deed not vitiated by slight or unimportant departure from form. *Martin v. Garrett*, 49 K. 131.
 Irregularities in consideration, costs and subsequent taxes; deed not void. *Martin v. Garrett*, 49 K. 131.
 Regular deed *prima facie* evidence of validity of prior proceedings. *Smith v. Hobbs*, 49 K. 800, 803.
 Attornment by tenant to holder of tax deed. *Sheaff v. Husted*, 60 K. 770, 771.
 Property conveyed by tax deed an original, not dependent title. *Douglass v. Lowell*, 64 K. 533, 538.
 Description of property held sufficient to sustain lien for taxes. *Douglass v. Byers*, 69 K. 59.
 Validity of tax deed put in issue by unverified pleading. *Curtis v. Schmehr*, 69 K. 124, 127.
 Deed voidable where insufficient amount stated in redemption notice. *Shinkle v. Meek*, 69 K. 368.
 Tender not condition precedent to action to set aside deed. *Shinkle v. Meek*, 69 K. 368.
 Division of costs in action to set aside deed; tender. *Shinkle v. Meek*, 69 K. 368.
 Granting clause held to show intention to convey all tracts. *Gibson v. Kueffer*, 69 K. 534, 538.

- Consideration for separate tracts not stated; deed invalid on face. *Gibson v. Kusfer*, 69 K. 584; *Manker v. Peck*, 71 K. 865.
- Omissions concerning bid by county; deed defective on its face. *Penrose v. Cooper*, 71 K. 780.
- Recovery against holder of voidable tax deed; possession of property. *Penrose v. Cooper*, 71 K. 720.
- Omissions concerning bid by county may be supplied by inference. *Penrose v. Cooper*, 71 K. 785.
- Omissions concerning manner of offering separate tracts supplied by inference. *Penrose v. Cooper*, 71 K. 735.
- Interpretation of abbreviations in description of property. *Kennedy v. Scott*, 72 K. 359, 361.
- Apportionment of subsequent taxes to account for excessive consideration. *Kennedy v. Scott*, 72 K. 359, 361.
- Excessive consideration; statutory fees presumed to be part of consideration. *Kennedy v. Scott*, 72 K. 359, 361.
- Assignee of certificate, foreign corporation; recital of residence; deed valid. *Ham v. Booth*, 72 K. 429.
- Meaningless words in deeds disregarded and deed upheld. *Clarke v. Tilden*, 72 K. 574, 577.
- Date of sale; deed held not void on its face. *Clarke v. Tilden*, 72 K. 574, 577.
- Deeds for October sales may be drawn under statutory form. *Clarke v. Tilden*, 72 K. 574, 577.
- Excessive consideration; land bid in by county; construction of deed. *Robbins v. Brower*, 74 K. 112, 116.
- Several tracts sold in bulk, deed void on its face. *Worden v. Cole*, 74 K. 226.
- Date of sale necessary to render deed valid on face. *Robbins v. Frasier*, 74 K. 697, 699.
- Date of sale of separate tracts not shown; deed invalid. *Robbins v. Frasier*, 74 K. 697, 699.
- Statutory recitals; deed valid when all essential facts are recited. *Havel v. Abstract Co.*, 76 K. 336, 340.
- Omission of residence of purchaser; deed not void on face. *Havel v. Abstract Co.*, 76 K. 336, 340.
- Several subdivisions of land described presumed to comprise one tract. *Carson v. Platt*, 76 K. 686, 688.
- Deed held not void because of omission of word "publicly." *Baughman v. Harvey*, 76 K. 707, 768, 778.
- Recital considered, held not to render deed void on face. *Rynearson v. Conn*, 77 K. 160, 162.
- Recitals liberally construed for purpose of upholding recorded tax deed. *Rynearson v. Conn*, 77 K. 160, 162.
- Presumed that two tracts described were separately assessed, taxed, sold. *Gibson v. Larabee*, 77 K. 243, 246.
- Section considered in connection with evidentiary effect of administrator's deed. *Graden v. Maia*, 77 K. 702, 704.
- Omission of amount bid by county; deed void on face. *Webster v. Stevenson*, 80 K. 92.
- Excessive consideration held insufficient to overcome presumption of validity. *Morris v. Morris*, 80 K. 124, 135.
- Second deed to correct defects; rights of holder of certificate. *Young v. Gibson*, 80 K. 264.
- Validity of tax-sale proceedings; destruction of records. *Salter v. Corbett*, 80 K. 327, 329.
- Clerical omission of statutory recital; construction according to obvious intention. *Schroeder v. Griggs*, 80 K. 357.
- Consideration and amount of delinquent taxes omitted; deed held void. *Finn v. Jones*, 80 K. 431.
- Presumption that lots were contiguous and comprised a single tract. *Tucker v. Shorb*, 80 K. 611.
- Deed not void because description of land not technically accurate. *Goodrow v. Stober*, 80 K. 597.
- Popular name of town used in description; deed not void. *Goodrow v. Stober*, 80 K. 597.
- Deed valid although items of consideration not shown. *Burton v. Carrier*, 80 K. 696.
- Amount for which land was bid off held sufficiently shown. *Neiswanger v. Ord*, 81 K. 62, 68.
- Omission of recital showing assignment of certificate; deed not void. *Neiswanger v. Ord*, 81 K. 62, 68.
- Deed issued more than four years after sale held valid. *Gibson v. Young*, 81 K. 185.
- Recital in compromise deed concerning subsequent taxes held sufficient. *Steele v. Dye*, 81 K. 286, 289.
- Recital that owner has not offered to redeem held sufficient. *Steele v. Dye*, 81 K. 286, 289.
- Recital concerning consideration; substantial compliance with form; deed held valid. *Ludwick v. Dean*, 81 K. 292, 294.
- Erroneous computation of interest; tax deed not set aside. *Milburn v. Beatty*, 81 K. 694.
- General recital in deed limited by special recitals. *Milburn v. Beatty*, 81 K. 694.
- Description of party executing deed; signature interpreted to sustain deed. *Milburn v. Beatty*, 81 K. 694.
- Consideration for each separate tract not recited; presumption of validity. *Gibson v. Garst*, 81 K. 741.
- Time of payment of subsequent taxes omitted; presumption; interest. *Gibson v. Garst*, 81 K. 741.
- Small discrepancy in amount deemed trivial; insufficient to avoid deed. *Gibson v. Garst*, 81 K. 741.
- Deed executed more than four years after sale held valid. *Gibson v. Wood*, 81 K. 891.
- Selling price omitted; misstatement of cost of redemption; presumptions; validity. *Van Buskirk v. Lawrence*, 83 K. 74.
- Sufficiency of acknowledgment, considered. *Lee v. Yeats*, 83 K. 106.
- "No person bid," equivalent to "property could not be sold." *Wood v. Cross*, 83 K. 215.
- Consideration for each tract not sufficiently stated; deed not void. *LaCompte v. Smith*, 83 K. 243.

Sale of land to best bidder; recitals in deed. *LeCompte v. Smith*, 82 K. 543.
 Recitals show separate certificate issued for each tract sold. *LeCompte v. Smith*, 82 K. 543.
 County operating under ch. 162, L. 1891; deed presumed issued under such act. *Saun v. Dewey*, 84 K. 811, 812.
 Deed vests absolute title in fee simple. *Cone v. Usher*, 86 K. 880, 884; *Beeler v. Elwell*, 92 K. 586, 590.
 County operating under ch. 162, L. 1891; deed hereunder not strictly applicable; recitals. *Crick v. Jones*, 87 K. 93, 94.
 Lessees cannot dispute title of landlord held under tax deed. *Whittle v. Hughes*, 88 K. 702, 704.
 Deed valid on face; title quieted although irregularities in proceedings. *Beeler v. Elwell*, 92 K. 586, 590.
 Merger of tax title and other conveyances, considered. *Jinkaway v. Ford*, 93 K. 707, 803.
 Land sold for taxes; deed on record five years; action barred. *Despain v. Despain*, 98 K. 707, 708.
 Quantity of land not shown, deed void. *Ditmers v. Rogers*, 100 K. 115.

79-2502. Deed for several tracts or lots purchased by one purchaser.

In any case where any purchaser at any tax sale shall purchase more than one parcel or tract of land or lots, he may require the county clerk to include all such lands or lots in one deed, stating the amount of tax, interest and penalty for which each separate tract is sold and conveyed, the sum of which separate amounts shall be the gross or aggregate consideration of the deed; and in addition to the fee for any such deed the county clerk shall be allowed the sum of five cents for each piece of land or lot so included in any deed. [L. 1889, ch. 248, § 1; Feb. 16.]

Deed failing to state consideration for each separate tract, void. *Gibson v. Keuffer*, 69 K. 534, 536, 537; *Manker v. Peck*, 71 K. 866.
 Tracts lying contiguous not separately stated; deed not invalid; presumption. *Nagle v. Tieperman*, 74 K. 58.
 Deed not recorded five years, separate amounts not shown, void. *Dye v. Railroad Co.*, 77 K. 488, 495.
 Presumption of contiguity of lots; deed of record five years. *Tucker v. Shorb*, 80 K. 511.
 Section applies to sales made before passage of act. *Jones v. Garden City*, 81 K. 59, 61.
 Deed of record more than five years; inferences as to validity. *Kessler v. Polkosky*, 81 K. 69, 71.
 Separate tracts; consideration; presumptions in aid of deed. *Gibson v. Garst*, 81 K. 741, 744.
 Consideration for separate tracts; recitals held to comply with statute. *Van Hall v. Goertz*, 82 K. 142, 145.
 Clerk may be required to include more than one tract. *Nesbit v. Bearman*, 83 K. 122, 123, 124.
 Separate tracts sold to same purchaser at different sales, included. *Nesbit v. Bearman*, 83 K. 122, 123, 124.
 Understatement of aggregate amount regarded as clerical error. *Gibson v. Jackson*, 86 K. 88, 89.
 Presumed that two tracts described were separately assessed, taxed, sold. *Gibson v. Larabee*, 77 K. 243, 247.

79-2503. Effect of irregularities on deed. No irregularity in the assessment roll nor omission from the same, nor mere irregularities of any kind in any of the proceedings, shall invalidate any such proceeding or the title conveyed by the tax deed; nor shall any failure of any officer or officers to perform the duties assigned him or them upon the day specified work an invalidation of any such proceedings or of said deed. [L. 1876, ch. 34, § 139; March 11.]

Irregularities in assessments will not render taxes founded thereon void. *Gulf Railroad Co. v. Morris*, 7 K. 210.
 Irregularity in tax levy; tax sale not void. *Comm'rs of Jefferson Co. v. Johnson*, 23 K. 717, 721.
 Omission of person's name to whom land assessed; deed valid. *Shoup v. C. B. U. P. R. Co.*, 24 K. 547, 561.
 Defective description of one tract, where several included; effect. *Watkins v. Inge*, 24 K. 613, 616, 618.
 Insufficiency of redemption notice, deed voidable. *English v. Williamson*, 24 K. 212, 214.
 Land divided, assessed and taxed separately; tax deed valid. *Spalding v. Watson*, 35 K. 39, 42.
 Delay in making out tax list, cured by this section. *Stout v. Conter*, *Assignee*, 35 K. 382, 384.
 Failure to assess one lot out of several; section inapplicable. *Moon v. March*, 40 K. 58, 59, 60.
 Deed need not be in exact form prescribed by statute. *Martin v. Garrett*, 49 K. 131, 141.
 Collection not enjoined because warrant not issued at specified time. *Bank of Garrett v. Ferris*, 55 K. 120, 123.

Irregularities which intentionally increase charges not to be disregarded. *Douglass v. Walker*, 57 K. 228, 230.
 Deed executed on Sunday; tax lien not destroyed. *Schiffer v. Douglass*, 74 K. 231, 235.
 Irregularities will not relieve party from payment of taxes. *Doty v. Maddux*, 83 K. 416, 419.

79-2504. Sale of land where taxes have been paid. No sale of land for taxes and no deed made in pursuance thereof shall be of any validity if the taxes for which the same is sold shall have been paid prior to said sale. [L. 1876, ch. 34, § 140; March 11.]

Deed issued after land redeemed held null and void. *Leitsbach v. Jackman*, 28 K. 524, 527;
Riggs v. Anderson, 47 K. 66, 70.
 Party entering into possession under void deed acquires no rights. *Leitsbach v. Jackman*, 28 K. 524, 527.
 Taxes paid on correct description; deed on incorrect description void. *Sullivan v. Davis*, 29 K. 28, 29.

79-2505. Limitation of action against tax purchaser. Any suit or proceeding against the tax purchaser, his heirs or assigns, for the recovery of land sold for taxes, or to defeat or avoid a sale or conveyance of lands for taxes, except in cases where the taxes have been paid or the land redeemed as provided by law, shall be commenced within five years from the time of recording the tax deed, and not thereafter. [L. 1876, ch. 34, § 141; March 11.]

Holder of deed absent from state; defense may be interposed. *Haase v. Kelley*, 8 K. A. 648;
Walker v. Boh, 32 K. 354, 358.

Limitation herein provided applies, not subdivision 2, § 60-304. *Long v. Wolf*, 25 K. 522, 525.
 Section applies to deed issued under old two-year limitation. *Keith v. Keith*, 26 K. 26, 33.
 Tax deed of record five years, action barred. *Jordan v. Kyle*, 27 K. 190, 192.

Tax-title purchaser out of possession; two-year limitation of code applicable. *Thornburgh v. Cole*, 27 K. 490, 497.

This section applies to suit or proceeding against tax purchaser. *Thornburgh v. Cole*, 27 K. 490, 497.

New action by grantee after action dismissed by grantor. *Thornburgh v. Cole*, 27 K. 490, 497.

Application of two-year limitation where land unoccupied for two years. *Myers v. Coonradt*, 28 K. 211.

Failure otherwise than on merits; new action within one year. *Myers v. Coonradt*, 28 K. 211, 215, 216.

Original owner although sued after five years may attack deed. *Myers v. Coonradt*, 28 K. 211, 215, 216.

Statute of limitations cannot be evaded by second tax deed. *Corbin v. Bronson*, 26 K. 532.

Limitation inapplicable where objection is to power to take title. *Woodman v. Davis*, 32 K. 344, 349; *Wuswell v. Simmons*, 77 K. 622, 628; *Hudson v. Herman*, 81 K. 627, 631, 640.

Irregularities in assessment cannot invalidate deed after statute has run. *Harris v. Curran*, 32 K. 580, 586, 587.

Holder of one deed may contest another within five years. *Harris v. Curran*, 32 K. 580, 586, 587.

Tax deed; fraud; limitation of action. *Doyle v. Doyle*, 23 K. 721, 724.

Tax deed merely voidable, limitation herein applies. *Barr v. Randall*, 25 K. 126, 132.

Absence from state will not prevent statute from running. *Beebe v. Doster*, 26 K. 666, 668, 669.

Section not controlled or modified by provisions of civil code. *Beebe v. Doster*, 26 K. 666, 678.

Limitation of action by tax-title holder against party in possession. *Smith v. Jones*, 27 K. 292, 293.

Section does not repeal or limit L. 1876, ch. 34, sec. 141. *Austin v. Jones*, 27 K. 327, 329, 330, 332.

Last tax deed executed paramount; limitation of action between deed holders. *Campbell v. Stagg*, 27 K. 419.

Section not applicable where tender made before deed issued; interest. *Wilson v. Reasoner*, 27 K. 662, 664.

Tender not condition precedent to action to set aside deed. *West v. Cameron*, 29 K. 726, 729.

Owner has five years after deed recorded to commence action. *West v. Cameron*, 29 K. 726, 729.

Deed good on its face not overthrown after five years. *Edwards v. Sims*, 40 K. 225, 226, 244.

Foreclosure by county; limitation of action by original owner. *English v. Woodman*, 40 K. 412.

Limitation not applicable where deed is void upon its face. *Richards v. Thompson*, 48 K. 209, 215.

Limitation hereof not modified or limited by § 60-306. *Cartwright v. Korman*, 45 K. 515, 518.

Persons who are insane not excepted from provisions hereof. *Cartwright v. Korman*, 45 K. 515, 517, 518.

Irregularity in deed; deed not void after statute runs. *Martin v. Garrett*, 49 K. 131, 132, 139.

Section not modified by code provisions concerning actions by infants. *Goodman v. Wilson*, 54 K. 709, 710; *Douglass v. Lowell*, 54 K. 574, 581.

- Tender by minor within five years before action brought, effect. *Douglass v. Lowell*, 55 K. 574, 581.
- Tender of redemption; deed prematurely issued; showing by owner, evidence. *Noble v. Douglass*, 56 K. 92.
- Vacant land; two-year limitation applicable although owner barred hereunder. *Coale v. Campbell*, 58 K. 480, 482.
- Section discussed in connection with absence from state by mortgagor. *Hogaboom v. Flower*, 67 K. 41, 43.
- Tax deed on vacant land perfected by five-year period. *Stump v. Burnett*, 67 K. 589.
- Tax deed invalid on face set aside after five years. *Gibson v. Keuffer*, 69 K. 584, 587.
- Right of owner to enter lapses after five years. *Nicholson v. Hale*, 73 K. 599, 603.
- Two-year limitation not applicable to tax-deed holder wrongfully dispossessed. *Nicholson v. Hale*, 73 K. 599, 603.
- Presumption of regularity will overthrow presumption from peculiarity of contour. *Carson v. Platt*, 76 K. 686, 688.
- Tax deed to executors of estate of certificate holder upheld. *Robert v. Gibson*, 79 K. 344, 347.
- Limitation of action; service by publication; when action deemed commenced. *Canaday v. Davis*, 79 K. 816.
- Destruction of records; validity of tax-sale proceedings; statute of limitations. *Salter v. Corbett*, 80 K. 327, 328.
- Titles united; rights of lessee under holder of tax title. *Millikin v. Lockwood*, 80 K. 600.
- Quitclaim deed to purchaser from mortgagor; not liable under mortgage. *Carson v. Fulbright*, 80 K. 624.
- Purchase by agent of owner; estopped against assignee of owner. *Morris v. Gregory*, 80 K. 626, 631.
- Tax deed five years old sufficient although some items omitted. *Burton v. Carrier*, 80 K. 696.
- Deed recorded more than five years not open to attack. *Gibson v. Young*, 81 K. 185.
- Compromise tax deed; irregularities; statute of limitations. *Ludwick v. Dean*, 81 K. 292, 294.
- Outstanding titles, liens or interests extinguished after five years. *Trust Co. v. Jones*, 81 K. 753, 754.
- Tax proceedings not opened up by action to quiet title. *Trust Co. v. Jones*, 81 K. 753, 754; *Less v. Yeats*, 82 K. 105, 108.
- Right of minor to redeem not limited by this section. *Hulsman v. Deal*, 82 K. 518, 520.
- Presumptions favor validity of deed after being recorded five years. *LeCompte v. Smith*, 82 K. 543, 545; *Hoffman v. Woodward*, 86 K. 81, 85.
- Wrongful dispossession of tax-title holder; statute of limitations. *Buehler v. Tector*, 84 K. 281, 286.
- Tax-title holder obtaining possession and thereafter losing it; limitation applicable. *Buckner v. Wingard*, 84 K. 682, 685.
- Right of minor to redeem not limited by this section. *Hulsman v. Ewart*, 85 K. 292.
- Ejectment by senior against junior tax-deed holder; limitation of action. *Cons v. Usher*, 86 K. 880, 882.
- Deed recorded five years avoided only on grounds specified. *Berg v. Chaney*, 89 K. 486, 487.
- Tax deed extinguishes mortgage unless action brought within five years. *Zuege v. Mortgage Co.*, 92 K. 272, 274.
- Tax deed on record five years; action barred. *Despain v. Despain*, 98 K. 707, 709.
- Statutes of limitation are not applicable to mere defenses. *Muckenthaler v. Noller*, 104 K. 551, 566.
- When tax deed may be attacked after five years. *Trager v. Elliott*, 106 K. 228, 232.

79-2506. Payment of taxes, interest and costs by party recovering against tax claimant. If the holder of a tax deed or any one claiming under him by virtue of such tax deed be defeated in an action by or against him for the recovery of the land sold, the successful claimant shall be adjudged to pay to the holder of the tax deed, or the party claiming under him by virtue of such deed, before such claimant shall be let into possession, the full amount of all taxes paid on such lands, with all interest and cost as allowed by law up to the date of said tax deed, including the cost of such deed and the recording of the same, with interest on such amount at the rate of twelve per cent per annum, and the further amount of taxes after the date of such deed, and interest thereon at the rate of twelve per cent per annum. [L. 1876, ch. 34, § 142; L. 1893, ch. 110, § 6; May 18.]

Annotations to L. 1876, ch. 34, § 142:

- Rights of holder under invalid deed; improper deduction of amount. *Booge v. Ritchie*, 3 K. A. 714, 716, 718.
- Unsuccessful claimant entitled to taxes, etc., paid; lien upon land. *Powell v. Fine*, 5 K. A. 495, 497.
- Failure of tax title; lien for taxes, interest, costs, etc. *Barker v. McCartney*, 10 K. A. 180, 183; *Douglass v. Frasier*, 10 K. A. 185, 187.
- Failure to record tax deed, no lien for taxes. *Humphrey v. Yost*, 10 K. A. 324, 326.

- Holder of void deed entitled to recover taxes, etc., paid. *Smith v. Smith*, 15 K. 290; *Stetson v. Freeman*, 26 K. 608.
- Void tax deed; rents cannot be set-off against taxes. *Hoffmire v. Rice*, 22 K. 749, 750.
- Lien for taxes; tax-title holder in possession; no general execution. *Jeffries v. Clark*, 28 K. 448, 454.
- Tax sale for sum in excess of legal amount; tender. *Herzog v. Gregg*, 23 K. 726, 728.
- Court should ascertain amount and declare taxes, etc., a lien. *Fairbanks v. Williams*, 24 K. 16, 19.
- Section does not apply to action to quiet title. *Corbin v. Young*, 24 K. 198, 201.
- "Interest allowed by law," means interest in case of redemption. *Corbin v. Young*, 24 K. 198, 201.
- Defendant hold entitled to taxes paid notwithstanding irregularity of sale. *Coe v. Farwell*, 24 K. 566, 569.
- Rights of parties not affected by order of county commissioners. *Coe v. Farwell*, 24 K. 566, 569.
- Section applicable in action by tax-deed holder against owner. *Russell v. Hudson*, 28 K. 99, 101, 103.
- Tax-deed holder entitled to recover amount of taxes paid. *Flint v. Douglass*, 28 K. 414.
- Deed barred by two-year limitation; holder cannot recover taxes paid. *Corbin v. Bronson*, 28 K. 522, 535.
- Property may be sold to satisfy lien for taxes; interest. *Bels v. Bird*, 31 K. 139, 144.
- Section applies to action in nature of ejectment. *Hentig v. Redden*, 26 K. 471, 477, 479.
- Holder can recover only amount actually paid, with interest, etc. *Hoffman v. Groll*, 35 K. 652, 658.
- Actual possession in other than tax-title holder; recovery of taxes. *Mitchell v. Lines*, 26 K. 378, 382.
- Illegal levies excluded from amount paid as taxes. *Stetson v. Freeman*, 26 K. 608.
- Effect of quitclaim from owner to holder of tax deed. *Trustees v. Hewitt*, 27 K. 107, 110.
- Amount of interest recoverable where successive deeds executed. *Gear v. Thrasher*, 27 K. 657, 659, 661.
- Part of taxes held void; balance recoverable under this section. *Ritchie v. Mulvano*, 39 K. 241, 246, 247, 252, 253.
- Division of proceeds under tax deeds; attorney and client; lien. *Jackson v. Challin*, 41 K. 247, 258, 261.
- When lien not allowed under void tax deed. *Harding v. Greene*, 59 K. 202, 205.
- Tax-deed holder entitled to lien for legal taxes only. *Polenqueen v. McAllister*, 64 K. 263, 265.
- Tax deed extinguishes all prior liens for taxes, charges, etc. *Douglass v. Lowell*, 64 K. 523, 524.
- Statute and steps provided should be liberally construed. *Douglass v. Byers*, 69 K. 59.
- Excessive levy; lien not destroyed by tender of valid portion. *Schiffer v. Douglass*, 74 K. 231, 234.
- Lien not destroyed because deed executed on Sunday. *Schiffer v. Douglass*, 74 K. 231, 234.
- Taxes not decreed a lien in suit to quiet title. *Trust Co. v. Essex*, 74 K. 240, 242.
- Application of section to foreclosure of tax lien, considered. *Davidson v. Cattle Co.*, 76 K. 462, 465.
- Holder of invalid tax deed entitled to lien for taxes; irregular assessment. *Lewis v. Wilkin-son*, 79 K. 557, 559.
- Lien for taxes where benefit of occupying claimant act claimed. *Hills v. Allison*, 79 K. 617, 619.
- Tax certificate to mortgagor; assignment; foreclosure; lien for subsequent taxes. *McCoy v. Hickman*, 85 K. 309, 310, 312.
- Lien for taxes; amount of lien; rate of interest. *McCoy v. Hickman*, 86 K. 378, 379.
- Tax deed less than five years old; rights of holder. *Perkins v. Berry*, 104 K. 104, 106.
- Defendant adjudged owner; lien for taxes decreed plaintiff; appeal; estoppel. *Alison v. Harper*, 104 K. 497, 498.

79-2507. Recordation of tax deed. Any person putting on record any tax deed shall be deemed to have set up such a title to the land described in such deed as will enable the party claiming to own the same land to maintain an action for the recovery of the possession thereof against any person claiming under the deed, whether such person is in actual possession of the land or not; and in all cases where different or successive tax deeds upon the same sale shall be put on record by the same party, or in interest therewith, it shall be deemed and held that all rights which might otherwise be claimed under all or any tax deeds prior to the last one put on record shall be deemed and held to be waived, and considered as merged in such last tax deed so put on record; and in all cases where several tax deeds shall be put on record by the same party, or in interest therewith, that the party claiming to own the same land may maintain an action for the recovery of the possession thereof, or to set aside any or all such tax deeds, at any time within two years from the taking

effect of this act, and in any case of the recording of such tax deed or deeds hereafter, then within two years from the time of putting on record the last of such tax deeds. [L. 1876, ch. 34, § 143; L. 1879, ch. 40, § 1; May 20.]

Statute of limitations runs from date of recording. *Estes v. Stebbins*, 25 K. 315, 320.

Section permissive only; owner not estopped when sued for possession. *Myers v. Coonradt*, 28 K. 211, 215, 216.

Section not applicable where objection goes to power to take. *Woodman v. Davis*, 32 K. 344, 349; *Wiswell v. Simmons*, 77 K. 622, 628.

Section does not repeal or limit L. 1876, ch. 34, sec. 141. *Austin v. Jones*, 37 K. 327, 329, 330.

Section construed and applied. *Austin v. Jones*, 37 K. 327, 329, 330.

First deed merged in second; limitation applies to second deed. *Tweedell v. Warner*, 43 K. 597, 604.

Taking out second deed reopens question of validity of deeds. *Gibson v. Walters*, 86 K. 101, 103.

Second deed attacked although first deed recorded over five years. *Gibson v. Walters*, 86 K. 101, 103.

Action hereunder maintainable by one tenant in common against another. *Gibson v. Boynton*, 89 K. 712, 713.

Title of tax-deed holder quieted after lapse of time; irregularities.—*Beeler v. Elwell*, 92 K. 586, 590.

79-2508. Sale of lands by cities. The provision of these preceding sections, shall apply to lands sold for taxes by the corporate authorities of cities of more than fifteen thousand inhabitants, or under or by virtue of any ordinance of any such city. [L. 1876, ch. 34, § 144; March 11.]

79-2509. Arrest of sale proceedings because of irregularities. If the county treasurer shall discover, before the sale of any lands or lots for taxes, that on account of any irregular assessment, or from any other error, such lands ought not to be sold, he shall not offer the same for sale: *Provided*, That on presentation of a proper application to the tax commission the said tax commission shall have authority to order the cancellation of such erroneous assessment, together with all taxes and penalties charged because of such erroneous assessment; and if after any certificate shall have been granted upon any sale the board of county commissioners shall discover that for any error or irregularity such lands or lots ought not to be conveyed, they may order the county clerk not to convey the same, and the county treasurer shall, on the return of the tax certificate with a certified copy of such order of the board of county commissioners, refund the amount paid therefor on such sale, and such of the subsequent taxes and charges paid thereon by the purchaser or his assigns as may be so ordered by the board of county commissioners, out of the county treasury, with interest on the amount so ordered refunded at the rate of eight per cent per annum. And in all cases in which actions shall be now pending or may be hereafter commenced, the refusal of the county clerk to convey any lands or lots indorsed on any tax certificate shall not be deemed or held to constitute *prima facie* evidence of any irregular assessment or other error for which such lands or lots ought not to be conveyed; nor shall any judgment be recovered against such county, or the board of county commissioners thereof, or liability held to attach therefor, under or by virtue of provisions of said section 145 as heretofore or hereafter existing, or of section 120 of chapter 107 of the General Statutes, except in cases in which the board of county commissioners shall have made an order for the refunding thereof, and then only for the amount specified in the order for such refunding, and in all cases in which invalid taxes shall be included in such certificate, and only to the extent of such invalid taxes with eight per cent

interest thereon. [L. 1876, ch. 34, § 145; L. 1879, ch. 40, § 2; L. 1923, ch. 236 § 1; Feb. 7.]

NOTE.—“Said section 145 as heretofore or hereafter existing or of section 120 of chapter 107 of the General Statutes” evidently refers to G. S. 1868, ch. 107, sec. 120, which was apparently superseded by L. 1876, ch. 34, sec. 145, which was amended and repealed by L. 1879, ch. 40, sec. 2. The sections referred to are clearly antecedent of this section and are therefore amended and repealed.

Annotations to L. 1879, ch. 40, § 2:

Owner attempting to purchase at tax sale is redemption. *Pomeroy v. Graham County*, 6 K. A. 401, 402.

Owner in possession voluntarily paying taxes cannot recover same back. *Pomeroy v. Graham County*, 6 K. A. 401, 402; *Comm'rs of Dickinson Co. v. Land Company*, 28 K. 198, 201.

Time for presenting certificates; limitation of action after certificate presented. *Mortgage Co. v. Gray County*, 7 K. A. 712, 715.

Duty to return taxes; action against county. *Comm'rs of Lincoln Co. v. Faulkner, Assignee*, 27 K. 164, 167.

Action for recovery of taxes; application of statutes of limitations. *Richards v. Comm'rs of Wyandotte Co.*, 28 K. 326, 331.

Certificate irregularly issued; no order of commissioners; injunction improper; mandamus. *Miller v. Madden*, 35 K. 455, 457.

Judgment quieting title and declaring deeds invalid not attacked collaterally. *Comm'rs of Marion Co. v. Welch*, 40 K. 767.

Board should discover irregularities and order clerk not to convey. *Rork v. Comm'rs of Douglas Co.*, 46 K. 175, 179, 180.

Effect of amendment of 1879; considered. *Rork v. Comm'rs of Douglas Co.*, 46 K. 175, 179, 180.

Owner of certificates must present them within time prescribed. *Rork v. Comm'rs of Douglas Co.*, 46 K. 175, 179, 180.

79-2510. Refund of purchase money when conveyance discovered or adjudged to be invalid. If after the conveyance of lands or lots sold for taxes it shall be discovered or adjudged that the sale was invalid, the board of county commissioners may by proper order cause the money paid therefor on the sale, together with such subsequent taxes and charges paid thereon by the purchaser or his assigns as they may judge proper, to be refunded, with interest on such amount at the rate of ten per cent per annum, upon the delivery of a quitclaim deed from the party holding under the tax deed, executed to such person or persons as the commissioners may direct in such order. In all such cases no interest shall be allowed after the person claiming under the tax deed shall have received notice that such deed has been discovered or adjudged invalid and the order for such refunding has been made. [L. 1876, ch. 34, § 146; L. 1879, ch. 40, § 3; May 20.]

County does not guarantee titles, except as statute provides. *Comm'rs of Lyon Co. v. Goddard*, 22 K. 389, 397.

Purchase by railroad company; county's obligation to refund, sale invalid. *School District No. 15 v. Comm'rs, etc.*, 22 K. 568, 571.

Tax sale voidable; duty of purchaser before requesting county refund. *Comm'rs of Jefferson Co. v. Johnson*, 32 K. 717, 724.

Taxes not refunded where purchase operates as a redemption. *Jones v. Comm'rs of Miami Co.*, 30 K. 278, 280.

Taxes paid under mistake of fact upon invalid sale refunded. *Dudley v. Gilmore, County Clerk*, 35 K. 555, 556.

Judgment quieting title and declaring deeds invalid not attacked collaterally. *Comm'rs of Marion Co. v. Welch*, 40 K. 767, 768.

Sale of forfeited school land void; purchase money and taxes refunded. *Flint v. Comm'rs of Jackson Co.*, 43 K. 658, 657, 658.

Action against county to secure refund; sufficiency of petition. *Security Co. v. Harper County*, 63 K. 351, 352.

Question whether refunding discretionary with county commissioners, considered. *Wyandotte County v. Investment Co.*, 30 K. 492, 493, 494.

Judgment obtained; mandamus to compel tax levy; section considered. *Investment Co. v. Wyandotte County*, 36 K. 708, 709.

Refund discretionary with commissioners; claim disallowed, action not maintainable. *Grimes v. Stanton County*, 104 K. 109, 110.

79-2511. Refund of amount paid to state, township, city or school district, when money so refunded by county. When a tax sale shall be set aside as

invalid and money and interest have been refunded thereon, or when any refunding shall have been made under the provisions of law, the proportions thereof which have been paid as taxes to the state, township, city, school district, etc., with interest and costs thereon, shall be refunded to the county; and on the next settlement thereafter the county treasurer of such county shall be credited therewith, on the certificate of the county commissioners. [L. 1876, ch. 34, § 147; L. 1879, ch. 40, § 4; May 20.]

NOTE.—Section originally referred to G. S. 1868, ch. 107, secs. 120 and 121, and L. 1878, ch. 34, secs. 145 and 146. See two preceding sections.

79-2512. Time for recordation of tax deeds. All tax deeds hereafter issued shall be recorded by the person or persons to whom issued, in the office of the register of deeds of the proper county, within six months from the date of the issuance thereof. [L. 1886, ch. 31, § 1; March 25.]

Tax deed not recorded within statutory time, void; no lien. *Humphrey v. Yost*, 10 K. A. 324, 326.

Deed filed for record deemed recorded in contemplation of law. *Smith v. Jones*, 37 K. 292, 295.

Suit against holder of tax deed; reimbursement for taxes paid. *Wagner v. Underhill*, 71 K. 637, 638.

79-2513. Recordation of prior deeds. All tax deeds heretofore issued shall be recorded by the person or persons in whose possession or under whose control they may be at the time of the taking effect of this act, in the office of the register of deeds of the proper county, within one year from the date of the taking effect of this act. [L. 1886, ch. 31, § 2; March 25.]

79-2514. Validity of deeds not recorded. All tax deeds not recorded within the times specified in this act shall be void. [L. 1886, ch. 31, § 3; March 25.]
Deeds not recorded within time prescribed, held void. *Wagner v. Underhill*, 71 K. 637, 638.

29.—FLOATING AND FEDERAL LIENS.

79-2601. Period of lien of tax certificate. No tax certificate issued for the sale of real estate for delinquent taxes to an individual for which no tax deed shall have been taken out shall be a lien on such real estate after the expiration of four years from the date of such sale. [L. 1881, ch. 114, § 1; May 10.]

Certificate assigned by county to individual; application of act. *Park v. Hetherington*, 9 K. A. 309.

Lien preserved by first deed; second deed issued later. *Pierce v. Adams*, 77 K. 46, 50.

Effect of issuance of insufficient deed, considered. *Gibson v. Fields*, 79 K. 33, 39.

Invalid deed issued; limitation not applicable to second deed. *Young v. Gibson*, 80 K. 264, 268, 269.

Tax deed executed on Sunday; lien under certificate not destroyed. *Schiffer v. Douglass*, 74 K. 231, 234.

79-2602. Lien of tax certificates on real estate purchased by cities and counties. When any real estate is or has been bid off for delinquent taxes to cities or counties and the tax certificates assigned, the lien thereof shall not be valid without a tax deed taken thereon after the expiration of four years from the date of such sale to the city or county where such assignment is made, more than one year prior to the expiration of three years from the sale; and when such assignment is made three or more years from the expiration of said sale, the said lien shall expire in one year after the date of such assignment.

unless a tax deed be taken on such tax certificate within such time. [L. 1881, ch. 114, § 2; May 10.]

79-2603. Time for tax deeds on certificates issued or assigned before passage of act. In all cases where real property has been heretofore sold to individuals or to counties or cities for delinquent taxes, and the tax certificates assigned, the provisions of the foregoing sections shall apply to them, except that such persons holding such tax certificates shall have one year after the taking effect of this act in which to take out such tax deeds. [L. 1881, ch. 114, § 3; May 10.]

79-2604. Act not to impair lien where deed fails to pass title or where real property bid off to city or county. Nothing herein shall be construed to impair the lien for taxes on real estate deeded for delinquent taxes, in case the deed shall from any cause fail to pass a title to such property; nor to impair the lien on any real property bid off to any city or county, and unassigned. [L. 1881, ch. 114, § 4; May 10.]

Successive deeds; first deed void; recovery of taxes, interest, etc. *Geer v. Thrasher*, 37 K. 667, 608.

Section not applicable when land not deeded for delinquent taxes. *Gibson v. Fields*, 79 K. 28, 29.

Invalid deed will preserve lien on land. *Young v. Gibson*, 80 K. 264, 269.

79-2605. Notice of federal tax liens. That notices of tax liens under the internal revenue laws of the United States, and certificates of discharge thereof, may be filed in the office of the register of deeds in any county in the state of Kansas, and when so filed shall be notice to all persons claiming an interest in the property of the person or persons against whom filed: *Provided*, That such notices of tax liens and certificates of discharge thereof need not be proved, acknowledged or certified other than in accordance with the laws of the United States pertaining thereto. [L. 1923, ch. 107, § 1; March 24.]

79-2606. Recordation of such notice. The register of deeds shall enter such notices in the chattel mortgage record and shall also record the same in full in miscellaneous record and index the same against the name of the delinquent taxpayer. [L. 1923, ch. 107, § 2; March 24.]

79-2607. Fees in such case; entry of satisfaction of lien. The register of deeds shall accept, file and record such notice without prepayment of any fee, but lawful fees shall be added to the amount of such lien and collected when satisfaction is presented for entry. Such lien shall be satisfied of record upon presentation of a certificate of discharge thereof by the internal revenue collector. [L. 1923, ch. 107, § 3; March 24.]

30.—LEASING OF LANDS HELD BY COUNTY.

79-3781. Lease of land purchased by county. That in all cases where lands or town lots are sold for delinquent taxes lawfully assessed, and bid in at such tax sale for the county in which they are situated, and held by the county under such tax sale for a period of three years or more from the date of such sale, the board of county commissioners may take possession of and lease the same to the highest bidder therefor, for a period of one year, and to continue to so lease the same until the amount due the county for taxes thereon shall be fully paid. [L. 1901, ch. 391, § 1; March 22.]

79-2702. Execution of lease. That upon the payment by the lessee of any such lands or town lots of the rental price therefor to the county treasurer, it shall be the duty of the county treasurer to issue his receipt in duplicate therefor, one of which shall be retained in his office and the other shall be delivered to the lessee, and upon presentation by him of said duplicate receipt to the county clerk, it shall be the duty of the county clerk to prepare a lease of said lands or town lot or lots to such lessee, which lease shall be signed by the chairman of the board county commissioners, and attested by the county clerk under the seal of his office. [L. 1901, ch. 391, § 2; March 22.]

79-2703. Credit of rental to tax account; redemption by owner or mortgagee. It shall be the duty of the county treasurer, upon the payment to him of any such rental money, to enter the same upon the books of his office to the credit of the tax account held by the county against such lands or town lots: *Provided*, Such leased lands or town lots shall be subject to the rights of the owner or mortgagee to redeem at any time, by the payment of the taxes, interest and penalties due the county on such land or town lot or lots; but such redemption shall not affect the right of possession or use of said lands or town lots of such lessee until the expiration of his term of lease. [L. 1901, ch. 391, § 3; L. 1907, ch. 414, § 1; March 2.]

79-2704. Actions to obtain possession of lands. It shall be the duty of the county attorney, upon the order of the board of county commissioners, to commence and prosecute, in the name of the board, all actions necessary to be brought to obtain possession of any lands or town lots under the provisions of this act. [L. 1901, ch. 391, § 4; March 22.]

79-2705. List of lands subject to lease. It shall be the duty of the county treasurer, upon the request of the board of county commissioners, to furnish to the county clerk a list of lands in his county subject to lease under the provisions of this act. [L. 1901, ch. 391, § 5; March 22.]

31.—FORECLOSURE AND SALE BY COUNTY.

79-2801. Action to enforce lien for taxes on real estate purchased by county. That in all cases in which real estate has been or shall be sold and bid in by the county at any delinquent tax sale, and shall remain or shall have remained unredeemed and the certificate of sale untransferred for the period of three and one-fourth years after such sale, it shall be the duty of the county attorney of such county, when so ordered by the board of county commissioners, to institute an action in the district court, in the name of the board of county commissioners, against the owners or supposed owners of such real estate, or so much thereof as the commissioners may direct, and all persons having or claiming to have any interest therein or thereto, by filing a petition with the clerk of such court, which petition shall contain a description of each tract of land, lot or piece of real estate subject to the provisions of this act, and stating the amount of taxes, interest, and penalties, as far as practicable, chargeable to each tract of land, lot, or piece of real estate, and the name of the owner, supposed owner, and party having or claiming to have some interest therein or thereto, and giving the date of sale for delinquent taxes, together

with a prayer that the court shall determine the amount of taxes, interest and penalties chargeable to each tract of land, lot, or piece of real estate, and the name of the owner or party having interest therein, and that the court shall thereon adjudge and decree the amount so found due to be a first and prior lien upon such property, and that the same be sold at public sale for the satisfaction of such lien and costs, and other necessary relief. Thereupon a summons shall be issued as in other cases, and served upon the defendants personally, if residents of the state. If the defendants or either of them are nonresidents, service may be made by publication, when there is filed with the clerk an affidavit that such defendants to be served are nonresidents of the state, or that the plaintiff with due diligence is unable to make personal service summons upon said defendant or defendants. Thereupon a notice shall be published for three consecutive weeks in some daily or weekly newspaper printed and published in the county, stating that the defendants to be served have been sued, and that unless they answer by a day to be named, not less than thirty days from the date of the first publication, judgment will be taken by default, and the land (describing it) will be sold by order of the court for the nonpayment of taxes. [L. 1901, ch. 392, § 1; May 1.]

Service of summons: personal service as contradistinguished from constructive service. *Atchison County v. Challias*, 65 K. 179; *Thisler v. Little*, 86 K. 787, 790.

Act not unconstitutional as vesting discretion in board of commissioners. *Baker v. Atchison County*, 67 K. 527.

Holder of unrecorded deed has rights as purchaser *pendente lite*. *Atchison County v. Lips*, 69 K. 252.

Result of forfeiture of contract for school lands; liens extinguished. *Russell County v. Mahoney*, 69 K. 661.

Consolidation of suits; taxation of costs; illegal increment eliminated. *Whitney v. Morton County*, 73 K. 502, 503.

Limitation of action on liability created by statute not applicable. *Whitney v. Morton County*, 73 K. 502, 503.

Opening judgment rendered on publication service; illegal taxes; full answer. *Williams v. Kiowa County*, 74 K. 693, 694.

Commissioners not limited to one proceeding; court may consolidate actions. *Douglass v. Leavenworth County*, 75 K. 6, 7, 8.

Act not unconstitutional by reason of defective title. *Douglass v. Leavenworth County*, 75 K. 6, 7, 8.

Judgment under act is simply for foreclosure of tax lien. *Davidson v. Cattle Co.*, 76 K. 462, 463.

Foreclosure of tax lien; liability of city to contractor. *Atchison v. Friend*, 78 K. 30, 32.

Decree of foreclosure on publication service cannot be attacked collaterally. *Sheehy v. Lamons*, 90 K. 283, 284; *Training School v. White*, 110 K. 498, 499.

County not an ordinary purchaser at tax sale. *Warner v. Pile*, 105 K. 724, 727.

Publication service on unknown devisees of deceased landowners is proper. *Training School v. White*, 110 K. 498, 499.

Foreclosure tax lien; title holder not personally liable for deficiency. *Ness County v. Light & Ice Co.*, 110 K. 501.

Foreclosure of tax lien; insufficient application to open judgment. *Wyandotte County v. Kerr*, 112 K. 464.

79-2802. Parties defendant. In such action the county attorney may join as many parties as defendants as there are parties interested in the land, lots and real estate described in the petition, whether such defendants are jointly interested in the property described or not, and may unite in one action all persons having or claiming to have any interest in any of the real estate described; but the court in its decree shall ascertain and determine the amount of taxes, penalties and interest chargeable to each particular tract of land, lot, or piece of real estate, and in the decree state the name or names of the particular defendant or defendants who has or who claims to have any interest in the tract of land, lot or piece of real estate upon which a lien is fixed by order of the court. [L. 1901, ch. 392, § 2; May 1.]

County not limited to one proceeding; court may consolidate actions. *Douglass v. Leavenworth County*, 75 K. 6, 8.

79-2803. Issues; trial; judgment; costs; redemption. Issues may be joined in said action as in other civil actions, but after such issues are so joined said action shall stand for trial and shall have precedence over all other actions except criminal cases; and it shall be the duty of such district court, in as summary way as possible, to investigate and decide what taxes shall have been legally assessed and charged on such land, lot, or piece of ground, and to render judgment therefor, together with the interest and penalty thereon as provided by law, to the date of such judgment, and to charge the same as a first and prior lien on said land, lot, or piece of ground, and to order the sale of the same for the payment of such taxes, interest and penalty and the cost of such proceedings and sale; which sale shall be made and conducted as hereinafter provided. The court shall equitably apportion the costs to each tract of land, lot, or piece of ground, and the proceeds of such sale shall be applied to the payment of cost assessed against the particular tract of land, lot or piece of real estate sold, and the balance of such proceeds of the sale of each tract of land, lot or piece of real estate shall be applied to the payment of the tax lien charged by the order and judgment of the court to the particular land, lot or piece of real estate sold, and if any excess remains after the payment of such taxes, interest, penalty, and costs, such excess shall be paid to the ascertained owner or party entitled thereto: *Provided*, That any person interested in said land, lot or piece of real estate as owner or mortgagee may, before the day of sale hereinafter provided for, pay to the clerk or sheriff holding the order of sale the amount of the lien as determined by the order and judgment of the court, with interest thereon at twelve per cent from the date of judgment, with a proportionate share of all cost and accrued costs, which payment shall be a full satisfaction and redemption of such land, lot or piece of real estate from the lien fixed by the order and judgment of the court and stay all further proceedings for the collection of such lien as against the particular land, lot or piece of real estate so redeemed; and the treasurer of the county, upon presentation of a certificate from the clerk of the district court showing such payment, shall, on payment to him of all taxes due by reason of subsequent levies, not included in the decree and judgment of the court, issue a certificate of redemption therefor. [L. 1901, ch. 392, § 3; May 1.]

Illegal increment occasioned by fraudulent valuation should be eliminated. *Whitney v. Morton County*, 73 K. 502, 504.
Foreclosure of tax lien; insufficient application to open judgment. *Wyandotte County v. Kerr*, 112 K. 462, 464.

79-2804. Sale and deed execution. After the expiration of ten days from the date of such judgment of the court, there shall be issued by the clerk of the district court to the sheriff of the county an execution or order of sale, which shall describe each tract of land, lot or piece of real estate mentioned and described in such judgment or decree (on which the lien has not been paid), with the amount of lien charged to each tract of land, lot, or piece of real estate, and the cost apportioned to each piece, lot, or tract, with the name of the ascertained owner thereof, as disclosed by the judgment or decree, with the command to advertise and sell the same, and the same shall be delivered to the sheriff of the county, who shall thereupon cause notice of sale to be published for thirty days in the official county paper, or, if there be no official paper, then in some daily or weekly newspaper printed and published in such county and of general circulation therein, which notice shall describe each tract

of land, lot or piece of real estate to be sold, and the lien for which it is to be sold, as determined by the judgment of the court, and fixing the date of sale, which shall not be less than thirty days from the date of the first publication, and at the front door of the courthouse in said county; and on the day fixed for such sale by such notice the said sheriff shall offer each such tract of land, lot or piece of real estate separately for sale, and the same shall be sold at public auction to the highest and best bid therefor. If such sale, for want of time, cannot be completed on the day fixed by the notice, it may be adjourned from day to day until completed. The sheriff shall make return to the clerk, and the same shall, as soon as practicable, be examined by the court, and if found by the court to be regular, it shall be confirmed, and the sheriff ordered to forthwith execute to the purchasers at such sale a good and sufficient deed therefor. If one person shall purchase more than one tract of land, lot, or piece of real estate, the same may be included in one deed. Said deed shall be executed by the sheriff and acknowledged before the clerk of the district court. No particular form of deed shall be required. It shall be sufficient if it shows the date of sale, a description of the property conveyed, the amount for which each tract of land, lot or piece of real estate was sold, the name of the purchaser, and the date such sale was confirmed by the court; and when said deed is filed for record in the office of the register of deeds of the county where such land or real estate is situate, it shall vest in the purchaser or grantee therein named, as against all persons, parties to such proceedings, a fee-simple title thereto; and said deed shall be *prima facie* evidence of the regularity of all proceedings prior to the date of filing the same for record as aforesaid. [L. 1901, ch. 392, § 4; May 1.]

Publication service on unknown devisees of deceased landowners is proper. *Training School v. White*, 110 K. 498, 500.

79-2805. Enurement of benefit of proceeding; deficiency of proceeds to satisfy lien. The proceeding so authorized by this act in the name of the board of county commissioners of the county shall be for the benefit of the state of Kansas, any city, town, township, school district or other municipal subdivision interested in such taxes to be recovered; and if the proceeds of the sale of any particular tract, lot or piece of real estate shall not be sufficient to pay off the entire lien for taxes thereon, the amount collected shall be apportioned to each fund ratably, in proportion to its interest therein. [L. 1901, ch. 392, § 5; May 1.]

State interested in proceedings; statutes of limitation do not apply. *Whitney v. Morton County*, 78 K. 402, 404.

79-2806. Receivership. If any tract of land, lot or piece of real estate mentioned and described in the petition filed as aforesaid has any rental or usable value, it shall be the duty of the court or judge, on application of the county attorney, and such fact being made to appear by affidavit, to forthwith appoint a receiver, as in other cases, who shall take possession of such property and collect the rents and profits therefrom, and to care for such property under the order of the court or judge; and such rents and profits, after deducting necessary expenses and disbursements for repairs, insurance, and the expenses of the receiver, shall be applied in payment of the taxes on such property, as hereinbefore provided. [L. 1901, ch. 392, § 6; May 1.]

79-2807. Fees of sheriff and county attorney. The sheriff shall be allowed one per cent on all moneys collected on sales under this act, and no more; and the county attorney shall receive one per cent on all moneys collected under this act, and no more. [L. 1901, ch. 392, § 7; May 1.]

32.—MISCELLANEOUS PROVISIONS.

79-2901. Payment of taxes or redemption of land by mortgagee. In cases where lands are mortgaged, if the mortgagor fails or neglects to pay the taxes, or in case said mortgagor permits any land so mortgaged to be sold for any taxes, the mortgagee may pay said taxes or redeem any land so sold for taxes. And on the payment of any such mortgage, or in the action to enforce the same, such mortgagee may demand the taxes so paid, with interest thereon at the rate of twelve per cent per annum, or include them in any judgment rendered on the mortgage; and any taxes so paid by any mortgagee shall be a lien on such land so mortgaged until the same be paid. [L. 1876, ch. 34, § 148; March 11.]

Tax lien first satisfied out of proceeds of mortgage sale. *Kerr v. Hoskinson*, 6 K. A. 193, 194. Relief hereunder not the only remedy afforded. *Cade v. Jeffers*, 6 K. A. 61, 62.

Mortgagee may pay taxes although not mentioned in mortgage; lien. *Standliff v. Norton*, 11 K. 218; *Insurance Co. v. Puckett*, 97 K. 428, 430.

Failure of mortgagor to pay taxes; stipulation in mortgage valid. *Standliff v. Norton*, 11 K. 218; *Insurance Co. v. Puckett*, 97 K. 428, 430.

Mortgagee may pay taxes and include same in judgment; interest. *Sharp v. Barker*, 11 K. 381.

Mortgagee, out of possession, "not bound to pay or redeem. *Waterson v. Devoe*, 18 K. 223, 234.

Priority of tax lien in sale under mortgage; foreclosure proceedings. *Opdyke v. Crawford*, 19 K. 604, 608.

Landowner or mortgagee must tender taxes before contesting tax certificate. *Wilder v. Cockshutt*, 25 K. 504, 508.

Owner and holder of mortgage may pay taxes and redeem. *Leitsbach v. Jackman*, 28 K. 524, 527.

Tax sale purchase considered as a redemption. *Miller v. Ziegler*, 31 K. 417, 421.

Taxes paid after judgment by mortgagee not a separate lien. *McCrosen v. Harris*, 35 K. 178, 179.

Interest recoverable on taxes paid by mortgagee; rate of interest. *Kelso v. Norton*, 74 K. 442.

79-2902. Payment of taxes on lands in controversy. In case taxes are paid by any party whose lands are in controversy in any of the courts of this state, and the party so paying shall fail to recover said land, he shall be entitled to collect from the parties recovering the taxes so paid, with twelve per cent interest thereon; and the taxes so paid shall be a lien on any such land. [L. 1876, ch. 34, § 149; March 11.]

Taxes paid to preserve lien; recovery when property ordered sold. *Seaman v. Huffaker*, 31 K. 254, 263.

Taxes paid before proceedings begun not adjudged a lien. *Wood v. Gruble*, 31 K. 69, 71.

Recovery of taxes paid pending proceedings although judgment reversed, etc. *Carey v. Reeves*, 46 K. 571, 581.

Rate of interest herein prescribed where land in controversy. *Davidson v. Timmons*, 88 K. 553, 561.

79-2903. Failure of executor or administrator to list lands or pay taxes. Every person being seized or having the care of lands as executor or administrator, and who shall neglect or refuse either to list or pay the taxes on the same, shall be liable in an action to the devisee or devisees of the persons whose executor he is for any damage occasioned by such neglect. [L. 1876, ch. 34, § 150; March 11.]

79-2904. Failure of agent to pay taxes on lands. Every person having the care of land as agent or attorney, such agent or attorney having funds of the principal in his hands for that purpose, neglecting or refusing either to list or pay the taxes on such land, shall be liable in an action to his principal for any damage such principal may have sustained by such neglect or refusal. [L. 1876, ch. 34, § 151; March 11.]

79-2905. Failure of guardian to list or pay taxes on lands. Every person holding lands as guardian, and neglecting or refusing to list or pay the taxes on the same in manner aforesaid, shall be liable in an action to his or her ward or wards for any damage such ward or wards may have sustained by such neglect or refusal. [L. 1876, ch. 34, § 152; March 11.]

79-2906. Description of lands in tax proceedings. In all advertisements, certificates, papers or proceedings relating to the assessment and collection of taxes and proceedings founded thereon, any description of lands which shall indicate the land intended with ordinary and reasonable certainty, and which would be sufficient between grantor and grantee in an ordinary conveyance, shall be sufficient. [L. 1876, ch. 34, § 153; March 11.]

Abbreviated description of Indian lands held not void. *Comm'rs of Jefferson Co. v. Johnson*, 28 K. 717, 720, 721.

Description in tax deed held insufficient to cover any land. *Wilkins v. Tourtellot*, 28 K. 825, 843.

Tract held sufficiently described when reading entire deed. *Dodge v. Emmons*, 24 K. 732, 737.

Lot in addition to a city held sufficiently described. *Knots v. Caldwell*, 43 K. 464, 468.

Tract assessed cannot be determined; indefinite; tax lien not allowed. *Harding v. Greene*, 59 K. 202, 205.

Popular name of town used in describing lot, held sufficient. *Goodrow v. Stober*, 80 K. 597, 599.

Section applied; resort may be had to extrinsic evidence. *Herod v. Carter*, 81 K. 236, 239.

Indefinite description in tax deed; extrinsic evidence held not admissible. *Townsend v. Mallory*, 94 K. 297, 299.

79-2907. Warrants received for taxes. It shall be the duty of every county treasurer who may receive any state, county, city, township or school-district order or warrant in payment of any taxes, or for lands sold for taxes, to indorse upon such order or warrant the date of its reception, the amount of interest allowed thereon; and no credit shall be allowed to any treasurer for any warrant or order, or any interest thereon, not so indorsed. [L. 1876, ch. 34, § 154; March 11.]

79-2908. Sale and conveyance of lands begun under prior statutes. All matters relative to the sale and conveyance of lands for taxes under any prior statute shall be fully completed according to the laws under which they originated, the same as if such laws remained in force. [L. 1876, ch. 34, § 155; March 11.]

Section continued prior law in force as to prior sales. *Watkins v. Ings*, 24 K. 612, 614.

Saving clause broad enough to permit redemption under prior law. *Crawford v. Shafa*, 25 K. 472, 479, 480, 482.

Sufficient assignment of tax sale certificate. *Sanger v. Rice*, 42 K. 590, 587.

Sale and conveyance under prior statute, completed under such statute. *Pounds v. Rodgers*, 52 K. 552, 550.

Rate of interest under prior law applicable. *Volger v. Stark*, 75 K. 631; *McCoy v. Hickman*, 86 K. 372, 379.

When proceedings originated; assignment by county to third party. *Warner v. Pils*, 105 K. 724, 727.

79-2909. Forms and instructions. The auditor and attorney-general shall from time to time prepare and transmit to the county clerk of each county such general forms and instructions in conformity with the laws in force, as

in their opinion may be necessary to secure uniformity in assessing, charging, collecting and accounting for taxes; and the county commissioners, county clerks, assessors, and the treasurers of the several counties, shall pursue and observe such forms and instructions. [L. 1876, ch. 34, § 156; March 11.]

79-2910. Limitation of actions for recovery of land. The limitation of actions for the recovery of lands sold for taxes, prescribed by any statute which has been repealed, shall not be affected by any such repeal if the same period of limitation is or has been continued or reenacted in the repealing statute. [L. 1876, ch. 34, § 157; March 11.]

Statute of 1868 held fully repealed; statute of limitation. *Keith v. Keith*, 26 K. 20, 38, 39.

79-2911. Repeals by act of 1876. Laws 1876, chapter 34, section 158, included by reference. [This section provided for the repeal of acts relating to taxation which it amended and superseded, as follows: "That an act entitled 'An act to provide for the assessment and collection of taxes,' approved February twenty-seventh, eighteen hundred and sixty-eight, and all acts and parts of acts amendatory and supplemental thereto, together with section fifty-five of chapter twenty-five, Laws of eighteen hundred and sixty-eight; and also chapters one hundred and twenty, one hundred and twenty-one, one hundred and twenty two, one hundred and twenty-three and one hundred and twenty-four, Session Laws of eighteen hundred and sixty-nine; also section two, chapter forty-three, and chapter one hundred and twenty, Session Laws of eighteen hundred and seventy; also chapters one hundred and forty nine and one hundred and fifty, Session Laws of eighteen hundred and seventy-one; also chapters sixty-five and one hundred and eighty-four and one hundred and ninety-six, Session Laws of eighteen hundred and seventy-two; also chapters ninety-six and one hundred and thirty-one, Session Laws of eighteen hundred and seventy-four; also chapters one hundred and forty-five and one hundred and forty-seven, Session Laws of eighteen hundred and seventy-five, and all acts and parts of acts, either general or special, inconsistent with the provisions of this act, be and the same are hereby repealed, except so far as provided for in sections one hundred and twenty-three and one hundred and twenty-four."]

79-2912. Loss of tax-sale certificate. That the owner of any tax-sale certificate which has been lost or which may hereafter be lost, and the land therein described shall not have been redeemed at the time a tax deed becomes due thereon, may exhibit to the treasurer evidence satisfactory to him of such loss, and upon his executing a bond to the treasurer, with sufficient surety to protect any person who should thereafter show his right thereto, then the treasurer shall issue to said owner a duplicate tax-sale certificate, which shall have the same effect in all respects as the original. [L. 1877, ch. 42, § 1; March 15.]

79-2913. Payment by county to state of greater amount than is due. That in all cases in which any county has heretofore or shall hereafter pay into the state treasury a greater amount of money than is or may be due from such county for the year in which such surplus money was paid, it shall be the duty of the auditor and treasurer of state, at the close of each fiscal year, to credit such overpaid or surplus amount to the county paying the same as a credit upon the taxes due or thereafter to become due from such county to the state. [L. 1875, ch. 146, § 1; March 15.]

79-2914. Apportionment of funds where lands sold for less than full amount of taxes. If any county lands or town lots have been sold under the provisions of law and the full amount of the tax charged against such lands or town lots has not been realized, the county treasurer and county clerk of such county are hereby directed to divide and charge the amount of such unrealized tax to the several funds in proper proportion, according to the tax levies of the year for the tax of which the said lands or town lots were sold. [L. 1885, ch. 199, § 1; March 14.]

Nota.—Section apparently alludes to land or lots bid in by county. Section originally referred to L. 1872, chapter 199, and L. 1877, chapter 29, which have been superseded by later acts. See article 23.

Delinquent state taxes; compromised tax sales; liability of county. *Kearny County v. Davis*, 88 K. 859, 859.

79-2915. Distribution of proceeds of such sales; amount remaining uncollected. The proceeds arising from such sale shall be distributed to the several funds entitled thereto in proper proportion, as shown upon the tax roll; and any portion of the tax that may remain uncollected by reason of the redemption or assignment herein provided for shall be divided among and charged to the several funds in proper proportion according to the tax levies of the various years for which the tax was delinquent. [L. 1879, ch. 43, § 3; L. 1885, ch. 199, § 2; March 14.]

79-2916. Certification to auditor of amount of state tax uncollected. The county commissioners of such county shall certify to the auditor of state the amount of the proper proportion of state tax thus uncollected and for which the county may be entitled to credit under the provisions of this act, and the auditor and treasurer of state shall credit the county with the amounts of the same: *Provided*, That the members of any board of county commissioners who shall willfully certify to the auditor any amount for which the county is not entitled to credit shall be adjudged guilty of a misdemeanor, and upon conviction be punished by a fine in double the amount thus incorrectly certified. [L. 1885, ch. 199, § 3; March 14.]

79-2917. State tax remaining due after settlement by county treasurer. If after the settlement by the county treasurer of any county in November of each year as provided in Laws 1923, chapter 224, section 1, there shall remain due from such county any portion of the state tax levied for the preceding year, the auditor of state on the second Monday of July in each year succeeding the said November settlement shall report to the county clerk of such county the amounts of such unpaid tax, and the county clerk shall determine the rate per cent necessary to raise the said amount, and shall place the same on the tax roll in addition to the regular levy for state purposes, and the same shall be collected by the county treasurer and paid into the state treasury as are other state taxes. [L. 1885, ch. 199, § 6; March 14.]

Nota.—Section originally referred to L. 1876, chapter 24, section 99, which was amended by L. 1891, ch. 41, sec. 1, which was amended by L. 1905, ch. 471, sec. 1, which was amended by L. 1923, ch. 224, sec. 1. (See § 79-2901.)

Presumption that public officers do their duty. *Harper v. Conway Springs*, 9 K. A. 419, 412.

Section authorizes levy for uncollected state taxes. *Harper County v. Cole*, 62 K. 121, 126. Amount to be raised not construed to render levy excessive. *Crabbin v. Weaver*, 71 K. 445, 446; *Railway Co. v. Reno County*, 67 K. 835, 834.

79-2918. Application of funds after county shall have paid full amount of state tax. When by virtue of the foregoing provisions any county shall have paid into the state treasury the full amount of state tax levied for any particular year, all moneys thereafter collected on such tax shall be applied in part payment of amounts required for state purposes in succeeding years. [L. 1885, ch. 199, § 7; March 14.]

79-2919. Neglect of duties by officer. If any officer charged by the statutes with any duty in relation to assessment and taxation, or who under the statutes may be required by other officers to perform certain duties, shall willfully fail or neglect to perform any of such duties when required to do so by the statute in terms or by any person thereunto authorized by the statute, and shall continue to so fail or neglect to perform such duties after having been notified of the default by the authority or authorities thereunto authorized, such officer so continuing in default shall forfeit a sum not less than fifty dollars nor more than five hundred dollars, to be recovered in an action brought in the name of the state by the county attorney, or by the attorney-general upon request of the tax commission, in the district court of the county of such officer, and may be removed from office at the discretion of the court. All moneys recovered under the provisions of this act shall be paid into the county treasury for the benefit of the county school fund. [L. 1915, ch. 364, § 1; April 10.]

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INDIANA LAW

Relating to the

⑤

Assessment and Taxation of Property

Concerning the Duties and Powers of

TAXING OFFICERS

and

AN APPENDIX CONTAINING FORMS
AND GENERAL INFORMATION

X722: (27377)

Issued by the

STATE BOARD OF TAX COMMISSIONERS

With the Approval of the Governor

Revised January, 1922

By PHILIP ZOERCHER

Member of the State Tax Commission

LAWS OF TAXATION.

CONSTITUTIONAL PROVISION.

Assessment and Taxation—

The General Assembly shall provide, by law, for a uniform and equal rate of assessment and taxation; and shall prescribe such regulations as shall secure a just valuation for taxation of all property, both real and personal, excepting such only, for municipal, educational, literary, scientific, religious, or charitable purposes, as may be especially exempted by law. (1 Burns R. S. 1914, §198.)

1. *Source of Taxing Power.*—The power of taxation is inherent in the state, and is a legislative power limited only by the provisions of the Constitution. *State v. Halter*, 149 Ind. 292; *Lowe v. Board*, 156 Ind. 163.

2. *Right to Tax.*—The right of the state to tax its citizens, and their duty to pay the same, does not rest upon contract, but is limited only by the fundamental laws of the state. *DePauw v. New Albany*, 22 Ind. 204.

3. *Taxing Agencies of a Government.*—Neither the United States nor a state can tax the machinery or agencies employed by the other in the exercise of its governmental powers and functions. *State v. Garton*, 32 Ind. 1; 2 Am. Rep. 215.

4. *Power of Legislature.*—The power of taxation is vested in the legislature, and it has the right to provide for the rate to be assessed and the locality or district upon which the taxes are to be imposed, and courts cannot interfere with such legislative acts upon the ground that they impose oppressive taxes upon the taxpayers, so long as the legislature keeps within the limits of its authority and violates no express provision of the Constitution. *Board v. State*, 147 Ind. 476; 46 N. E. Rep. 908; *Schneck v. Jeffersonville*, 152 Ind. 204, 212; 52 N. E. Rep. 212; *Kersey v. State*, 161 Ind. 471; 68 N. E. Rep. 1027. See *City of Terre Haute v. Kersey*, 159 Ind. 300; 64 N. E. Rep. 469; *Kersey v. City of Terre Haute*, 161 Ind. 471; 68 N. E. Rep. 1027; *Buck v. Beach*, 164 Ind. 37; 71 N. E. Rep. 963.

5. *Regulations Necessary.*—Regulations and methods in all tax matters must be prescribed by law. *Adams v. Shelbyville*, 154 Ind. 467, 543; 57 N. E. Rep. 114; 49 L. R. A. 797; *State Board of Tax Commissioners v. Holliday*, 150 Ind. 216; 49 N. E. Rep. 14; 42 L. R. A. 826.

6. *Taxes Public Burdens.*—Taxes are public burdens, of which every individual may be compelled to bear his part, and that in proportion to the extent of protection he receives, or the amount of property held by him, as the will of the legislature may direct. *Hanna v. Board*, 8 Blackf. 352, 355; *Boyer v. Jones*, 14 Ind. 354.

7. *Judicial Restraint.—Power to Tax.*—There are no limits within which the power of taxation can be restrained by the courts, so far as regards the different kinds of property to which it may be applied, or the terms under which such property is held. The power of taxation is

an incident of sovereignty, and co-extensive with that of which it is incident. It extends to all subjects over which the state's sovereign power extends, and the sovereignty of the state extends to everything which exists by its own authority or is introduced by its permission. *Hanna v. Board*, 8 Blackf. 352, 355.

8. *Tax Defined.*—The word tax means burden, charge or imposition, put or set upon persons or property for public uses. *Mitchell v. Williams*, 27 Ind. 62.

9. *Construction of Tax Laws.*—The tax law should not be construed from the standpoint of the taxpayer alone or the government alone; the real question is what was the intention of the legislature. *Hart v. Smith*, 159 Ind. 182; 64 N. E. Rep. 661.

10. *Injunction.*—An injunction is the proper remedy against an illegal and void tax. *State v. Board*, 162 Ind. 580; 70 N. E. Rep. 984; *Meyer v. Town of Boonville*, 162 Ind. 166; 70 N. E. Rep. 146.

11. *Uniformity.*—A tax for state purposes must be equal and uniform throughout the state, a tax for county purposes must be uniform throughout the county, and a tax for township purposes must be uniform throughout the township. *Board v. State*, 155 Ind. 604; *State, ex rel. Simpson v. Meeker*, 182 Ind. 240; 105 N. E. 906.

12. *Same.*—But a statute providing that on the removal of a county seat a tax be levied upon the property within the township alone in which the new county seat is located, to raise funds to erect new county buildings, is in conflict with the provisions of the Constitution requiring a uniform and equal rate of assessment and taxation. *Board v. State*, 155 Ind. 604.

13. *Same.*—The above provision as to uniformity is complied with when the same basis of assessment is fixed for all property and the same rate of taxation is fixed within the district subject to taxation; that is to say, there is uniformity and equality of assessment and taxation when all the property is to be assessed at its true cash value, and the same rate is fixed upon all property subject to the assessment for the tax. *Cleveland Ry. Co. v. Backus*, 133 Ind. 513; *Pittsburg Ry. Co. v. Backus*, 133 Ind. 625; *Pittsburg Ry. Co. v. Backus*, 154 U. S. 421.

14. *Same.*—The Constitution does not require a uniform method of valuation of property for taxation, but only such a method as will insure a just valuation. *Louisville, etc., Co. v. State*, 25 Ind. 177; *Whitney v. Ragsdale*, 33 Ind. 107, 110; *Adamson v. Auditor*, 9 Ind. 174.

15. *Same.*—It is not necessary that the rate of taxation shall be uniform throughout the state, but it is only required that the rate of assessment and taxation shall be uniform and equal throughout the locality in which the tax is levied. *Bright v. McCullough*, 27 Ind. 223; *Palmer v. Stumph*, 29 Ind. 329; *Lafayette R. R. v. Geiger*, 34 Ind. 185, 229; *Marks v. Purdue University*, 37 Ind. 155; *Wiley v. Owens*, 40 Ind. 429; *Loflin v. Citizens National Bank*, 85 Ind. 341, 345; *Board v. State*, 147 Ind. 476, 492; *Adams v. City of Shelbyville*, 154 Ind. 467; 479; *Board v. State*, 155 Ind. 604, 609; *Gilson v. Board*, 128 Ind. 65; *Kerr v. Perry School Township*, 162 Ind. 310; *Board v. Johnson*, 173 Ind. 86; *Smith v. Stephens*, 178 Ind. 564.

16. *Same.*—*Deducting Indebtedness.*—A statute permitting the deduction of an indebtedness does not violate the rule requiring a uniform rate of taxation. *Florer v. Sheriden*, 137 Ind. 28; 23 L. R. A. 278.

17. *Same.*—The act of 1899, permitting a mortgage indebtedness of \$700 to be deducted from the assessed valuation of real estate for the purpose of taxation does not conflict with the above provision of the Constitution. *State v. Smith*, 158 Ind. 543.

18. *Same.*—The taxing district of the state, wherein taxes are directed for those serving the state, is the whole state. State taxes are not

of equal and uniform rate when they apply to a portion of a class only, and omit a portion of the same class, and this is no less true because the classes may be divided by county lines. *Henderson v. London Insurance Co.*, 136 Ind. 23, 20 L. R. A. 827, 41 Am. St. Rep. 410.

19. *Same.*—The act of 1891, creating a firemen's pension fund, is unconstitutional as being in conflict with that provision of the Constitution requiring an equal and uniform rate of assessment and taxation. *Henderson Ins. Co.*, supra.

20. *Same.*—When the county and state boards of review have fixed the value of real or personal property within any local subdivision of the state for the purpose of equalizing the assessments made for taxation, the courts cannot review the action of such boards on the ground that such action has the effect of assessing one class of property at a higher percentage of its actual value than another class is assessed. *Biggs v. Board*, 7 App. 142.

21. *Same.—Does Not Apply to Expenditures.*—The constitutional provision as to uniformity and equality in taxation has reference only to the assessment and rate of taxation, and does not control the expenditure of money raised by taxation. *Kerr v. Perry Tp.*, 162 Ind. 310.

22. *Special Taxes Do Not Conflict with Above Section.*—The above provision relates to a general assessment of taxes and does not apply to a license tax to use vehicles upon the streets of a city. *City of Terre Haute v. Kersey*, 159 Ind. 300; *Kersey v. City of Terre Haute*, 161 Ind. 471.

23. *Same.*—Likewise statutes providing for the payment of a license fee by persons in a particular business are constitutional. *Thomasson v. State*, 15 Ind. 449.

24. *Same.*—Likewise the act of 1901, requiring transient merchants to obtain a license, is constitutional. *Levy v. State*, 161 Ind. 251.

25. *Same.*—There is a distinction between taxation for general purposes and assessments for improvements resulting in special benefit to property. *Law v. Madison Co.*, 30 Ind. 77; *Adams v. City of Shelbyville*, 154 Ind. 467; *Lowe v. Board*, 156 Ind. 163; *School Town of Windfall City v. Somerville*, 181 Ind. 463, 104 N. E. 859.

26. *Same.—Taring Districts.*—The legislature, in the exercise of its power as to taxation in making local improvements, may create a special taxing district without regard to the boundaries of counties, townships or municipalities. *Board v. Harrell*, 147 Ind. 500; *Byram v. Board*, 145 Ind. 240; *Lowe v. Board*, 156 Ind. 167; *Board v. State*, 155 Ind. 604; *Davern v. Board*, 34 Ind. App. 44.

27. *Same.*—There is no constitutional prohibition upon local taxation for objects in themselves local. *Anderson v. Kerns Co.*, 14 Ind. 199; *Law v. Madison Co.*, 30 Ind. 77.

28. *Same.*—School trustees of cities may be empowered to levy a tax for tuition purposes. *Robinson v. Schenck*, 102 Ind. 307. See *Lafayette v. Jenners*, 10 Ind. 70; *Lima Tp. v. Jenks*, 20 Ind. 301.

29. *Same.*—The legislature has no power to pass a law authorizing the levy of a tax upon the property of the residents of a local subdivision of the state for the purpose of raising money to reimburse a public officer for the loss of public funds occasioned by the failure of the bank in which such funds were deposited. *McClelland v. State*, 138 Ind. 321.

30. *Classification of Property for Purpose of Taxation.*—Property may be classified by law for the purpose of being assessed for taxation. *Clark v. Vandalia R. R. Co.*, 172 Ind. 409; *Smith v. Stephens*, 173 Ind. 564.

31. *Stock Held by a Lodge in a Building and Loan Association Taxable.*—Stock held by a fraternal order in a building and loan association

and money loaned out at interest is taxable the same as it would be if owned by an individual. Bingham, 1909.

32. *Claims Arising Out of Contracts for the Sale of Real Estate.*—In case of contracts for the sale of real estate and providing for unpaid balances the selling party in such a contract is liable for taxation upon the whole amount of unpaid purchase money as indebtedness owing to him whether in the form of notes, accounts, demands, claims or whatever may be the form or nature of such indebtedness and however expressed. Milburn, 1915.

LAWS OF TAXATION

Polls and Property.

1. All taxes for the support of the government of this state shall be assessed on polls and on property listed and valued in an equal and ratable proportion, except such stocks and other property as may be specifically taxed, in the following manner, namely: The amount necessary and proper to be charged on each poll and on each hundred dollars' worth of property, for state expenditures and for school purposes, shall from time to time be fixed by law subject to modifications hereinafter provided; and the amount to be charged on each poll and on each one hundred dollars' worth of property for all other subdivisions of the state, namely, counties, cities, towns, townships, both civil and school, and other public corporations or taxing units of whatsoever kind, shall be determined as now provided by law, subject to the conditions and modifications hereinafter mentioned. (§10140 Burns R. S. 1914.)

As to levying of taxes for state purposes see clause 6 amended section 177. (Burns Sup. 1921.)

As to taxpayers having some control over tax levies see amended section 200. (Burns Sup. 1921.)

1. *Uniformity.*—A tax for state purposes must be equal and uniform throughout the state, a tax for county purposes must be uniform throughout the county, and a tax for township purposes must be uniform throughout the township. Board v. State, 155 Ind. 604; State, ex rel. Simpson v. Meeker, 182 Ind. 240; 105 N. E. 906.

2. *Same.*—But a statute providing that on the removal of a county seat a tax be levied upon the property within the township alone in which the new county seat is located, to raise funds to erect new county buildings, is in conflict with the provision of the Constitution requiring a uniform and equal rate of assessment and taxation. Board v. State, 155 Ind. 604.

3. *Same.*—The above provision as to uniformity is complied with when the same basis of assessment is fixed for all property and the same rate of taxation is fixed within the district subject to taxation; that is to say, there is uniformity and equality of assessment and taxation when all the property is to be assessed at its true cash value, and the same is fixed upon all property subject to the assessment for the tax. Cleveland Ry. Co. v. Backus, 133 Ind. 513; Pittsburg Ry. Co. v. Backus, 133 Ind. 625; Pittsburg Ry. Co. v. Backus, 154 U. S. 421.

4. *Same.*—The Constitution does not require a uniform method of valuation of property for taxation, but only such a method as will insure a just valuation. Louisville, etc., Co. v. State, 25 Ind. 177; Whitney v. Ragsdale, 33 Ind. 107, 110; Adamson v. Auditor, 9 Ind. 174.

5. *Same.*—It is not necessary that the rate of taxation shall be uniform throughout the state, but it is only required that the rate of assessment and taxation shall be uniform and equal throughout the locality in which the tax is levied. *Bright v. McCollough*, 27 Ind. 223; *Palmer v. Stumph*, 29 Ind. 329; *Lafayette R. R. v. Geiger*, 34 Ind. 185, 229; *Marks v. Purdue University*, 37 Ind. 155; *Wiley v. Owens*, 40 Ind. 429; *Loflin v. Citizens National Bank*, 85 Ind. 341, 345; *Board v. State*, 147 Ind. 476, 492; *Adams v. City of Shelbyville*, 154 Ind. 467, 479; *Board v. State*, 155 Ind. 604, 609; *Gilson v. Board*, 128 Ind. 65; *Kerr v. Perry School Township*, 162 Ind. 310; *Board v. Johnson*, 173 Ind. 76; *Smith v. Stephens*, 173 Ind. 564.

6. *Same.*—*Deducting Indebtedness.*—A statute permitting the deduction of indebtedness does not violate the rule requiring a uniform rate of taxation. *Florer v. Sheriden*, 137 Ind. 28; 23 L. R. A. 278.

7. *Same.*—The act of 1899, permitting a mortgage indebtedness of \$700 to be deducted from the assessed valuation of real estate for the purpose of taxation does not conflict with the above provision of the Constitution. *State v. Smith*, 158 Ind. 543.

8. *Same.*—The taxing district of the state, wherein taxes are directed for those serving the state, is the whole state. State taxes are not of equal and uniform rate when they apply to a portion of a class only, and omit a portion of the same class, and this is no less true because the classes may be divided by county lines. *Henderson v. London Insurance Co.*, 135 Ind. 23; 20 L. R. A. 827; 41 Am. St. Rep. 410.

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16. *Same.*—*Taxing Districts.*—The legislature, in the exercise of its power as to taxation in making local improvements, may create a special taxing district without regard to the boundaries of counties, townships or municipalities. *Board v. Harrell*, 147 Ind. 500; *Byram v. Board*, 145

Ind. 240; *Lowe v. Board*, 156 Ind. 167; *Board v. State*, 155 Ind. 604; *Davern v. Board*, 84 Ind. App. 44.

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18. *Same*.—School trustees of cities may be empowered to levy a tax for tuition purposes. *Robinson v. Schenck*, 102 Ind. 307. See *Lafayette v. Jenners*, 10 Ind. 70; *Lima Tp. v. Jenks*, 20 Ind. 301.

19. *Same*.—The legislature has no power to pass a law authorizing the levy of a tax upon the property of the residents of a local subdivision of the state for the purpose of raising money to reimburse a public officer for the loss of public funds occasioned by the failure of the bank in which such funds were deposited. *McClelland v. State*, 138 Ind. 321.

20. *Classification of Property for Purpose of Taxation*.—Property may be classified by law for the purpose of being assessed for taxation. *Clark v. Vandalia R. R. Co.*, 172 Ind. 409; *Smith v. Stephens*, 173 Ind. 564.

Poll Tax.

2. A poll tax shall be assessed upon every male inhabitant of this state between the ages of twenty-one and fifty years, and every person shall be listed for his poll tax in the township, town or city of his residence. (§10141 Burns R. S. 1914.)

City, levy of poll tax. (§8825 Burns R. S. 1914.)

Exemption from poll tax by county board. (§6083 Burns R. S. 1914.)

1. *Poll Tax a Lien*.—A poll tax is a lien upon the real estate of the person assessed with such tax. *Isaacs v. Decker*, 41 Ind. 410.

2. *Temporary Absence*.—Persons temporarily absent from the state, no matter how long, do not lose their residence and are subject to taxation here. *Culbertson v. Board*, 52 Ind. 361.

3. *State Poll Tax*.—There is for the year 1907 and annually thereafter a state poll tax of fifty cents upon each legal voter. (§ Burns R. S. 1914, §6432.)

4. *Exemption*.—There is the same exemption from this tax as exists respecting other poll taxes. *Bingham*.

Property Taxable.

3. All property within the jurisdiction of this state, not expressly exempted, shall be subject to taxation. All property of every kind and nature both real and personal and wherever situate, owned or possessed, and subject to taxation within the State of Indiana, shall be assessed and valued for taxation purposes, at the true cash value thereof, on the first day of March in each year in which it is subject to assessment and valuation for taxing purposes. The rate of taxation on all property shall be equal. (§10142 Burns R. S. 1914.)

1. *Regulations to Assess Value Necessary*.—It is a legislative power to select the subjects for taxation, and the Constitution imposes the duty

and limitation upon the legislature of providing by law regulations or methods for a just valuation of all property, both real and personal, and where the legislature does not prescribe such regulations as to any particular species of property such property can not be taxed. *State Board of Tax Commissioners v. Holliday*, 150 Ind. 216; 49 N. E. Rep. 14; 42 L. R. A. 826; *Riley v. Western U. Tel. Co.*, 47 Ind. 511.

2. *Property Awaiting Shipment*.—Property temporarily in this state awaiting shipment to the residence of the owner outside of this state is not subject to taxation here. *Standard Oil Co. v. Bachelor*, 89 Ind. 1; *Herron v. Keeran*, 59 Ind. 472; 26 Am. Rep. 87.

3. *Property Awaiting Shipment at Indefinite Time*.—But where property is collected, even though it may be at the point of final shipment, to await indefinitely the owner's pleasure or the rise of markets, or to undergo a partial process of manufacture, or for any other cause having no relation to the preparation for, or facilities or exigencies of, transportation, it will be held to have acquired a situs, making it subject to taxation here. *Standard Oil Co. v. Combs*, 96 Ind. 179; *Board v. Standard Oil Co.*, 103 Ind. 302; *Powell v. Madison*, 21 Ind. 335; *Culbertson v. Board*, 52 Ind. 361.

4. *Credits.—Debts*.—It is the credit, not the debt, to which value attaches and which is taxable, and it makes no difference, for the purposes of taxation, where the debtor lives or where the debt was contracted, provided, only, that the note or other evidence of the amount due the creditor is, itself, within the jurisdiction of the state. *Buck v. Halter*, 147 Ind. 586; 45 N. E. Rep. 647; 47 N. E. Rep. 8; 37 L. R. A. 384; 62 Am. St. Rep. 436.

5. *Certificate of Sale*.—Certificates representing moneys invested in purchases at sales are property, and are taxable under the tax laws of this state, as is, also, a sheriff's certificate of sale. *State v. Halter*, 149 Ind. 292; 47 N. E. Rep. 665; *Miller v. Vollmer*, 153 Ind. 26; 53 N. E. Rep. 949.

6. *Money.—Stocks.—Choses in Action*.—It is within the legislative power to make money, stocks and choses in action outside of this state, and belonging to residents of this state, taxable in this state. *Boyer v. Jones*, 14 Ind. 354; *Powell v. Madison*, 22 Ind. 335.

7. *Notes Temporarily in State for Collection*.—Where notes or other choses in action are in this state temporarily, or in the hands of an attorney for collection, and the credits thereof are owned and held in another state by a non-resident of this state, the notes or bonds so owned and held can not be taxed here, although secured by liens on property in this state. *Buck v. Miller*, 147 Ind. 586; 45 N. E. Rep. 647; 47 N. E. Rep. 8; 37 L. R. A. 384; 62 Am. St. Rep. 436; *Buck v. Beach*, 164 Ind. 37; 71 N. E. Rep. 963; 206 U. S. 392; *Hathaway v. Richards*, 42 App. 22.

8. *Loans in this State by Non-Resident*.—Where a business of buying and selling property, making loans and investments, and collecting and relending the money is conducted, and the notes and mortgages so used are retained in this state, they will be subject to taxation in this state, although the owner thereof may have his residence in another state, whether such business be conducted by him in person or by an agent. *Buck v. Miller*, 147 Ind. 586; 45 N. E. Rep. 647; 47 N. E. Rep. 8; 37 L. R. A. 384; 62 Am. St. Rep. 436.

9. *Claims of Non-Residents Secured by Mortgage in this State*.—Evidence of debts held by non-residents of this state against a resident of this state and secured by a mortgage on lands in this state, are not within the jurisdiction of this state and are not taxable here. *Senour v. Ruth*, 140 Ind. 318; 49 N. E. Rep. 946; *Buck v. Miller*, 147 Ind. 586; 45 N. E. Rep. 647; 47 N. E. Rep. 8; 37 L. R. A. 384; 62 Am. St. Rep. 436; *Buck v. Beach*, 164 Ind. 37; 71 N. E. Rep. 963; 206 U. S. 392.

10. *Property in Transit*.—Where property is collected from one or more points, by any means of transportation, and is awaiting the neces-

sary preparations and facilities for further transportation, it will be deemed to be in transit while so detained, and not liable to taxation. *Board v. Standard Oil Co.*, 103 Ind. 302.

11. *Non-Resident Slaughtering Hogs in this State.*—Where a person is engaged in the provision trade in another state, where he has his domicile, purchases, slaughters and packs hogs in this state, for shipment to the place of his domicile, to be sold in the usual course of his business there, such property is subject to taxation in this state. *Rieman v. Shepard*, 27 Ind. 288; *Powell v. Madison*, 22 Ind. 385.

12. *Funds in Hands of Receiver.*—Funds of a non-resident corporation in the hands of a receiver in this state are taxable in this state. *Schmidt v. Failey*, 148 Ind. 150; 47 N. E. Rep. 326; 37 L. R. A. 442.

13. *Stock of Foreign Corporation.*—The capital stock of a foreign telegraph or railroad company owning and operating a line of telegraph or road in this state can not be assessed in this state as against the corporation itself. *Riley v. Western U. Tel. Co.*, 47 Ind. 511; but stock of a foreign corporation owned by a citizen of this state may be taxed against him in the township where he resides. *Seward v. Rising Sun*, 79 Ind. 851.

14. *Legislature Selects Property for Taxation.*—The legislature must select the property to be taxed, but a selection by general classification is sufficient; it is not necessary for the legislature to specifically select each article, credit or kind of property to indicate the legislature's intention to tax it, or to warrant its assessment for taxation. *Ham v. Woodward*, 151 Ind. 132; 50 N. E. Rep. 33; *Gallup v. Schmidt*, 154 Ind. 196; 56 N. E. Rep. 443.

15. *Property Outside of State.*—Property situated outside this state can not be taxed. *Senour v. Ruth*, 140 Ind. 319; 49 N. E. Rep. 946; *Foresman v. Byrns*, 68 Ind. 247; *Herron v. Keeran*, 59 Ind. 472; *Cromwell v. Connersville*, 15 Ind. 150; *Evansville v. Hall*, 14 Ind. 27.

16. *Credits in Favor of Non-Resident.*—Credits in favor of a non-resident, which are debts against citizens of this state, such credits resulting from loans evidenced by promissory notes held by such non-resident in another state, and secured by mortgage on real estate in this state, are not within the jurisdiction of this state, nor subject to taxation here. *Senour v. Ruth*, 140 Ind. 319; 49 N. E. Rep. 946; *Foresman v. Byrns*, 68 Ind. 247. See also *Stephens v. Smith*, 30 Ind. App. 120; 65 N. E. Rep. 546.

17. *Tax Certificates.*—Tax certificates are taxable. *State v. Halter*, 149 Ind. 292; 47 N. E. Rep. 665; *Miller v. Vollmer*, 153 Ind. 26; 53 N. E. Rep. 949.

18. *Traveler.*—Promissory notes belonging to and in the possession of a resident of another state who is traveling through or temporarily sojourning in this state are not liable to taxation. *Herron v. Keeran*, 59 Ind. 472.

19. *Property Outside of State.—Inter-State Commerce.*—“A state can not tax the privilege of carrying on commerce among the states. Neither can it tax property outside of its jurisdiction belonging to persons domiciled elsewhere. On the other hand, it can tax property permanently within its jurisdiction although belonging to persons domiciled elsewhere engaged in commerce among the states. And when that property is part of a system, and has its actual value only in connection with other parts of the system, that fact may be considered by the state in taxing, even though the other parts of the system are outside of the state. The sleepers and rails of a railroad, or the posts and wires of a telegraph company, are worth more than the prepared wood and the bars of steel or coils of wire, for their organic connection with other rails or wires and the rest of the operations of a working whole. This being clear, it is held reasonable and constitutional to get at the worth of such a line in the absence of anything more special, by a mileage

proportion. The tax is a tax on property, not on the privilege of doing business, but it is intended to reach the intangible value of what we have called the organic relation of the property in the state to the whole system." *Fargo v. Hart*, 193 U. S. 490.

20. *Good Will*.—No method is provided by law for the taxation of the good will of a newspaper, since good will is an incident of the business of a going concern, and the tax law requires that the various items constituting a newspaper plant must be assessed separately. *Hart v. Smith*, 159 Ind. 182; 64 N. E. Rep. 661.

21. *Mortgage Taken in Name of Non-Resident*.—*Validity*.—A mortgage executed in proper form and duly recorded is not void on the ground of public policy because taken in the name of a non-resident by whom it is assigned to the real owner, and assignment withheld from record, in order to avoid the payment of taxes. *Callicott v. Allen*, 31 Ind. App. 561; 67 N. E. Rep. 196.

22. *Advancement*.—*Money Advanced Not Taxable*.—A advanced to his two sons, twenty-five years ago, \$500 each, and decided that upon the division of his estate they be charged with the money and six per cent interest as advancements. The estate is in the hands of the widow during her life, and the division is to take place at her death.

I do not think this advancement is to be assessed and taxed. If the money is now in the hands of the sons it is taxable as so much money. Suppose it is spent or lost, it would not be subject to taxation. If it has been invested in property the property is taxable. But I find nothing that contemplates an advancement to be listed and taxed. The subject matter of it—whether money, property or what not—is taxable. If this were not so, an advancement might have to pay tax levy after the subject matter of it had disappeared. *Baldwin*, 1882, p. 73.

23. *Mortgage Notes*.—*Taxable When Surrendered*.—Mortgage notes on land in Indiana, held on the first day of March are subject to taxation, regardless of the fact that the mortgaged property was subsequently surrendered in payment of the notes. *Smith*, 1892, p. 156.

24. *Mortgage Held by Non-Resident*.—Loans made by residents of the state and afterwards sold to persons not residing within the state, are not subject to taxation in this state. Substantially, this question was presented to the Supreme Court of the United States in the case of the state on foreign held bonds. (15 Wall. 300.) Wherein it was held that the power of a state is limited to persons, property and business within her jurisdiction. *Ketcham*, 1896, p. 25.

25. *Mortgages*.—*Demand, Not Mortgage, Taxable*.—Demands secured by a mortgage, are taxable at their appraised value. You can not tax a mortgage, but can the demand, or amount secured. The amount secured by the mortgage, is usually money loaned, within the meaning of number two, of the schedule for taxation.

Demands for purchase money come under this clause. *Baldwin*, 1882, p. 72.

26. *Property Belonging to Another State*.—Where another state owns land within the limits of Indiana, it acquires its estate subject to all the incidents of ownership, and is subject to taxation. *Hord*, 1886, p. 34.

27. *Death Claim Against Secret Fraternal Order*.—A claim by reason of the death of a beneficiary in a secret fraternal order is taxable to the person entitled to receive it. *Taylor*, 1902, p. 119.

28. *Situs of Personal Property*.—The situs of tangible personal property, for the purpose of taxation, does not follow the domicile of the owner. *City of New Albany v. Meekin*, 3 Ind. 481; *Eversole v. Cook*, 92 Ind. 222.

29. *Steamboat on Ohio River*.—The portion of a steamboat owned by a part owner which runs on the Ohio and Mississippi rivers, and occasionally touches at a point in Indiana in the course of her voyages, is

not liable to be taxed in the port she touches merely from the fact that such part owner is a citizen of such port. *City of New Albany v. Meekin*, 8 Ind. 481.

30. *Notes Owned in Another State Temporarily in this State.*—The State of Indiana can not, consistently with due process of law, tax debts evidenced by notes given and payable in Ohio, by residents of that state, to a resident of New York, for loans made in Ohio on land there situated, merely because, in the attempt to escape proper taxation in Ohio, such notes, together with mortgages securing their payment, were sent to an Indiana agent of the payee, there to be held by him until they were needed in Ohio to have payments of interest endorsed, or to be delivered up if the principal were paid. *Buck v. Beach*, 206 U. S. 392, reversing *Buck v. Beach*, 164 Ind. 87.

31. *Covers Foreign and Domestic Corporations.*—The declaration of this section that all property not expressly exempt shall be subject to taxation covers shares of the capital stock of both foreign and domestic corporations. *Hasely, Executor, v. Ensley, Treasurer*, 40 Ind. App. 598, 601; 82 N. E. Rep. 809.

32. *Shares in Corporation Personal Property.*—Shares of stock in a corporation are personal property, separate and distinct from the property of the corporation itself and liable to taxation the same as other property. *Hasely, Executor, v. Ensley, Treasurer*, 40 Ind. App. 598, 601; 82 N. E. Rep. 809.

33. *Life Insurance Policies.*—Paid up non-forfeitable and partly paid up life insurance policies are not subject to taxation. *State Board v. Holliday*, 150 Ind. 216; 42 L. R. A. 826.

34. Money belonging to a citizen of Indiana and deposited in a bank in another state is taxable in Indiana without regard to whether it is taxable in the other state. (*Stansbury*, 1919.) See *Fidelity & Columbia Trust Co. v. Louisville*, 245 U. S. 54.

35. The possessor of the legal title is the owner for the purpose of taxation. *Mullikin v. Reeves*, 71 Ind. 281.

36. Notes executed after March 1 are not subject to taxation for that year. *Corr v. Martin*, 37 App. 655.

Realty and Personalty Defined.

4. For the purpose of taxation, real property shall include all lands and lots within the state and all buildings and fixtures thereon and appurtenances thereto, except as otherwise expressly provided by law; and whenever, distinct from the ownership of the surface thereof, by deed, contract, reservation in any conveyance or otherwise, an estate is created in such land or the mines or minerals therein, any and all such subsurface interests or rights shall be deemed real estate and each such subsurface estate shall be separately listed and taxed as such. All property of any nature or kind, other than that above in this section specified, shall be deemed personal property and shall be listed and taxed as such, except in cases otherwise expressly provided for in this act. (§10143 Burns R. S. 1914.)

1. *Good Will.*—The good will of a newspaper is not included in the enumeration of taxable property in the above section. *Hart v. Smith*, 159 Ind. 182; 64 N. E. Rep. 661.

2. *Life Insurance Policy.*—The above section does not cover life insurance policies. *State Board v. Holiday*, 150 Ind. 216; 49 N. E. Rep. 14; 42 L. R. A. 826.

3. *Newly Formed Corporation.*—The stock of a corporation organized after March first can not be taxed nor listed for taxation for the year of its formation. *King v. City of Madison*, 17 Ind. 48.

4. *Indebtedness.*—Under the phrase "personal property" is included indebtedness due a property owner. *McCrory v. O'Keefe*, 162 Ind. 534; 70 N. E. Rep. 812.

5. *Real Estate of Bank.*—Real estate belonging to a bank should not be included in the valuation of the capital stock, but should be taxed to the bank in the township where located. *Board v. First National Bank*, 25 Ind. App. 94; 57 N. E. Rep. 728.

6. *Foreign Corporations.—Shares of Stock Personal Property.*—Under the above section all shares of foreign corporations, except national banks, owned by inhabitants of this state, are subject to taxation as personal property. *Smith*, 1892, p. 46.

7. Shares of stock owned by residents of Indiana in non-resident banks, national or otherwise, are not taxable to them in Indiana. *Bingham*, 1909, p. 435.

8. Municipal bonds of Arizona and New Mexico, issued prior to the admission of these states to the Union, and held by residents of Indiana, can not be taxed in Indiana. *Honan*, Sept. 26, 1911.

9. *Definition.*—The purpose of this section is to define what property is included in the term "personal property," as used in the taxing law. It does not expressly exempt any property from taxation. It simply declares that shares in corporations, all the property of which is taxable to the corporation itself, shall not be assessed to the share holders. *Hasely, Executor, v. Ensley, Treasurer*, 40 Ind. App. 598, 603; 82 N. E. Rep. 809.

10. *Exemption Does Not Depend Upon Taxation in Another State.*—The provision of this section exempting from taxation "property actually and permanently invested in business in another state," does not make its exclusion dependent upon whether it is taxed in a foreign state or not. If actually and permanently invested there, whether taxed or not, it is not personal property within the meaning of the tax law. On the other hand, personal property belonging to an inhabitant of this state situated in another state, but not permanently invested there, is subject to taxation here, regardless of the fact that it may have been taxed in the foreign state for its full value. *Hasely, Executor, v. Ensley, Treasurer*, 40 Ind. App. 598, 603; 82 N. E. Rep. 809.

11. *All Corporation Stock Taxable Somewhere.*—Construing this section with section 10161, it is clearly shown that all stock in corporations shall be subjected to taxation, either to the individual owners of the shares or to the corporation itself. *Hasely, Executor, v. Ensley, Treasurer*, 40 Ind. App. 598, 604; 82 N. E. Rep. 809.

12. *Shares in Domestic Corporations.*—Since section 10199 requires the taxpayer to include in his schedule of property for taxation "all shares in foreign corporations other than banks" and to place a value upon such shares, the provision of this section exempting shares of stock which are taxable to the corporation itself must be construed as applying to domestic corporations and not to foreign. *Hasely, Executor, v. Ensley, Treasurer*, 40 Ind. App. 598, 605; 82 N. E. Rep. 809.

13. *Shares in Foreign Corporations.*—All shares of stock in foreign corporations owned by inhabitants of this state should be assessed for taxation, regardless of whether the property of the corporation is taxed in a foreign state or not. *Hasely, Executor, v. Ensley, Treasurer*, 40 Ind. App. 598, 606; 82 N. E. Rep. 809.

14. *Complement of §4, supra.*—The provision of this section to the effect that where all the property belonging to a corporation is assessed to the corporation, the shares of stock will not be assessed to the holder, was intended to apply to those corporations which could be assessed under the Indiana law. It is simply a complement of the previous provision to the effect that the term "personal property" should include all shares in corporations organized under the laws of the state when the property of such corporation is not exempt, or is not taxable to the corporation itself. *Hasely, Executor, v. Ensley, Treasurer*, 40 Ind. App. 598, 607; 82 N. E. Rep. 809.

15. *Unmined Coal.*—If the surface of land and the unmined coal therein belong to different persons, the coal may be assessed separately for taxation. *Board v. Lattas Creek Coal Co.*, 179 Ind. 212.

16. *Claims Arising Out of Contracts for the Sale of Real Estate.*—In case of contracts for the sale of real estate and providing for unpaid balances the selling party in such a contract is liable for taxation upon the whole amount of unpaid purchase money as indebtedness owing to him whether in the form of notes, accounts, demands, claims or whatever may be the form or nature of such indebtedness and however expressed. *Milburn*, 1915.

17. *Contract for Lease of Lands Taxable.*—Where a contract for lease of lands for cash rent, by which the debt for rent is created, was made before March 1, the sum owing for such rent, whether due or not should be taxable as a credit owing the holder thereof. *Honan*, 1913.

18. *Separate Assessment of Lands and Timber Standing Thereon.*—Where parties have purchased timber before the first day of March and the timber is still standing on the land, the assessor ought to assess the owner of the land with the full value of his land, trees and all, less the value of the trees and assess the value of the trees to the owner thereof. In assessing trees, however, he should be careful to furnish such description as will identify the trees by giving that description of them that is given in the instrument under which they are bought, as to the character of the trees, and by giving such description of the real estate on which they stand as would identify the real estate on the tax duplicate for the purpose of taxation. *Honan*, 1912.

19. *Receipt or Agreement Given by Bank Upon the Loaning of Bonds to Bank.*—A receipt given by a bank to a person who loans United States bonds to the bank in which the bank agrees to return on demand or at a certain time thereafter government bonds of equal amount and value and to pay for the use of such bonds an agreed rate of interest, are in effect, certificates of deposit and as such are taxable. Likewise where the owner of United States bonds loans said bonds to a bank under an agreement that the bank will return these specific bonds to the owner on demand or at a certain time after demand, the bank agreeing to pay in the meanwhile an agreed rate of interest for the use of said bonds said agreement is in effect a certificate of deposit and as such is taxable. *Honan*, 1913.

Exemptions.

5. The following property shall be exempt from taxation:

First. The property of the United States and of this state.

Second. The property of any county, city, town or township.

Third. All lands granted for the use of the common schools, so long as the same shall remain unsold.

Fourth. The personal property and real estate of every

manual labor school or of any technical high school, trade school or college incorporated within this state when used or occupied for the purposes for which it was incorporated, such real estate not to exceed eight hundred (800) acres in any one county of this state.

Fifth. Every building used and set apart for educational, literary, scientific or charitable purposes by any institution or by any individual or individuals, associations or incorporations, or used for the same purpose by any town, township, city or county, and the tract of land on which such building is situate, including the campus and athletic grounds of any educational institution not exceeding fifty acres; also the lands purchased with the bona fide intention of erecting buildings for such use thereon, not exceeding forty acres; also the personal property endowment funds, and interest thereon, belonging to any institution, town, township, city or county and connected with, used or set apart for any of the purposes aforesaid.

Sixth. Every building used for religious worship, and the pews and furniture within the same, and also the parsonage belonging thereto and occupied as such, and the land whereon said building or buildings are situate, not exceeding fifteen acres, when owned by a church or religious society, or in trust for its use.

Seventh. Any part, parcel or tract of land not exceeding eighty acres and the improvements thereon, owned by county or district agricultural associations of this state, organized agreeably to the provisions of "An act for the encouragement of agriculture," approved February 17, 1852, and acts supplemental and amendatory thereto, shall be exempt from taxation: Provided, That when the same shall cease to be used or occupied exclusively for the purposes specifically set out in said act, approved February 17, 1852, and acts supplemental and amendatory thereto, or shall fail in any way to comply with the provisions thereof, the same shall cease to be exempt from taxation; also the real and personal property of the state board of agriculture.

Eighth. Cemeteries incorporated under the laws of this state upon such a basis that the corporation can not derive any pecuniary benefit or profit therefrom; and in all cases where a cemetery association shall provide for setting aside a

certain definite portion of the proceeds derived from the sale of lots as a perpetual care fund, the income of which shall be used as a perpetual care and maintenance fund, all the property and assets belonging to such corporation used exclusively for cemetery purposes; also any fund, either by gift, bequest or devise, which may be a perpetual fund, the income from which shall be used for the care and maintenance of any cemetery lot expressly described in the instrument creating the fund, for which a trust may be created for the care, custody and control of such fund: Provided, That the real estate of any such corporation lying within any incorporated city or town shall not be exempt from liability for street improvements and sewer assessments, as now or may hereafter be provided by law.

Ninth. Any real and personal property owned by any Young Men's Christian Association, Knights of Columbus, Young Men's Hebrew Association, or Young Women's Christian Association and which is occupied or used exclusively for the purposes and objects of said association.

Tenth. Any literary, scientific, benevolent, or charitable institution that is the specific or residuary legatee of any devise or bequest, any money or choses in action going to or belonging to any of said institutions while the same is in the hands of executors.

Eleventh. Every fraternal beneficiary association, organized or licensed under the laws of this state, and all of its funds except real estate not occupied by such association in carrying on its business.

Twelfth. Every officer and enlisted man of the active militia, and every soldier and sailor in the active service of the United States army and navy, on any poll or road tax; and in the case of an officer, his commission, and of an enlisted man, a certificate of his commanding officer, shall be sufficient evidence that he is so exempt.

Thirteenth. Any part, parcel or tract of land not exceeding one (1) acre, and the improvements thereon, and all personal property, owned by any Greek letter or other fraternity, which is connected with any college, university, or other institution of learning, and under the supervision thereof, and which is used exclusively by such Greek letter or other fraternity to carry out the purposes of such organization.

Fourteenth. Any money or property given by will, or otherwise, to any executor or other trustee to be by him used and applied for the use and benefit of any municipal, educational, literary, scientific, religious or charitable purpose within the State of Indiana: Provided, Such executor or trustee shall diligently and in good faith carry out the provisions of the will or other trust arrangement, and use and apply such money or property to the purpose for which the same is donated.

Fifteenth. Any parcel or tract of land, not exceeding one acre, and improvements thereon, owned by any church and used exclusively by it as a dormitory for the students of any university belonging to this state: Provided, That this shall not apply to any such dormitory property connected with a university which maintains a dormitory: Provided, That this shall not be construed to exempt such property from special assessments.

Sixteenth. Any buildings and the lands upon which the same are situate, erected or acquired by any corporation, institution or association, created, organized and existing exclusively for charitable purposes, which charitable purpose consists in the dispensing gratis of medicines and medical advice and aid to poor persons, pursuant to the provisions of the last will of any testator, which buildings and the lands upon which the same are situate were acquired by means of any devise or bequest, or by the use or application of the proceeds of any such devise or bequest, and such building shall be occupied in whole or in part in dispensing such charity and the income of such building is used exclusively for such charitable purposes; and where any taxes may have been heretofore levied or assessed against any such land or lands and the building or buildings thereon, and not heretofore paid, such taxes shall not hereafter be collected and such taxes so levied or assessed shall not hereafter constitute or be a lien upon any such property, nor shall the same in any manner constitute a claim against any such institution or association.

Seventeenth. The stock and property of corporations organized for the purpose of perpetuating the memory of soldiers and sailors where the permanent fund of such corporation shall be perpetual and shall not be diminished for any purpose and the income from such investment shall be for no purpose

other than that set forth in the act authorizing the organization of such corporation.

Eighteenth. Battle grounds, or other historical sites which the common council of any city, the board of trustees of any incorporated town, or any incorporation organized as a voluntary association of this state and not for profit, is authorized by law to have and to hold for the purpose of maintaining, preserving and improving the same.

Nineteenth. The real estate and personal property of any corporation which shall have established a public library as provided by law, which real estate and personal property shall be used exclusively for such library purposes.

Twentieth. All bonds, notes and other evidences of indebtedness hereafter issued by the State of Indiana or by municipal corporations within the state upon which the said state or the said municipal corporations pay interest shall be exempt from taxation.

Twenty-first. That all bonds hereafter authorized by any county or township in the State of Indiana for the purpose of building, constructing and paying for the construction of any free gravel, macadamized or other improved roads, shall be exempt from taxation: Provided, Said bonds shall not bear a greater rate of interest than five per cent interest per annum, payable semi-annually.

Twenty-second. All bonds and other evidences of indebtedness hereafter issued by or in the name of any municipality or other political or civil subdivision of the State of Indiana, or by or in the name of any taxing district in the State of Indiana, for the purpose of paying the cost of acquisition, construction, improvement or maintenance of streets, highways, drains, levies, parks, docks, waterways, boulevards, playgrounds, bridges, sewage disposal plants and other improvements of public benefit, and which bonds or other evidences of indebtedness are payable from special assessments or special taxes, shall be exempt from taxation, unless otherwise expressly provided in this section.

Twenty-third. All bonds, notes, mortgages and other evidences of indebtedness heretofore or hereafter issued and negotiated by the Indiana state board of agriculture pursuant to the provisions of any statute then in force shall be exempt from taxation.

Twenty-fourth. That all real estate and personal property used exclusively by the Indiana National Guard or any other military organization of the state for armory purposes, shall be exempt from taxation so long as the same is used exclusively for such purposes.

Twenty-fifth. All property whether real or personal owned or held for the use of corporations, not for profit, which are organized for the purpose of discovering and preventing fires and saving property and life from conflagration.

As amended, Acts 1921, p. 647, §—— Burns.

Annuities Exempt from Taxation.

5a. When any gift, bequest or devise of real or personal property or both is made to any educational institution located within this State, other than a state institution, the same may be accepted by any such institution upon condition that the institution shall pay to the donor, for the life of the donor, or for a term of years not beyond the lifetime of the donor, as may be agreed, or shall pay to any person or persons named by the donor, in being at the time of the gift, for his or her life, or for a term of years not beyond the lifetime of the donor as may be agreed, an annuity on the value of the property at the time the gift is made. All annuities provided for herein whether the same shall have accrued prior to the passage of this act, or shall hereafter accrue, shall be free of all taxation for any or all purposes within the State of Indiana. Acts 1921, p. 772.

5b. Foundation or holding companies may hold and convey any real estate necessary for the transaction of its business or the execution of any trust. Property held by such corporation exclusively for religious, educational or charitable purposes shall be exempt from taxation. Acts 1921, p. 730.

1. *Property of United States.*—Section 2 of an act approved March 9, 1901 (3 Burns R. S. 1908, §8113), concerning the ceding of jurisdiction of the state over certain lands owned and to be owned and held by the United States is as follows: "The lands aforesaid, when so acquired, shall forever be exempt from all taxes so long as the same shall remain the property of the United States." The lands referred to in this section 2 are lands owned by the United States for postoffices, custom houses, depot, lighthouses and fort sites.

2. *Policy of Law.*—It is the policy of the state to subject all private property to taxation, and statutes exempting property from taxation are strictly construed. *Indianapolis v. Grand Master*, 25 Ind. 518; *Trustees v. Ellis*, 38 Ind. 3; *Oak Hill Cemetery v. Wells*, 38 Ind. App. 479; 18 N. E. Rep. 350; *State v. Real Estate Association*, 151 Ind. 502; *State v. Workmen's Assn.*, 152 Ind. 278.

3. *Charitable Use of Rents.*—The application of rents of property to charitable uses will not entitle the rented property to be exempt from taxation. *Indianapolis v. Grand Master*, 25 Ind. 518.

4. *Private School.*—Property devoted to the use of a private school is exempt from taxation. *Indianapolis v. Sturdevant*, 24 Ind. 391; *Common School v. McLean*, 8 Ind. 328; but lands of a private owner leased and occupied for school purposes are not exempt from taxation. *Travelers' Ins. Co. v. Kent*, 151 Ind. 849; 50 N. E. Rep. 562; 51 N. E. Rep. 723.

5. *Personal Property of a Business College Exempt.*—If the personal property of a business college is used for educational purposes the same is exempt from taxation. *Honan*, 1913.

6. *Indians' Lands.*—Lands reserved by treaty to individual Indians are subject to taxation. *State v. Board*, 63 Ind. 497.

7. *State's Lands.*—When lands are purchased by the state under sales to enforce liens, such lands are not subject to taxation while the title is in the state. *Groom v. State*, 24 Ind. 255; *Henderson v. State*, 53 Ind. 60.

8. *Power of Legislature.*—The legislature can not exempt any property from taxation except when it comes within one of the classes mentioned in the Constitution. *State v. Indianapolis*, 69 Ind. 375; 35 Am. Rep. 223; *Warner v. Curran*, 75 Ind. 309; *State v. Workingmen's, etc., Co.*, 152 Ind. 278; 53 N. E. Rep. 168; *Oak Hill Cemetery v. Wells*, 38 Ind. App. 479; 78 N. E. Rep. 350.

9. *U. S. Bonds.*—Bonds and other evidences of indebtedness issued by the United States are not subject to state taxation. *Whitney v. Madison*, 23 Ind. 331; *Wright v. Stiltz*, 27 Ind. 338; *Board v. Elston*, 32 Ind. 27; 2 Am. Rep. 327; *Ogden v. Walker*, 59 Ind. 460.

10. *Policy of Life Insurance.*—Paid up non-forfeitable and partly paid up life insurance policies are not subject to taxation, as there is no statute providing any regulation for, or any manner of, assessing or valuing such policies. *State Board of Tax Commissioners v. Holliday*, 150 Ind. 216; 49 N. E. Rep. 14; 42 L. R. A. 826.

11. *Property Exempt.*—By section 5 of the tax law the legislature has made provision for all the exemption authorized by the Constitution, namely, of property used "for municipal, educational, literary, scientific or charitable purposes." By thus expressly naming the particular property to be exempted, the General Assembly has, by necessary implication, forbidden the exemptions of any other property from taxation. *State Board Tax Commissioners v. Holliday*, 150 Ind. 242; 49 N. E. Rep. 14; 42 L. R. A. 826; *Oak Hill Cemetery v. Wells*, 38 Ind. App. 479; 78 N. E. Rep. 350.

12. *Lands Leased for School Purposes.*—The lands of a private owner leased and occupied for school purposes are not exempt from taxation.

The exemption from taxation from property used for school purposes, was to encourage those who should devote themselves and their property to educational purposes * * *. But this will not apply in favor of a property owner who simply rents or leases his property, to be used for one of the purposes mentioned in the Constitution. He holds such property for his own use and benefit—for his individual profit and not for the public good. *Travelers' Insurance Co. v. Kent*, 151 Ind. 349; 50 N. E. Rep. 349; 51 N. E. Rep. 723.

13. *Law Strictly Construed.*—Exemptions from taxation are not especially favored by the courts; on the contrary, they are to be strictly construed. *Read v. Yager*, 104 Ind. 195; 3 N. E. Rep. 856; *Common Council v. McLean*, 8 Ind. 328; *Trustees v. Ellis*, 38 Ind. 3; *Conklin v. Cambridge*, 58 Ind. 130; *South Bend v. University*, 69 Ind. 344; *State v. Indianapolis*, 69 Ind. 375; 35 Am. Rep. 223; *Warner v. Curran*, 75 Ind. 309; *Oak Hill Cemetery v. Wells*, 38 Ind. App. 479; 78 N. E. Rep. 350.

14. *National Currency.—Greenbacks.—Coin.*—Formerly treasury notes or “greenbacks” were exempt from taxation. *Board v. Elston*, 32 Ind. 27; 2 Am. Rep. 327; *Ogden v. Walker*, 59 Ind. 460. But now the circulating notes of national banking associations, and United States legal tender notes and other notes and certificates of the United States payable on demand and circulating, or intended to circulate, as currency, and gold and silver or other coin are subject to taxation as money on hand or on deposit under the laws of this state or any territory. 28 U. S. Statutes at Large, 278.

15. *Unincorporated Company.*—Under the fourth clause of the above section the fact that the establishment is or is not incorporated does not determine the question of its liability to or exemption from taxation. *Common Council v. McLean*, 8 Ind. 328.

16. *Escheated Lands.*—Taxes assessed on lands that have escheated to the state are invalid; and a sale of such lands to collect such taxes is also void. *Reid v. State*, 74 Ind. 252.

17. *Orphan Asylums.*—The fact that a home for the care and education of orphan homeless children, maintained by contributions from the counties and townships of the state, and by private donations, is conducted on private account, and the earnings applied to the personal benefit of the individual proprietor, does not deprive the owner of the right of exemption of the property from taxation as provided by the above section. *Vink v. Work*, 158 Ind. 638; 64 N. E. Rep. 83; *City of Indianapolis v. Sturdevant*, 24 Ind. 391.

18. *Asylum Maintained by Religious Society.*—An asylum maintained by a religious denomination for members of that denomination is a charitable institution and its property exempt from taxation. *Michener*, 1888, p. 74.

19. *Temperance Organizations.*—The property of a temperance organization is exempt from taxation. *Michener*, 1888, p. 196.

20. *Churches.—Land of, When Exempt.*—Land purchased for the benevolent intention of erecting buildings for church or educational purposes thereon, not exceeding forty acres, is exempt from taxation. *Smith*, 1892, p. 156.

21. *Property of Charitable Organizations.*—The statute exempts from taxation every building used and set apart for charitable purposes, and the tract of land on which such building is situate, not exceeding forty acres. Also the personal property and endowment fund and interest thereon belonging to any charitable institution used and set apart for charitable uses.

If all or any part, parcel or portion of any tract or lot of land, or any building or personal property of such charitable institution is used or occupied for any other purpose than such charity, such property, part, parcel or portion is subject to taxation.

A statute conferring exemption from taxation in general terms, does not exempt property from special assessments for local improvements.

Property leased for business purposes, or diverted to secular use for gain, is not exempt from taxation, although the rent is devoted to charitable purposes. The use, in order to come within the terms of the exemption, must be directly in aid of the charitable purpose.

A corporation for business purposes, although such purposes may incidentally contemplate benevolent results, is not a charitable institution and is not exempt.

A charitable institution to be exempt from taxation must be purely charitable.

A good charitable use must be public, not in the sense that it must be executed openly in public, but in the sense of being so general and definite in its objects as to be deemed of common public benefit. *Hord*, 1886, p. 22.

22. *Lodge Property*.—Only that portion of a building owned by a lodge of Odd Fellows which is used exclusively for lodge purposes should be exempted from taxation.

23. *Lodge Property*.—The personal property used in a lodge room of Odd Fellows is exempt from taxation. Ketcham, 1897, p. 165; Bingham, accord, 1908; Honan, accord, 1910.

24. *Lodges, Part of Property Exempt*.—Lodge property, used for fraternal purposes, is exempt from taxation, except that such part of the property as is used or rented for business purposes is subject to taxation. Smith, 1892, p. 39; Bingham, accord, 1908; Honan, accord, 1910.

25. *Masonic Funds*.—The funds of a Masonic lodge used exclusively for lodge purposes, whether for maintaining the lodge itself or as a widows' or orphans' fund, the lodge being the means through which such funds are distributed, are exempt from taxation under clause five of the above section.

26. *Cemetery*.—An incorporated cemetery in the business of selling lots for gain is not exempt from taxation; but land that is and has been used for burial purposes is exempt from taxation. Oak Hill Cemetery Co. v. Wells, 38 Ind. App. 479; 78 N. E. Rep. 350.

27. *Cemetery*.—Land that is and has been used for burial purposes is exempt from taxation within the spirit and intent of the constitutional provision, as the framers of the Constitution did not consider burying-ground property. Oak Hill Cemetery Co. v. Wells, 38 Ind. App. 479, 481; 78 N. E. Rep. 350.

28. *Lots and Lands of Cemetery Company*.—Lots and lands belonging to cemetery associations, and the income derived from the proceeds of such lots and lands, are exempt from taxation, when the same are used exclusively for cemetery purposes. Greenbush Cemetery Assn. v. Van Natta, 49 App. 192.

29. *Burden of Proof*.—A person claiming property as exempt from taxation has the burden of establishing that the property is within the exemption defined by the Constitution. Oak Hill Cemetery Co. v. Wells, 38 Ind. App. 479, 482; 78 N. E. Rep. 350.

30. *Limitation of Legislative Authority*.—The legislature is without authority to exempt any property from taxation unless it comes within one of the classes mentioned in section 1, article X of the state Constitution, namely, property for municipal, educational, literary, scientific, religious or charitable purposes. Oak Hill Cemetery Co. v. Wells, 38 Ind. App. 479, 481; 78 N. E. Rep. 350.

31. *Does Not Apply to Local Assessments*.—The exemption of educational property from taxation does not apply to local assessments against real property based on benefits from public improvements. School Town of Windfall City v. Sommerville, 181 Ind. 463.

32. *Certain Church Property Not Exempt from Taxation*.—The exemption statutes are to be strictly construed. If a building owned by a church is actually devoted to charitable, educational or religious purposes, then it is exempt. If on the other hand the building is used for such purposes as to derive a profit therefrom, then it is not exempt. For example, if a printing establishment conducted in a building so owned is solely for religious purposes or for educational purposes and no profit is derived therefrom or the profit is merged in the business, then the tax is not assessable. For example, the sale of stationery is not a religious, educational or charitable occupation, and, as the fact that the profits, if any, are to be devoted to charitable, educational, or religious purposes would not exempt the business from taxation, it is not so exempt. The question is one of fact. Milburn, 1915.

33. *Where Land is a Part of the Endowment Funds of a Charitable Institution*.—Where land is either temporarily or permanently a part of

the "endowment fund" of a charitable institution, it is not exempt from taxation under the laws of this state. Milburn, 1915.

34. *Stock Held by a Lodge in a Building and Loan Association Taxable.*—Stock held by a fraternal order in a building and loan association and money loaned out at interest is taxable the same as it would be if owned by an individual. Bingham, 1909.

35. If the personal property of a business college is used for educational purposes the same is exempt from taxation. Stansbury, 1920.

36. Property of a Greek letter fraternity connected with a college is exempt from taxation. State ex rel. v. Allen, 127 N. E. 145.

37. *Bonds and Notes.*—All mortgages, notes, bonds and evidences of indebtedness of the Indiana State Board of Agriculture issued after April 15, 1905, and secured by mortgage upon its state fair grounds in Marion county, is exempt from taxation. 2 Burns R. S. 1908, §3184.

38. *Bonds Issued by Agricultural Societies.*—Bonds issued by agricultural or horticultural societies or county fairs having a state charter, owning not less than fifty acres in fee simple, issued in a maximum amount of seventy-five per cent of the value of the real estate, unimproved, shall not be listed or assessed, but shall be free from taxation in this state. 2 Burns R. S. 1914, §3206.

39. *Capital Stock.*—Capital stock of such association should be taxed provided it has a value in excess of the tangible property of such corporation. Bingham, 1910.

40. *Shares of Stock in County Fair Associations Taxable to the Holders.*—I am unable to discover any intention on the part of the legislature to exempt the capital stock of district or county fair associations from taxation, provided such stock has a value in excess of that of the tangible property of such corporation. Bingham, 1910.

41. Land held by an incorporated cemetery association for gain is not exempt from taxation, where it sells the lots; but land that is and has been used for burial purposes is exempt, as the framers of the provisions of the Constitution allowing exemptions from taxation did not consider burying-ground property. Oak Hill Cemetery Co. v. Wells, 38 Ind. App. 479; 78 N. E. Rep. 350.

42. *Proceeds of War Risk Insurance.*—Money on deposit which was paid to a child by the United States government as insurance of her father, who was killed in France, is assessable. Lesh, 1921.

Exception to Exemptions.

6. If all or any part, parcel or portion of any tract or lot of land, or any buildings or personal property enumerated in the preceding section as exempt from taxation, shall be used or occupied for any other purpose or purposes than those recited in said section, by reason whereof they are exempted from taxation, such property, part, parcel or portion shall be subject to taxation so long as the same shall not be set apart or used exclusively for some one of the purposes specified in said enumeration. (§10145 Burns R. S. 1914.)

1. *Church Property.*—Church property devoted to secular uses for gain is subject to taxation. Orr v. Baker, 4 Ind. 86.

2. *Church Property.*—Statutes exempting property are required to be strictly construed against the right of exemption and where a church received rent for real estate rented by it, such property is subject to

taxation just the same as it would be if owned by an individual. *Stansbury, 1920.*

Personal Property, When Listed.

7. Personal property shall be listed for taxation between the first day of March and the fifteenth day of May, each year, and with reference to the quantity and quality held or owned on the first day of March, in the year for which the property is required to be listed. (§10157 Burns R. S. 1914.)

1. *Owner Moving After March 1.*—If property be assessed for state and county purposes on the first day of March, and before May 15 the owner of it moves into a city or town, it will be liable to a city or town assessment also. *Hilgenberg v. Wilson, 55 Ind. 210.* See *Luke v. Sheridan, 26 Ind. App. 529; 60 N. E. Rep. 359.*

2. *Property Acquired After March 1.*—Property acquired after March 1 can not be listed nor taxed for the year it is acquired to the person who then becomes the owner. *Woodward v. Jacobs, 27 Ind. App. 188; 60 N. E. Rep. 1015.*

3. *Persons Moving Into County After March 1.*—Where a person lists his property in the county where he resides in this state, and after it is listed and even before May 15 of the same year he moves into another county, such property can not be either listed or taxed for that year in the county to which he has removed. *Woodward v. Jacobs, 27 Ind. 188; 60 N. E. Rep. 1015.*

4. *Notes Given After March 1 for Purchase Money.*—If notes be given after March 1 in part payment of the purchase of a farm or lot, which is secured by a mortgage on such farm or lot, they can not be assessed against the payee or owner for taxes for that year, even though the contract for the sale of such farm or lot was executed before March 1, but the deed held in escrow until the notes were executed. *Carr v. Martin, 37 Ind. App. 655; 77 N. E. Rep. 870.*

Owner on March 1st Liable.

8. The person purchasing or acquiring property, whether real or personal, on the first day of March, in any year, shall be considered as the owner on that day, and shall be assessed and liable for the taxes of that year. (§10158 Burns R. S. 1914.)

1. *Holder of Legal Title.*—The holder of the legal title is the owner of property for the purpose of taxation. *Mullikin v. Reeves, 71 Ind. 281.*

2. *Owner on March 1.*—The person who owned the property on the first day of March is to be assessed with it, although he may, after that date and before it is listed, have sold it. *City of Richmond v. Scott, 48 Ind. 568.* See also *King v. City of Madison, 17 Ind. 48; Lose v. State, 72 Ind. 285; Carr v. Martin, 37 Ind. App. 655; 77 N. E. Rep. 870.*

3. *Contract Cannot Relieve from Tax Liability.*—No contract by which a liability is created after March 1 can rotate back so as to make its creditor liable to be taxed for that year for such demand. *Lamb v. Rawles, 33 Ind. 386.*

4. *Corporation Organized After March 1.*—Where a corporation is organized after March 1, its stock can not be taxed for that year, either as omitted property or otherwise. *King v. City of Madison, 17 Ind. 48.*

Executors and Administrators.

9. If a person die after the first day of March, in any year, without having given in the amount of his taxables, his executor or administrator, heir at law, or other person having charge thereof, shall give in the same as though such property had been in his possession on the first day of March of such year. (§10159 Burns R. S. 1914.)

1. *Lands, Assessed to Executors or Administrators.*—§10170, Burns R. S. 1914. Post, §20.

2. *Payment of Taxes by Executors and Administrators.*—§§10340, 10341, Burns 1914.

3. *Administrator.*—An administrator must list the property of his decedent that is in his (such administrator's) hands on March 1. *Cullop v. City of Vincennes*, 34 Ind. App. 667; 72 N. E. Rep. 166.

4. *Ownership April 1.*—Prior to the amendment of this section, all property, both real and personal, was listed for taxation in the name of the person owning the legal title on the first of April. Consequently, real estate should have been assessed to the vendor, where a contract for the sale of such land was made prior to first of April but the deed was held in escrow on such date, as a deed held in escrow conveys no title. This is true even though the purchaser had fraudulently obtained possession of such deed prior to April 1 and placed it of record. Notes and a mortgage securing the same, delivered April 8, 1903, in part payment of the purchase price of land under such contract, were not assessable to the vendor, as they did not become his property until the transaction was completed. *Corr v. Martin, Treasurer*, 37 Ind. App. 655, 657, 659; 77 N. E. Rep. 870. (March 1 has been substituted for April 1.)

Personalty, Where Assessed.

10. All personal property shall be assessed to the owner in the township, town or city of which he is an inhabitant on the first day of March of the year for which the assessment is made, with the following exceptions:

First. All goods and chattels situated in some township, town or city other than where the owner resides shall be assessed in the township, town or city where situated, and not elsewhere, if the owner or person having control thereof hires or occupies a store, mill, dock yard, piling ground, place for sale of property, shop, office, mine, farm, place of storage, manufactory or warehouse therein, for use in connection with such goods and chattels: Provided, That the procuring any such property to be manufactured upon contract shall be deemed the hiring of the mill or manufactory, within the meaning of this section.

Second. All animals kept throughout the year in some township, town or city, other than where the owner resides,

shall be assessed to such owner, or to the person in possession in the township, town or city where kept.

Third. All shares in banks shall be assessed to their owners in the city or town where the bank is located.

Fourth. Personal property of nonresidents of the state shall be assessed to the owner or to the person having control thereof in the township, town or city where the same may be, except that where such property is in transit to some place within the state it shall be assessed in such place.

Fifth. The personal property of minors under guardian shall be assessed to the guardian in the township, town or city where the guardian resides, but shall not be assessed or taxed for city or town purposes unless the ward resides in such city or town, and the personal property of every other person under guardianship shall be assessed to the guardian in the township, town or city where the ward resides.

Sixth. The personal property of the estates of deceased persons in the hands of executors, administrators or other persons shall be assessed to the persons in charge of such property in the township, town or city where the deceased last dwelt, until such property has been distributed to the heirs or other persons entitled thereto. If such decedent was a nonresident of the state, such property shall be assessed in the township, town or city where situated.

Seventh. Personal property under the control of a trustee or agent, whether a corporation or natural person, may be assessed to such trustee or agent, except as otherwise by law provided, in the township, town or city in which such trustee or agent resides.

Eighth. All personal property of any person situate upon, also all buildings situate and being upon the land of the United States, or of this state, or upon the lands of any county, township, town or city, shall be deemed personal property for purposes of taxation and assessment, and shall be assessed as personal property to the owner or occupant thereof in the township, town or city to which said lands belong or of which they form a part, and such buildings shall be subject to sale for taxes in the same manner as herein provided for personal property: Provided, however, It shall not be necessary to remove such buildings for the purpose of sale.

Ninth. All personal property of any person situate upon,

also all buildings situate and being upon the right of way of any railroad operating in this state or upon the lands of another, shall be deemed personal property for purposes of taxation and assessment, and shall be assessed as personal property to the owner or occupant thereof in the township, town or city in which such property or buildings is located and such buildings shall be subject to sale for taxes in the same manner as herein provided for personal property: Provided, however, It shall not be necessary to remove such buildings for the purpose of sale.

Tenth. Personal property of nonresidents of the state in the possession or under control of any person or corporation as trustee, receiver, executor, administrator or guardian shall be assessed for state and county purposes only and in the county where the court is situated by which said trustee, receiver, executor, administrator or guardian was appointed or to which such trustee, receiver, executor, administrator or guardian reports.

Eleventh. Whenever a receiver, trustee, executor, administrator or guardian shall have been appointed in any proceeding or matter, any personal property in the possession of any such receiver, trustee, executor, administrator or guardian shall be assessed for state and county purposes in the place where the same would have been assessed by law if such proceeding had never been instituted. (§10160 Burns R. S. 1914.)

1. *Shares of Stock.*—Shares of stock in an incorporated company are deemed situate at the domicile of the owner for the purpose of taxation. *Evansville v. Hall*, 14 Ind. 27; *Conwell v. President, etc.*, 15 Ind. 150; *Madison v. Whitney*, 21 Ind. 261. But shares of stock or certificates in an unincorporated bank are assessed in the township where the bank is located. Section 73.

2. *Debts Due Resident.*—Debts due to a resident of this state are taxable to him at the place of such residence. *Foreman v. Burns*, 68 Ind. 247; *Buck v. Miller*, 147 Ind. 586; 45 N. E. Rep. 647; 47 N. E. Rep. 8; 37 L. R. A. 384; 62 Am. St. Rep. 436.

3. *Assessed Where Owner Resides.*—Personal property in general is assessed where its owner resides, but the situs of such property, for the purpose of taxation, does not always or necessarily follow the domicile of the owner. *Eversole v. Cook*, 92 Ind. 222; *Buck v. Miller*, 147 Ind. 586; 45 N. E. Rep. 647; 47 N. E. Rep. 8; 37 L. R. A. 384; 62 Am. St. Rep. 436.

4. *Test as to Where to Assess.*—The test as to where the right to tax property exists is its place of location and use, the place where, if a security or obligation, it is a credit, not where it is a debit. *Buck v. Miller*, 147 Ind. 586; 45 N. E. Rep. 647; 47 N. E. Rep. 8; 37 L. R. A. 384; 62 Am. St. Rep. 436.

5. *Residence on March 1.*—All residents of a township on the first day of March, or at any time between that and the fifteenth day of May,

the time when the assessor is required to complete his assessment, are taxable in such township for their money and credits, owned on the first day of March, except where such persons became residents of such township after the first day of March and were assessed for such money and credits in the township from which they moved. *State v. Reynolds*, 108 Ind. 853; 9 N. E. Rep. 287.

6. *Where Assessable*.—Personal property is to be assessed for taxation at the place of the residence of the owner on the first day of March. *Schmoll v. Schenck*, 40 App. 581.

7. *Taxable Where Located*.—Property that has substantial and corporeal form must have an actual location, and is taxable at such location. *Powell v. Madison*, 21 Ind. 335; *Tousey v. Bell*, 23 Ind. 423; *Stephens v. Smith*, 30 Ind. App. 120; 65 N. E. Rep. 546.

8. *Taxing Extraterritorial Property*.—Where a person resides in a town in this state, and his personal property belongs elsewhere, such town has no authority to assess taxes upon such property, and the collection of the same will be enjoined. *Eversole v. Cook*, 92 Ind. 222.

9. *Non-Resident Owner*.—The personal property of non-residents situate in this state is taxable at the place of its location. *Standard Oil Co. v. Combs*, 96 Ind. 179; *Board v. Standard Oil Co.*, 103 Ind. 302.

10. *Funds in Receiver's Hands*.—The funds of an insolvent mutual benefit assessment society in the hands of a receiver in this state are subject to taxation in the county where they are kept on deposit by such receiver, although the funds had been collected in other states in which the society also did business, and turned over to the Indiana receiver by order of their respective courts, and were to be distributed to claimants, many of whom were non-residents. *Schmidt v. Failey*, 148 Ind. 150; 47 N. E. Rep. 326; 37 L. R. A. 442.

11. *Liens on Trust Funds*.—Taxes are not only a lien upon trust funds in court, but they are the first and paramount lien, to be paid before any other claim whatsoever, except it be the costs of court. *Schmidt v. Failey*, 148 Ind. 150; 47 N. E. Rep. 326; 37 L. R. A. 442.

12. *Claims Due Non-Residents*.—Claims due non-residents of the state, such as mortgage on property situate in this state, can not be listed for taxation. *Senour v. Ruth*, 140 Ind. 318; 39 N. E. Rep. 946. See also *Stephens v. Smith*, 30 Ind. App. 120; 65 N. E. Rep. 546.

13. *Agent*.—It is the duty of an agent to list for taxation the property of his principal in his custody, and in the event of his failure to do so, the property may properly be assessed to him. *Rieman v. Shepard*, 27 Ind. 288.

14. *Removal from County—Injunction—Double Taxation—Board of Review*.—Where a property owner removed from the county in February and listed her personal property for taxation in the county to which she removed, and paid the taxes thereon to the treasurer of that county, the treasurer of the county from which she removed was enjoined from collecting taxes on such personal property for said year assessed without the owner's knowledge, and the owner was not required to appear before the board of review to have the error corrected. *Luke v. Sheridan*, 26 Ind. App. 529; 60 N. E. Rep. 359.

15. *Assessing in Wrong Township*.—If notes and claims be listed without his consent in a township of which the owner is not an inhabitant, the assessment is void and the county auditor may be enjoined from putting it on the tax duplicate. *Stephens v. Smith*, 30 Ind. App. 120; 65 N. E. Rep. 546.

16. *Notes and Mortgages Not Chattels*.—Notes and mortgages are not goods and chattels within the meaning of the above section, and must be valued in the township where the owner is an inhabitant. *Stephens v. Smith*, 70 Ind. App. 120; 65 N. E. Rep. 546.

17. *Notes and Mortgages Given for Purchase Money at Commissioner's Sales.*—Notes and mortgages held by commissioners appointed by the circuit court, given for the purchase money of property, are taxable to the commissioners.

Notes and mortgages given for the purchase money of property sold by commissioners appointed by the court, which have been assigned, should be taxed to the holders. Ketcham, 1897, p. 112.

18. *Non-Residents.—Property of.—How Listed.*—The personal property of non-residents should be assessed to the owner or person having control thereof in the town or city where the same is located. Smith, 1892, p. 163.

19. *Tools of a Contractor.*—The tools and machinery of a contractor, as well as material owned by him and not in position, are assessable to him as personal property on the first day of April [now March] in the township where it is located. Smith, 1892, p. 45.

20. *Property in Process of Manufacture.*—The situs of personal property in process of manufacture is the jurisdiction within which it is found on the first day of April [now March]. Smith, 1894, p. 21.

21. *Township Where Taxable.*—Personal property subject to taxation in the township where the owner resides. Where he is a non-resident such property is subject to assessment in the township where it has a legal situs. Smith, 1892, p. 41.

22. *Administrators, Money in Hands Taxable.*—Money in the hands of an administrator should be assessed against him for taxation. If final report has been made and approved and the money turned in to the clerk for distribution, it should be assessed in the name of the clerk as trustee. Smith, 1892, p. 43.

23. *Guardians, Personal Property of and Where Assessed.*—The personal property in the possession of a person or corporation as guardian must be assessed at the place where such ward resides. Brookover v. Kase, 41 Ind. App. 102.

24. *Imported Goods, When Assessable.*—Where the importer has sold the imported package, or if it be broken for use or for sale by the importer, it ceases to be a part of foreign commerce, and loses its character as an import and is no longer exempt from taxation. Hord, 1886, p. 15.

25. *Definition of Domicile.*—That part of this section requiring all personal property to be assessed to the owner in the township, town or city "of which he is an inhabitant" refers to the place of the property owner's fixed domicile, regardless of where he or she spends most of his or her time. Thus, where a woman lived with her husband until his death, at Vevay, Switzerland county, and then took up a temporary abode at Peru, where she spent the greater part of her time, but continued to own a number of houses at Vevay and several farms in Switzerland county, where she had an agent who listed all of her property for taxation and paid the taxes thereon, it being her intention to continue Vevay as her residence and to be buried there, the appellate court holds that she is not an "inhabitant" of Peru within the meaning of the statute so as to make her property taxable there. Schmoll, Treasurer, v. Schenck, 40 Ind. App. 581, 591; 82 N. E. Rep. 805.

26. *Taxes Paid in Wrong Township.*—Taxes voluntarily paid in the wrong township can not be recovered by the taxpayer. Nyce v. Schmoll, 40 Ind. App. 555, 559; 82 N. E. Rep. 539.

27. *Definition of Residence.*—Residence, as used in our tax list, means a permanent abode as distinguished from a temporary sojourn. Brookover, Guardian, v. Kase, Treasurer, 41 Ind. App. 102, 105; 83 N. E. Rep. 524.

28. *Residence of Child with Parent.*—For the purposes of taxation, the residence of the parents is the residence of the child, and this same

rule applies to an insane adult who lives with the parents. *Brookover, Guardian, v. Kase, Treasurer*, 41 Ind. App. 102, 106; 83 N. E. Rep. 524.

29. *Residence of Child with Guardian.*—The power of a guardian over the person of his ward is practically the same as the parent, and he may control the residence of his ward to the same extent, regardless of whether the ward is a minor of an unsound mind. So, where the guardian of an insane ward permitted such ward to be moved with her mother from the mother's country home to a city, and remain there indefinitely, the guardian having no intention that the ward should be returned to the former home, the residence of such ward for purposes of taxation is the place of residence of her mother. *Brookover, Guardian, v. Kase, Treasurer*, 41 Ind. App. 102, 106; 83 N. E. Rep. 524.

30. *Property in Hands of Agent.*—Under the provisions of this subdivision, taxes on property in the hands of an agent is properly taxable at the place of residence of such agent. And where such property has been duly assessed at that place and the taxes paid, its owner is not subject to taxation on the same property at his residence. *Nyce v. Schmoll*, 40 Ind. App. 555, 558; 82 N. E. Rep. 539.

31. *Notes Left with Agent Having Power of Attorney.*—Notes taken by a resident agent for a non-resident, which are left with such agent for collection, and renewal, said agent having power of attorney to execute all contracts in relation to such property, including the power to release mortgages of record, are subject to taxation in this state. *Hathaway v. Edwards*, 42 Ind. App. 22, 31; 85 N. E. Rep. 28; distinguishing *Buck v. Beach*, 164 Ind. 37; 71 N. E. Rep. 963, as afterwards reversed by *Buck v. Beach*, 206 U. S. 392.

32. *Promissory Notes to a Citizen of Other State in Indiana for Collection.*—Promissory notes executed to a citizen of Vermont and secured by a mortgage on real estate in Indiana are not taxable in this state where the applications for the loans are sent to the mortgagee in Vermont, who passed upon the application and then directed his agent, an attorney in Indiana, to issue a check in the mortgagee's name on an Indiana bank for the amount loaned, but the notes and mortgages were kept by the mortgagee in Vermont, excepting for just a short time before their maturity, when they were returned to the agent in Indiana, the mortgagors paying the attorney for his services in procuring the loans. *Theobald, Treasurer, v. Clapp*, 43 Ind. App. 191, 199; 87 N. E. Rep. 100.

33. *Money Belonging to Corporation in Hands of Trustee or Receiver in This State.*—Money belonging to a corporation, in the hands of a trustee or receiver in this state, is subject to taxation for state and county purposes only, and in the county in which the court is situated by which the trustee or receiver is appointed. But such taxes must be assessed against the owner, or in the name of the trustee or trustees of such owner, and can only be collected from the property of such owner found in the possession of the trustee or receiver. *Clark, Auditor, v. Vandalia R. R. Co.*, 172 Ind. 409, 421; 86 N. E. 851.

34. *Personal Property with Agent.*—If personal property under the control of an agent is assessed to such agent at the place of his residence and the taxes paid, such property cannot afterwards be assessed to the owner thereof in another county for the same years. *Nyce v. Schmoll*, 40 Ind. App. 555.

35. *Notes and Mortgages Owned by Non-Residents, Held by Agents in This State.*—Such notes and mortgages are taxable where such agents reside and transact business for such non-resident. *Hathaway v. Edwards*, 42 Ind. App. 22.

36. *Personal Property Under Control of Trustee or Agent.*—A trust company would be taxable on the securities for which the trust deeds and mortgage were given unless such trust company would disclose the real owners so that they may be properly taxed. The only way that a

trust company may avoid being taxed for trust mortgages where such company does not own the paper is to disclose the name of the proper owner when the demand is made. Honan, 1913.

37. *Advanced Rentals in the Hands of Telephone Companies March 1.*—Telephone rentals collected in advance and in the hands of a telephone company on March 1 is liable for tax and the only possible person who could be assessed for such money is the telephone company holding it on that date. Milburn, 1915.

38. The provisions in the tenth clause should be construed as to qualify the fifth clause to the extent that the personal property of a minor under guardianship should be assessed for state and county purposes in the county where the court is situated in the case under consideration and that by virtue of the fifth clause the said property should be assessed for the more local character of taxes in the municipality where the guardian resides. Stansbury, 1917.

39. Notes, bonds and mortgages transferred by residents to the custody of trust companies in another state are taxable in this state. *City of St. Albans v. State of Vermont*, — U. S. —.

40. Money belonging to a citizen of Indiana and deposited in a bank in another state is taxable in Indiana without regard to whether it is taxable in the other state. (Stansbury, 1919.) Citing *Fidelity & Columbia Trust Co. v. Louisville*, 245 U. S. 54.

41. Imported goods as long as they remain unsold and in the original package in which they were imported are not subject to taxation by the state. Lesh, 1921.

Corporate Property—Corporate Excess, How Distributed.

11. All corporate property, including capital stock and franchises, except where some other provision is made by law, shall be assessed to the corporation as to a natural person in the name of the corporation. The place where its principal office in this state is situated shall be deemed its residence, but if there be no principal office in the state then such property shall be listed and taxed at any place in the state where the corporation transacts business: Provided, In the case of a domestic corporation which has its home office in a county different from the county or counties in which its operating plant or business, or operating plants or businesses, are located, the corporation shall make its corporate report as in this act provided to the state board of tax commissioners, which board shall determine the amount of corporate excess, if any, assessable to said corporation and distribute and certify said corporate excess to the county or counties where the operating plants are located, in the ratio of the tangible property in each county to the total tangible property in all of said counties; and such corporate reports shall show, in addition to the other things required, the assessed values of tangible property owned by such corporation in each county. The county auditor in each of such counties shall apportion such certified

assessments to the several taxing units of his county where such property is located, and in the ratio of such tangible property in each taxing unit to the total assessed value of such tangible property in the county. (§10161 Burns R. S. 1914.)

1. *Application of Assessment.*—The above section applies to the assessment only of corporate property, and that “where some other provision is ‘not’ made by law.” It would, therefore, not relate to assessments against individuals. *Harn v. Woodward*, 151 Ind. 136; 50 N. E. Rep. 83.

2. *Taxing Tangible Property of Corporation.*—If the tangible property of a corporation represents the entire capital thereof, and such property is returned for taxation, the capital stock is not taxable, unless the value of the capital stock exceeds the value of such property, in which case the stock is taxable for such excess. *Hyland v. Brazil, etc., Co.*, 128 Ind. 835; 26 N. E. Rep. 672; *Hyland v. Central, etc., Co.*, 129 Ind. 68; 28 N. E. Rep. 808; 13 L. R. A. 515.

3. *Shares as Personal Property.*—Shares of stock in a corporation are regarded as personal property for the purpose of taxation. *Seward v. Rising Sun*, 79 Ind. 351.

4. *When Bank Stock Taxed to Individual.*—When not otherwise provided by law, the capital stock of corporations is taxed to the individual owners thereof. *Whitney v. Madison*, 23 Ind. 331, in the township in which they live. *City of Evansville v. Hall*, 14 Ind. 27.

5. *Constitutional.*—The requirement of this section that the capital stock shall be taxed at the place where the principal office of the corporation is situated is not invalid where the owner of the stock lives in another county or state. *Whitney v. Ragsdale*, 33 Ind. 107.

6. *All Property of a Corporation.*—The scheme of taxation provided by our statutes contemplates the amount for taxation of all the property of a corporation. *Parkinson v. Jasper County Tel. Co.*, 31 Ind. App. 135; 67 N. E. Rep. 471.

9. *What Property Assessable.*—Under the above section all corporate property including stock and franchises, except where some other provision is made by law, is assessed to the corporation itself. Such assessment must be made against the corporation and not the stockholders. This covers all corporations except banks, building associations and railroads. Sections 11, 107 and 108 cover the general subject of assessment of corporations. It is the duty of the officers of the corporation to pay the taxes on corporate property. *Taylor*, 1900, p. 127.

10. *Stock in Corporations.*—This section imports that all the stock in corporations shall be subjected to taxation, primarily to the corporation, but, in any event, that the capital stock shall be taxed. *Hasely, Executor, v. Ensley, Treasurer*, 40 Ind. App. 598, 604; 82 N. E. Rep. 809.

Partnership Property.

12. For the purposes of assessing property and collecting taxes, a co-partnership shall be treated as an individual, and whenever the name of the owner or occupant of property is required to be entered upon the tax duplicate, if such property is owned or occupied by a co-partnership, the firm name may be used. A co-partnership shall be deemed to reside in the township, town or city where its business is principally

carried on. Each partner shall be liable for the whole tax. (§10162 Burns R. S. 1914.)

1. *Back Taxes.*—A partner is, as between himself and the state, liable for back taxes which the partnership omitted to list and return for taxation in previous years. *Parkinson v. Thompson*, 164 Ind. 609; 73 N. E. Rep. 109.

Property in Transitu.

13. Personal property in transitu shall be listed and assessed in the township, town or city where the owner resides: Provided, That if such property is intended for a particular business, it shall be listed and assessed at the place where the property of such business is required to be listed and assessed. (§10163 Burns R. S. 1914.)

1. *Property Awaiting Shipment.*—Personal property of a non-resident in this state, and awaiting shipment outside of the state, is not subject to taxation. *Standard Oil Co. v. Bachelor*, 89 Ind. 1; *Herron v. Keeran*, 59 Ind. 472; 26 Am. Rep. 87.

2. *When in Transitu.*—Property collected from different points and awaiting facilities for further transportation is deemed in transitu. *Board v. Standard Oil Co.*, 103 Ind. 302; *Standard Oil Co. v. Combs*, 96 Ind. 179.

3. *When Not in Transitu.*—Where property of a non-resident is left in this state by direction of the owner for any purpose for an indefinite time before shipment, such property is not deemed in transitu and is liable to taxation where located. *Standard Oil Co. v. Combs*, 96 Ind. 179; *Board v. Standard Oil Co.*, 103 Ind. 302.

4. *Merchandise in Warehouses.*—Merchandise in warehouses in this state is subject to taxation whether so placed there by corporations of this state or by foreign corporations. *Milburn*, 1915.

Water Craft.

14. All persons, companies and corporations in this state owning or controlling steamboats, sailing vessels, wharfboats, barges and other water craft, shall be required to list the same for assessment and taxation in the county, township, town or city in which the same may belong, or be enrolled, licensed or registered. (§10164 Burns R. S. 1914.)

1. *Dredge Boat.*—A dredge boat is not a water craft within the meaning of the above section. If the owner of a dredge resides in Indiana the same should be taxed to him in this state. *Honan*, 1913.

2. *Former Statute.*—Since the following decisions were rendered the statute has been changed, as above set out, so that these cases can not be regarded as authorities. *Eversole v. Cook*, 92 Ind. 22; *Cook v. Port Fulton*, 106 Ind. 170; 6 N. E. Rep. 321.

3. *Tonnage Tax.*—Post §§126, 128.

Bankers—Brokers—Stock Jobbers, Etc.

15. The personal property of banks or bankers, corporate or unincorporated, brokers, stock jobbers, insurance compa-

nies, hotels, livery stables, eating houses, ferries and mining companies, and all companies except companies specially provided for in this act, shall be listed and assessed in the township, town or city where such personal property is situated, except as otherwise hereinafter provided. (§10165 Burns R. S. 1914.)

See also Sections 76-78.

Gas, Water and Hydraulic Companies.

16. The personal property of gas and coke companies, natural gas companies, electric light companies, water works companies, and hydraulic companies shall be listed and assessed in the township, town or city where the principal works are located, except as hereinafter provided; the mains, pipes and wires of such companies laid in or along roads, streets or alleys shall be listed as personal property in the township, city or town where the same are laid or placed. (§10166 Burns R. S. 1914.)

Road and Bridge Companies.

17. The personal property of every kind of street railroad, plank road, gravel road, turnpike or bridge, suburban or interurban railroad, association, company or corporation, whether its lines or railroads be maintained either at the surface or above or below the surface of the earth, and by whatever power its vehicles are transported; and every person or persons, association or corporation operating such street railroad, plank road, gravel road, turnpike or bridge, suburban or interurban road, shall make returns for taxation upon all such property in the same manner that returns are made upon other railroad property and upon similar blanks, and shall be listed and assessed in the township, city or town where the principal place of business is located, and taxes shall be levied, assessed and collected upon such street railroad, plank road, gravel road, turnpike or bridge, suburban or interurban railroad property, in the same manner as taxes are now or hereafter may be levied, assessed and collected upon other railroad property. The track, road or bridge of such company shall be held to be personal property and shall be listed and assessed in the township, town or city where the same is located or laid. (§10167 Burns R. S. 1914.)

(This section was rewritten to include Acts 1901, p. 121.)

Principal and Agent.

18. Persons required to list property on behalf of others shall list it separately from their own, specifying in such case the name of the person, estate, company or corporation to whom it belongs. (§10168 Burns R. S. 1914.)

Persons Removing—Doubts.

19. The personal property of persons removing from one county, township, town or city to another, between the first day of March and the fifteenth day of May, in any year, shall be listed and assessed in either place in which the owner is first called upon by the assessor. The owner of personal property moving into this state from another state, between the first day of March and the fifteenth day of May in any year, shall be listed for his poll and the property owned by him on the first day of March of such year, in the county, township, town or city into which he has so removed: Provided, That if such person has been assessed and shall make it appear to the assessor by the certificate of the proper authority in the place of his former residence, that he is held for tax for the current year in such former place of residence, he shall not again be assessed for such year. In case of doubt as to the proper place to assess personal property, if the doubt arises as to different townships in the county the county assessor shall determine the place; and if the doubt arises as to different counties, the state board of tax commissioners shall determine; such determination shall be summary and final. (§10169 Burns R. S. 1914.)

1. *Moving Into City After March 1.*—If a person is assessed outside of a city on March 1, and moves into the city with the property assessed before May 15, he will be liable to an assessment for city taxes. *Hilgenberg v. Wilson*, 55 Ind. 210.

2. *Moving from One Township to Another.*—A person moving from one township to another between March 1 and May 15, is assessed in the township where he is first called upon by the assessor. *State v. Reynolds*, 108 Ind. 353; 9 N. E. Rep. 287.

Realty, When and to Whom Assessed.

20. Real property shall be assessed in the place where situated, and to the owner, if known; if not, then to the occupant, if any; and if there be no occupant, then as unknown. Property in the control of an executor, administrator, guardian or trustee shall be assessed to such executor, administrator, guardian or trustee. (§10170 Burns R. S. 1914.)

1. *Omitted Personal Property.*—Omitted personal property may be described as "omitted personal property" as in this manner, namely, "omitted personal property for the year 1889, \$20,000." *Brunson v. Starbuck*, 32 Ind. App. 457; 70 N. E. Rep. 163.

2. *To Whom Assessed.*—The statute requires that real property shall be assessed to the owner, if known; if not, then to the occupant, if any; and if there is no occupant, then as unknown. *Balwin v. Maroney*, Treasurer, 173 Ind. 574, 580; 91 N. E. 3.

Proceeds of Sale of Exempt Realty.

21. When real estate is exempt from taxation in the hands of the holder of the fee and the same is contracted to be sold, the amount paid thereon by the purchaser, with the value of the improvements thereon until the fee is conveyed, shall be held to be personal property, and be listed and assessed as such in the place where the land is situated. (§10171 Burns R. S. 1914.)

Nursery and Florists' Stock.

22. The stock of nurseries, growing or otherwise, in the lands of nurserymen and the stock of florists in greenhouses or elsewhere shall be listed and assessed as merchandise. (§10172 Burns R. S. 1914.)

Deeds Held as Security.

23. When the deed for real estate is held for the payment of a sum of money, such sum so secured shall be held to be personal property, and shall be listed and assessed as credits. (§10173 Burns R. S. 1914.)

Franchise.

24. Every franchise granted by any law of this State, owned or used by any person or corporation, and every franchise or privilege used or enjoyed by any person or corporation shall be listed and assessed as personal property. (§10174 Burns R. S. 1914.)

1. *Franchises Are Assessable.*—The franchises of railroads, street railway companies and other companies are subject to taxation. *Smith*, 1892, p. 45.

2. *Franchise Subject to Taxation.*—The franchise of a corporation doing business in this state, whether organized under the laws of Indiana or of another state, is subject to taxation, and should be appraised at its real cash value. *Smith*, 1892, p. 84.

3. *Franchises Assessable at True Cash Value.*—Every franchise or privilege of a corporation is to be assessed by the board of review at its true cash value. Where the full value of any franchise is represented by the capital stock listed for taxation, then the franchise itself shall not be taxed; but, where the franchise is of greater value than the

capital stock, then the franchise shall be assessed at its full cash value, and the capital stock in such case shall not be assessed. Thus, while the capital stock of a corporation and the value of every franchise must each be included in the statement to be furnished the assessor, and every franchise must be assessed, a franchise so reported is not to be taxed separately if its value be represented by the capital stock listed; but if the value of the franchise be not represented by the capital stock listed, and be not greater than the capital stock, it is to be assessed separately from the capital stock.

In the case of telephone companies it seems to be contemplated by the statute that the franchises of such a company are to be regarded as represented by the capital stock and can not be assessed by local officials, although this applies only to those telephone companies assessable by the state board of tax commissioners, and not to individual owners. *Parkinson v. Jasper County Telephone Co.*, 31 Ind. App. 135-140.

Interest on Exempt Security.

25. Where bonds or stocks are now or may hereafter be exempted from taxation, the accrued interest on such bonds or dividends on such stocks shall be listed and assessed, unless otherwise exempted, without regard to the time when the same is to be paid. (§10175 Burns R. S. 1914.)

Real Estate Mortgaged.

26. In cases of mortgaged real estate the mortgagor shall, for the purpose of taxation, be deemed the owner until the mortgagee shall have taken possession of the mortgaged premises, after which the mortgagee shall be deemed the owner. (§10176 Burns R. S. 1914.)

1. *Mortgagor Liable.*—By the above section of the tax law, it is expressly provided that in cases of mortgaged real estate, the mortgagor, for the purpose of taxation, shall be deemed to be the owner until the mortgagee shall have taken possession of the mortgaged premises. It is true that, when the lien for taxes once attaches to land, it will be subject thereto in the hands of whomsoever the title may thereafter pass. The liability for taxes on property, under the laws of this state, terminate only with payment. *Miller v. Vollmer*, 153 Ind. 26; 53 N. E. Rep. 949; *Baldwin v. Maroney*, 173 Ind. 574; 91 N. E. 3.

2. *Heirs Not Liable.*—A crop of corn planted by the heirs after the death of the mortgagor, who died after foreclosure and sale, and which crop matured before the year of redemption, is not liable for the payment of taxes charged against the mortgagor. *Gregory v. Wilson*, 52 Ind. 238.

3. *Deduction of Mortgage Indebtedness.*—See Post, §§57-59.

Merchants, Consignees.

27. Every person who shall own or have in possession, or subject to his control, any personal property within this state, with authority to sell the same, which shall have been purchased either in or out of this state, with a view of being sold at an advanced price or profit, or which shall have been

consigned to him from any place out of this state for the purpose of being sold, at any place within this state, shall be held to be a merchant; and at any time when he shall be, in pursuance of this act, required to make out and deliver to the assessor a statement of his other personal property, he shall, in like manner, make a statement of and list as merchandise all property held or owned by him appertaining to his business as a merchant, and, in addition thereto, attest, on oath or affirmation, the true cash value of all such property appertaining to his business as a merchant, including, with amount on hand, in actual possession, all amounts purchased, with a view to possession or profit. (§10177 Burns R. S. 1914.)

1. *Merchandise Purchased for Shipment.*—Merchandise purchased in this state with a view to be shipped to another state for sale is taxable in this state. *Rieman v. Shepard*, 27 Ind. 288.

2. *Property Awaiting Shipment.*—Property temporarily awaiting shipment to the residence of the owner outside of this state is not subject to taxation here. *Standard Oil Co. v. Bachelor*, 89 Ind. 1; *Herron v. Keeran*, 59 Ind. 472; 26 Am. Rep. 87.

3. *Property Awaiting Shipment for Indefinite Time.*—But where property is collected even though it may be at the point of final shipment, to await indefinitely the owner's pleasure or the rise of markets, or to undergo a partial process of manufacture, or for any other cause having no relation to the preparation for, or facilities or exigencies of, transportation, it will be held to have acquired a situs, making it subject to taxation here. *Standard Oil Co. v. Combs*, 96 Ind. 179; *Board, etc., v. Standard Oil Co.*, 103 Ind. 302.

4. *Imported Goods.*—Imported goods as long as they remain unsold and in the original package in which they were imported are not subject to taxation by the state. *Lesh*, 1921.

Manufacturers.

28. Every person who shall purchase, receive or hold personal property of any description for the purpose of adding to the value thereof, by any process of manufacture, refining, rectifying, or by the combination of different materials, with a view of making a gain or profit by so doing, shall be held to be a manufacturer, and he shall at all times, when by virtue of this act he is required to, make and deliver to the assessor a statement of the amount or value of his other personal property subject to taxation; also, in like manner, state the value estimated, as provided in the preceding section, of all articles purchased, received or otherwise held for the purpose of being used, in whole or in part, in any process or operation of manufacturing, combining, rectifying or refining, including the value of all manufactured articles on hand in actual possession

or elsewhere held for sale, and in addition thereto attest on oath the true cash value of all such property appertaining to his business as a manufacturer, including manufactured articles. (§10178 Burns R. S. 1914.)

See Sec. 30.

Transient Merchants.

29. Whenever at any time during any year, any transient person shall temporarily locate in any township, city, town or village for the purpose of selling or disposing of goods, wares, and merchandise, and shall offer to sell or otherwise dispose at wholesale or retail of any goods, wares, or merchandise, it shall be the duty of the proper assessor for the time being, of the place where such person shall locate, forthwith to call upon such person and demand of him the true value in money of all his stock in trade, and in case such person shall neglect or refuse to return such value under oath within twenty-four hours after such demand, then it shall be the duty of such assessor to determine the same as in other cases, and in either case he shall forthwith return such valuation to the auditor of the county, who shall cause the same to be entered at once on the current tax duplicate in the hands of the treasurer, and to compute taxes thereon at the rate of assessment for state, county, township and municipal purposes at which current taxes on such duplicates are assessed, in the same manner as omitted property on the first day of March last preceding is entered upon the duplicates and assessed, but without penalties for delinquencies; and shall cause such taxes to be collected immediately: Provided, however, That in case such transient person show by proper treasurer's receipts for taxes that all taxes for the current year have been paid on such stock of goods by him in any other county in Indiana; in such event no assessment shall be made against such stock of goods, wares or merchandise, for that year. (§10179 Burns R. S. 1914.)

1. *Property Acquired After May 15.*—A bona fide resident of this state who has made a duly verified schedule of all the property owned by him on March 1 of any year, can not be again assessed under the above section for property acquired after May 15 of such year simply because he has temporarily located in a county other than the county of his bona fide residence to dispose of the property so acquired. *Woodward v. Jacobs*, 27 Ind. App. 188; 60 N. E. Rep. 1015.

2. *Constitutional.*—In its application to the inhabitants of this state, the validity of the above section has been doubted. *Woodward v. Jacobs*, 27 Ind. App. 188; 60 N. E. Rep. 1015.

8. *Taxed in Only One County.*—If a transient merchant has paid the taxes upon his goods in one county, he can not be compelled to pay taxes again on the same stock, but where his stock is replenished, taxes are collectible on such new stock. *Simoyan v. Rohan*, 36 Ind. App. 495; 76 N. E. Rep. 176.

Engines and Machinery.

30. Every person owning a manufacturing establishment of any kind, and every manufacturer, shall list as a part of his personal property, the value of all engines and machinery of every description used or designed to be used in any process of refining or manufacturing, except such fixtures as shall have been considered as a part of any tract, or real property, including all the tools and implements of every kind used for the purpose aforesaid. (§10180 Burns R. S. 1914.)

See Sec. 28.

Pawnbrokers.

31. Every person or company engaged in the business of receiving property in pledge or as security for money or other thing advanced to pawnor or pledger, shall be held to be a pawnbroker, and shall, at the time required by this act, return under oath the value of all property pledged and held by him as a pawnbroker on hand on the first day of March annually, and taxes shall be charged upon the true cash value of such property to such pawnbroker, the same as other property. (§10181 Burns R. S. 1914.)

Books and Papers, Official Inspection, How Permitted.

32. If in listing and assessing property for taxation, any township assessor or county assessor may have good reason to believe that any person, firm or corporation within his jurisdiction has omitted to return for taxation any taxable property that should have been returned by such person, firm or corporation, then such township assessor or county assessor, as the case may be, may file his affidavit in the circuit court of the county wherein such tax return should have been made, or with judge thereof in vacation, setting forth his belief that certain property, to be named in the affidavit, has been unlawfully omitted from a certain specified tax return of a designated person, firm or corporation, within his jurisdiction, and that some other person, firm or corporation, to be named in the affidavit, has in his or its possession certain specified books

or papers containing evidence tending to show such unlawful omission of taxable property. Upon the filing of such an affidavit a writ shall forthwith issue and be served by the sheriff of said county, requiring the person, firm or corporation having possession of such books or papers to permit the inspection, by the affiant, of such books, or papers, or so much thereof as may be specifically named in such writ, and being only such books or papers, or so much thereof, as may contain evidence tending to show the unlawful omission of taxable property complained of in said affidavit. And the court or the judge in vacation issuing such writ shall, for the purpose of enforcing obedience thereto, possess and exercise all the powers usually possessed and exercised by it or him in contempt proceedings. Like writ may be issued and enforced upon like affidavits, made either by a county auditor, by the auditor of state, by any member of a county board of review or by any member or authorized representative of the state board of tax commissioners. All costs incurred on account of the filing of any affidavit, the issue of a writ thereon, and the service of such writ, shall be a charge against the county in which such proceedings are had and shall be allowed by the board of commissioners thereof: Provided, however, If as a result of such proceedings, it is found that such designated person, firm or corporation has unlawfully failed to return property for taxation, then the county shall recover the costs from such person, firm or corporation. Every township assessor, county assessor, county auditor, auditor of state, board of review and board of tax commissioners shall have power to administer all necessary oaths or affirmation in the discharge of their duties. It shall be the duty of all assessors, and all other officers charged with the duty of listing property for taxation, or charged with the duty of collecting taxes, to give in writing all information they may acquire in reference to the concealment of property from taxation by any person, firm or corporation before mentioned, to the county auditor, auditor of state, or to the county boards of review or state board of tax commissioners, or its representative or representatives. (§10182 Burns R. S. 1914.)

No inspection of the books or papers of any person, firm or corporation by any tax officer shall be permitted or required

except as specified in this section, or as hereinafter provided. (§10183 Burns R. S. 1914.)

See Appendix for form of writ requiring production of books and papers.

1. *Constitutional*.—This statute is not in conflict with the constitutional provision guaranteeing to the people the right to be secure in their persons, houses, papers and effects against unreasonable search. *Washington National Bank v. Daily, County Assessor*, 166 Ind. 631, 641; 77 N. E. Rep. 53.

This statute is not in conflict with the constitutional provision against the taking of private property for public use, or demanding any man's particular services without just compensation (section 66), although the examination provided for herein would take some of the time of the officers of the bank or other corporation ordered to submit its books and papers to the assessor, and would delay the bank somewhat in the transaction of its business. *Washington National Bank v. Daily, County Assessor*, 166 Ind. 631, 641; 77 N. E. Rep. 53.

2. *No Notice Necessary*.—None of the rules pertaining to an action to place omitted property upon the tax duplicate with respect to notice and particularly of description are applicable to an application to be allowed to examine the books of the bank or other institution for evidence of indebtedness of a taxpayer. The statute does not contemplate any notice to the person or corporation supposed to have such evidence in possession. *Washington National Bank v. Daily, County Assessor*, 166 Ind. 631, 637; 77 N. E. Rep. 53.

3. *Affidavit to be Liberally Construed*.—Statutes relating to taxation must be liberally construed in support of the taxing power, and an affidavit under this section is also to be construed liberally. An affidavit by a county assessor showing that he is informed and believes that a certain bank has in its possession certain books and papers containing evidence of omitted taxable property, and praying for an order of inspection of such evidence, is sufficient without stating affiant's grounds for believing that the bank books would disclose omitted property, and without giving the character, dates and amounts of the property and credits disclosed by such books and papers. *Washington National Bank v. Daily, County Assessor*, 166 Ind. 631, 636, 638; 77 N. E. Rep. 53.

4. *Inspection Books National Bank*.—A national bank may be compelled to disclose the names of its depositors, and the amounts of its deposits, under the compulsory process of a state court, in order to ascertain whether any money deposited therein subject to taxation within the county has not been duly returned by the owners. *Washington National Bank v. Daily, County Assessor*, 166 Ind. 631, 643; 77 N. E. Rep. 53.

5. *Duty of Banks*.—Anyone who avoids payment of his ratable share of taxes violates the law, and when such evasion is being attempted it is the public duty of banks, as well as of all other persons or corporations having knowledge or evidence of such attempt, when called upon by proper authorities, to disclose it, whether written or parol. There is no more moral excuse or legal justification for concealing the delinquency of a "tax dodger" than of any other class of law breakers. *Washington National Bank v. Daily, County Assessor*, 166 Ind. 631, 641; 77 N. E. Rep. 53.

Leasehold Estate.

33. When real estate which is exempt from taxation, is leased to another whose property is not exempt, and the leasing of which does not make the real estate taxable, the lease-

hold estate and the appurtenances shall be listed as the property of the lessee thereof or his assignee, as real estate. (§10184 Burns R. S. 1914.)

1. *Separate Assessment of Lands and Timber Standing Thereon.*—Where parties have purchased timber before the first day of March and the timber is still standing on the land, the assessor ought to assess the owner of the land with the full value of his land, trees and all, less the value of the trees, and assess the value of the trees to the owner thereof. In assessing trees, however, he should be careful to furnish such description as will identify the trees by giving that description of them that is given in the instrument under which they are bought, as to the character of the trees, and by giving such description of the real estate on which they stand as would identify the real estate on the tax duplicate for the purpose of taxation. Honan, 1912.

Public Lands.

34. Government lands, canal lands, university and school lands, purchased prior to the first day of March, shall be taxable for that year and annually thereafter. All school lands heretofore or hereafter sold shall be taxable from and after the sale and delivery of the certificate. (§10185 Burns R. S. 1914.)

1. *Under Prior Laws.*—Prior to the act of December, 1872, purchasers of school lands were not liable for taxes thereon until after they obtained conveyances. *Willey v. Koons*, 49 Ind. 272; *Henderson v. State*, 53 Ind. 60.

2. *Deed Not Necessary.*—In order to tax the lands the execution of a deed by the proper officers conveying the land to the purchaser is not necessary. See *Board v. Ruckman*, 57 Ind. 96.

3. *Contract to Convey.*—Real estate for which the state has issued a contract to convey is subject to taxation. *Michener*, 1888, p. 12.

4. *School Lands.*—"In all cases where school lands have been sold and a certificate has been issued to the purchaser or entered or recorded in the proper office or otherwise and the purchaser has entered into possession and paid a part or the whole of the purchase money, or could have entered into occupancy, such lands shall be deemed and held as having been sold so as to make them liable to taxation, within the meaning of the law, as fully and completely as they would have been had a deed been made and delivered, and the fee had passed to the purchaser; and all appraisements of land so sold, and all assessments of the same for taxes, and all levies and collections of taxes thereon heretofore made, shall be, and are hereby legalized and declared to be lawful and valid, and shall in no wise be subject to question by reason of such sale not having been consummated by execution and delivery of deed. But whenever any treasurer fails to collect any delinquent taxes for any year, and the same is carried over to the next year's duplicate, together with all penalties and interest, such treasurer shall not be entitled to any fee for collecting the delinquent part of said duplicate, more than he is entitled to by law for collecting the duplicate of the current year." Acts 1891, p. 199; sec. 246.

Wabash and Erie Canal.

35. All mills, manufactories, warehouses and other structures, with appurtenances and fixtures erected or placed upon

any lands leased by the board of trustees of the Wabash and Erie Canal, shall be assessed to the lessees of such lands or their assigns, in possession of and occupying the same; but the lands or lots on which such mills, manufactories, warehouses or other structures are situate, shall be assessed to the owners thereof, and all locks, lands, dams, feeders, mill sites and water power and canal bed, with land appurtenant thereto, shall be assessed to the owners of said Wabash and Erie Canal, and for the purpose of valuation, the entire property in any township, shall be considered as an entirety, and shall be described in the assessment and in the tax duplicate as "The Wabash and Erie Canal." All the above described property shall be taxable from and after the sale of said property under the decree of the United States Court, in the case of Thomas K. Gapen v. Thomas Dowling et al. Nothing herein contained shall, in any way, prevent or interfere with the assessment of so much of said property as may lie in any city or town, by the city or town authorities, for taxation for municipal purposes. (§10186 Burns R. S. 1914.)

Undivided Realty.

36. The undivided real estate of any deceased person, not in control of an executor or administrator, may be listed to the heirs or devisees of such person, without designating any of the heirs or devisees by name, until they shall have given notice to the auditor of the county or counties in which such real estate is situated, of the division of the same and the names of the several heirs or devisees, and the proportions allotted to each, and each heir or devisee shall be liable for the whole of such tax and shall have a right to recover of the other heirs or devisees their respective proportions thereof, when paid by him, and interest thereon, and the lien for the proportion of taxes paid on the different shares of the land shall vest in the person who pays the taxes. (§10187 Burns R. S. 1914.)

1. *Failure to Have Transfer Made.*—When tenants in common have not had the proper transfers made, their lands may be assessed and taxed without designating their separate interests, and purchasers at tax sales may enforce liens jointly against the owners. *Jenkins v. Rice*, 84 Ind. 342.

2. *Payment by One Heir.*—One to whom land has descended jointly with other heirs, may pay taxes upon the entire tract and enforce contributions from the other tenants in common. *Eads v. Retherford*, 114 Ind. 273; 16 N. E. Rep. 587.

Partition Transfer.

37. Whenever a division or partition has been made, or other changes take place in the ownership of any tract or lot of land, or any part thereof, by conveyance, sale, devise, or descent, the county auditor on being satisfied thereof, shall transfer the same on the last appraisal list, and apportion the same, and the valuation thereof, with all delinquent taxes, to the several owners. (§10188 Burns R. S. 1914.)

1. *Legal Title.*—There must be a transfer of the legal title to lands before there is a transfer for taxation. *Mullikin v. Reeves*, 71 Ind. 281.

2. *Tax Duplicate as Evidence.*—Where it is in controversy whether a parol partition had been made, the tax duplicate showing that the lands were taxed to the respective persons to whom they were supposed to have been allotted, is admissible in evidence as tending to show the partition. *McSweeney v. McMillen*, 96 Ind. 298.

3. *Transfer of Mineral Rights.*—On the transfer of the mineral rights in a tract of land from the owner to another, it is the duty of the county auditor to diminish the valuations of such land by the amount of the valuation which he fixes on the part transferred. *Riggs v. Board*, 181 Ind. 172.

When Clerk of Circuit Court to Make Transcript for Taxation, Transfers.

38. In all actions for partition of real estate in any court in this state, and in all other cases where the transfers to the parties entitled thereto are made by judgment only, and not by deed, the clerk shall make out a transcript of such judgment, showing the transfer aforesaid, under his hand and the seal of the court ordering the same, stating therein the volume and page of the order book in which such judgment is entered, and deliver the same to the auditor of the county, wherein such real estate is situated, who shall forthwith make the entries upon his transfer book, and note such transfer, as in other cases, upon the back of such transcript, and shall thereupon deliver the same to the recorder of such county, who shall record the same in the record of deeds in his office. And the said clerk, auditor and recorder shall each receive for such services, from the person entitled to such real estate, such fees as they are now, by law, entitled to receive for similar services, which shall be taxed by the court rendering such judgment as part of the costs in such proceedings as may result in the same: Provided, however, That there shall be no more than one transcript of any such judgment made out and recorded as aforesaid in any case whatever. (§9423 Burns R. S. 1914.)

1. *Note*.—Prior to 1859, duty of assessor. *Noble v. Indianapolis*, 16 Ind. 506.
2. *Failure of Clerk*.—Failure of a clerk to comply with this section does not affect the purchaser of the land, without notice of the adjudication from a party to the suit. 161 Ind. 383.

Owner or Occupant.

39. Lands occupied by any person, not the owner thereof, shall be listed in the name of the owner, if known, otherwise as the lands of unknown owners; and, for taxes, if paid by the occupant, he shall have his action against the owner, and a lien upon such lands until the same, with interest, is repaid to him. (§10189 Burns R. S. 1914.)

1. *General Rule*.—As a general rule, the statute looks to the legal owner as the party by whom the lands in the state are to be listed, and to whom they are to be charged for taxation. *Willey v. Koons*, 49 Ind. 272; *Overstreet v. Dobson*, 28 Ind. 256; *Foresman v. Chase*, 68 Ind. 500.

Rules When Township Line Divides.

40. When the lines between two townships divide a tract of land surveyed differently from the congressional surveys, if listed to the owner thereof, he being a resident of either township in which a part of such tract of land may lie, or if listed to the occupant under the preceding section of this act, the same shall be listed in the township in which such owner or occupant resides; and in all other cases the same shall be listed in the township in which the greater part thereof lies. (§10190 Burns R. S. 1914.)

Description of Realty.

41. Whenever the real estate to be listed and assessed can not be described by a congressional subdivision, or by the number of lot or plat, the same shall be sufficiently described for the purpose of listing, assessing, collecting the tax thereon, and conveying the title thereto, when the same is sold for non-payment of taxes, by reference to any sufficient and intelligible description of such land, or lot, in the deed, mortgage, will, or other public record of the county, substantially in the following manner, the number of acres, book and page, and place being changed to suit each particular case:

"Fifty acres in survey, No. 158, of Clark's grant, as described in deed book 64, page 219, of the recorder's office of Clark county," and when no sufficient and intelligible description of such real estate can be obtained for such reference by

the assessor or other officer listing such land, from the owner or public records of the county, such officer shall cause the county surveyor to survey and plat such land and furnish him with such description; and a reference to such description in such survey, substantially in the following manner, shall be sufficient description of such land for the purposes above mentioned:

"Fifty acres in survey No. 100, of Clark's grant, as designated on the plat thereof made by the county surveyor, on the day of , 19. . . ."

The cost of such survey shall be entered by the auditor on the tax duplicate, and collected as a part of the tax on said land. It shall be sufficient to describe the real property assessed in the manner heretofore in use by initials, letter, abbreviations and figures. (§10191 Burns R. S. 1914.)

1. *Deficient Description.—Title.*—When a description of lands is so deficient that it can not be identified, a purchaser at a tax sale will not obtain title to the lands sold. *Sharpe v. Dillman*, 77 Ind. 280.

2. *Deficient Description.—Lien.*—A description of land may be too indefinite to convey title, yet sufficient to give a purchaser at tax sale a lien thereon. *Cooper v. Jackson*, 71 Ind. 244; *Sloan v. Sewell*, 81 Ind. 180; *Reed v. Earhart*, 88 Ind. 159; *Peckham v. Millikan*, 99 Ind. 352; *Millikan v. Lafayette*, 118 Ind. 323; 20 N. E. Rep. 847; *Brown v. Reeves*, 31 Ind. App. 517; 68 N. E. Rep. 640.

3. *Sufficient Description.*—If the description of the land on which taxes have been paid is such that it can be identified as the property owned by the person, and liable to taxation at the time of the assessment, it is sufficient, and the taxes can not be recovered back on the ground that the purchase at the tax sale obtained no title. *McWhinney v. Logansport*, 132 Ind. 9; 31 N. E. Rep. 449.

4. *Abbreviations.*—Well known abbreviations may be used in describing the real estate assessed. *Hannah v. Collins*, 94 Ind. 201.

5. *Evidence to Explain Abbreviations.*—Parol evidence may be admissible to explain abbreviations. *Barton v. Anderson*, 104 Ind. 578.

Lots and Subdivisions.

42. Whenever any tract of land has been platted into lots or subdivisions the description of any such lot or subdivision by reference to its number on said plat, and the number or designation of the plat, shall be a good, valid and sufficient description thereof, for the purpose of listing, assessing, collecting the tax thereon, and conveying the title thereto, when sold for the nonpayment of taxes. (§10192 Burns R. S. 1914.)

Description of Personalty.

43. In entering personal property upon the proper tax books for the purpose of taxation, it shall be a sufficient de-

scription of the same to use the words "personal property," and such phrase shall comprehend and embrace all species of personal property belonging to the party charged therewith, on the tax books, and no more specific description or designation thereof shall be necessary. (§10193 Burns R. S. 1914.)

1. *Omitted Property.*—In entering omitted property on the assessment list or tax duplicate, it is sufficient to describe it as "omitted personal property for the year 1898, \$20,000." *Brunson v. Starbuck*, 32 Ind. App. 467; 70 N. E. Rep. 163.

Affidavit of Taxless Person.

44. Any person who, being called upon to list property, either on his own account or for others, subject to taxation, claims to have none, shall be required by the assessor or other proper officer to make oath in writing to the truth of his claim in that behalf and proper blank forms for such affidavit shall be provided, and such person shall be subject to the pains and penalties of perjury for a false oath. (§10194 Burns R. S. 1914.)

See appendix for form of affidavit of taxless person.

"Person" Defined.

45. The word "person," as used in this act shall be held to include and mean "firm," "company," "association," or "corporation." (§10195 Burns R. S. 1914.)

Dogs, Taxes on, Payment.

46. The township assessor shall be required after assessing the property of each property holder of his township to make diligent inquiry as to the number of dogs owned, harbored or kept by the person so assessed. And such person assessed shall pay immediately to the township assessor the sum of three dollars for each male dog or spayed female dog, and the sum of five dollars for each additional male dog or spayed female dog, and the sum of five dollars for each female dog (unspayed) so owned, harbored or kept on the same premises, whether owned by such property holder so assessed or by some other person: Provided, That no dog under three months of age shall be subject to any tax under this section. (§3258 Burns 1914.)

1. *Constitutional.*—This statute is constitutional. *Mitchell v. Williams*, 27 Ind. 62; *Haller v. Sheridan*, 27 Ind. 494; *State v. Cornwall*, 27 Ind. 120; *State v. Doe*, 79 Ind. 9, 12; 41 Am. Rep. 599.

2. *Dogs Owned by State.*—Dogs owned by the state and used by it in connection with any of the public, penal, charitable or other institutions maintained by the state are exempt from taxation. Ketcham, 1897, p. 184.

3. *Legislative Power.*—On the question of taxation of dogs, the legislature has almost unlimited power, and all such laws have been held constitutional. Such statutes are not enacted for the purpose of providing a revenue for the public use, but are an exercise of the police power of the state, the purpose being to discourage the owning, harboring or keeping of dogs. The tax is not ad valorem, but per capita, for the reason that the law does not, as a general rule, recognize dogs as property. *State v. Sharp*, 169 Ind. 128, 133; 81 N. E. Rep. 1150.

4. *Dogs Must Be Reported.*—Persons owning or harboring dogs on March 1, or between that date and the time they are assessed for taxation, must report such dogs to the assessor and pay him the taxes thereon for the current year. *State v. Sharp*, 169 Ind. 128.

Receipt by Assessor—Payment to Trustee.

47. The township assessor shall give to each person a receipt for such money paid him, which shall be designated for dog tax, which receipt shall show the person's name who owns, harbors or keeps the dog, the amount paid, and the number, description and kind of dogs paid for, and whether male or female, and the number of each, which receipt shall relieve the person or persons owning, keeping or harboring such dogs for the current year, extending one year from its date or until the next regular township assessment. Such township assessor shall keep a record of the person or persons owning dogs subject to taxation and a record of the dogs paid for. And he shall keep a stub record or copy of the receipts given by him for money paid him as dog tax, such stub record shall show the amount paid him, the number of dogs, both male and female, paid for, and the person's name, owning the dogs so paid for. And he shall within five days after the completion of the assessment of his township, each year turn over to the township trustee of his township all the records kept by him, relating to the collecting and payment of dog tax, and a copy of all receipts given by him to persons having paid him money as dog tax, and all money received by him as dog tax. (§3259 Burns R. S. 1914.)

1. *Receipt Personal to Owner.*—A receipt for taxes paid upon a dog is personal to the owner at that time and can not be transferred to another so as to exempt any other person who may subsequently, during the same tax year, own, keep or harbor the particular dog or dogs therein described. Any person other than the one to whom the receipt is given who, at any time thereafter, before the close of such current year, becomes the owner, harborer or keeper of the particular dog described in the receipt must, in order to relieve himself from liability and prosecution under the statute, report the dog to the township assessor,

or the township trustee, as the case may be, and pay the taxes exacted by the law and secure the proper receipt. *State v. Sharp*, 169 Ind. 128, 134; 81 N. E. Rep. 1150.

2. *Receipt to Owner*.—It is necessary for a person who owns, harbors or keeps a dog over the age of three months not only to pay the tax, as required by the statute, but to receive a receipt therefor to protect himself from liability to prosecution. *State v. Sharp*, 169 Ind. 128, 134; 81 N. E. Rep. 1150.

Report by Assessor.

48. He shall report the amount collected by him as dog tax, and turned over to the township trustee of his township, to the county auditor of his county, within three days after making his report to the township trustee of his township. The county auditor shall make a record of the same, and charge the amount against the township trustee of the proper township, as receipts from the dog fund. (§3260 Burns R. S. 1914.)

Record of Dogs Not Paid for—Collecting Tax.

49. It shall be the duty of the township assessor to keep a record of all dogs that shall not be paid for, by whom owned, harbored or kept, and the number of such dogs and the kind, whether male or female, and he shall report the same to the township trustee of his township at the time of making his other report, as above provided, whose duty it shall be to report the same before the second day of June in each year to the prosecuting attorney of his county, or district, or his deputy, who shall bring an action before any justice of the peace of his county or in the circuit court of his county, against such persons, and upon conviction thereof, he shall receive the sum of five dollars for each case so prosecuted and such fee shall be charged as part of the judgment and cost against such person so prosecuted: Provided, That if any person shall acquire, own, harbor or keep any dog after the assessor shall have completed his assessment, he shall report such dog to and pay to the township trustee of his township the amount of dog tax as above provided and receive his receipt for the same, which receipt shall exempt him from further payment of dog tax on dogs described in said receipt until the time of the next assessment of his township. (§3262 Burns R. S. 1914.)

1. *Dog Born After May 15*.—Where a dog is born after May 15 of any year, on its attaining the age of three months its owner, keeper or harborer must report it to the township trustee, pay the regular tax for

the year and obtain his receipt; and when the township assessor calls on him on or after the first of March next following he must make a similar report to the township assessor and pay him a like tax for the current tax year. *State v. Sharp, post.*

2. *Owner Purchasing a Dog Must Pay Tax On It.*—One who purchases a dog must report it to the assessor and pay the tax thereon, if the purchase was made before May 15. If the purchase be made after that date, then he must report such dog and pay the taxes thereon to the township trustee, although the previous owner may have paid the tax thereon for that year. Each successive owner must report the dog to the proper assessor and pay the tax thereon. *State v. Sharp, post.*

3. *Receipt Not Transferable.*—A receipt for tax paid on a dog is not transferable, not even to the person who may have purchased such dog. *State v. Sharp, 169 Ind. 128; 81 N. E. 1150.*

4. *Opinion of Court.*—"Section 1 [§46] of the statute makes it the duty of the township assessor, at the time of making the annual township assessment, to diligently inquire of each person assessed in regard to the number of dogs owned, harbored or kept by such person. If such person either owned, harbored or kept any dog or dogs on the first day of March, the beginning of the current assessment year, or on any day thereafter up to and including the date of his assessment, then he must report such dog or dogs to the assessor and immediately pay to such officer the amount of tax on such dog as fixed or prescribed by section 1 [§46] of the statute. Upon such payment being made, the assessor, under section 2 [§47], is required to give to such owner, harborer or keeper a receipt as therein provided. This receipt, as the section provides, shall relieve the person, or persons, owning, keeping or harboring such dog for the current year, or until the next regular township assessment; in other words, the law intended or contemplated that the person to whom such receipt is given or issued by the assessor shall be relieved from any further liability on or penalty arising out of the owning, keeping or harboring upon his or her part of the particular dog or dogs described in the receipt during the then current assessment year, which will close or expire on the last day of February next following. The receipt so authorized to be given the law intends shall be confined to the person to whom it is issued and is not transferable and can in no manner inure to the relief or exemption of any other person who may subsequently during the said current year, own, keep or harbor the particular dog or dogs therein described. Any person, other than the one to whom the receipt is given, who at any time thereafter, before the close of the said current year, becomes the owner, harborer or keeper of the particular dog described in the receipt, must, in order to relieve himself from liability and prosecution under the statute, report the dog to either the township assessor or the township trustee, as the case may be, and pay the tax exacted by the law and secure the proper receipt. Otherwise he will subject himself to the penalty provided by section 9 [§52]. Paying the tax as required by the statute and receiving the receipt therefor is made indispensable upon the part of a person who at any time during such current year either owns, harbors or keeps a dog over the age of three months. It will be noted that by section 5 [§49] it becomes the imperative duty of any person who, after the completion of the township assessment, acquires, owns, harbors or keeps any dog over the age of three months, to report such dog to the trustee of his township to pay the tax enacted by section 1 [§46] of the statute and obtain from such officer the proper receipt. The duty on the part of the person who acquires, owns, harbors or keeps any dog after the time mentioned in said section to report to the trustee and pay the tax fixed as provided by section 1 [§46], is imposed by the law without any regard as to the age of the particular dog at the close or completion of the township assessment and regardless of the fact as to whether the dog was born

prior to the beginning of the period of the assessment of the township, as fixed by law, or during said period or after the close or completion of said assessment. The receipt given by the trustee, as provided by section 5 [§49], will serve to exempt the person to whom it is issued from any further payment of tax or penalty on the particular dog described in said receipt until the time of the next township assessment, which period, as heretofore shown, under the law begins on the first day of March next following." State v. Sharp, 169 Ind. 128; 81 N. E. 1150.

Penalty Against Officer.

50. If any township trustee or township assessor shall fail to perform the duties as above provided, he shall be liable to a fine of not less than ten nor more than twenty dollars. (§3263 Burns R. S. 1914.)

False Statements as to Dogs—Penalty.

51. Every person liable to taxation in any township, and residing therein when listed for taxation, shall make and subscribe to an oath to the township assessor, in which he shall state the number of dogs, spayed and unspayed, over the age of three months, owned, kept and harbored by such person, and any person who shall make a false statement to the assessor or township trustee as to the number, kind and sex of such dogs so owned, kept or harbored by him, shall on conviction be punished as in case of perjury. (§3264 Burns R. S. 1914.)

* Harboring Untaxed Dog.

52. It shall be a misdemeanor for any person who does not hold township assessor's or township trustee's receipt, showing that the required tax has been paid for the same, as provided in this act, to keep, harbor, board or feed, or permit any dog to stay about his, her or their premises and upon conviction they shall be fined in any sum not less than five dollars nor more than twenty dollars. (§3266 Burns R. S. 1914.)

1. *Indictment.*—An indictment which follows the language of the above section is sufficient. State v. Thompson, 25 Ind. App. 581; 53 N. E. Rep. 728.

2. *Misdemeanor.*—The person who becomes the owner of a three months' old dog in September, or who keeps, harbors, boards or feeds, or permits such dog to stay about his premises, without holding a tax receipt therefor, is guilty of a misdemeanor under this section. State v. Sharp, 169 Ind. 128, 135; 81 N. E. Rep. 1150.

3. *Offense Defined.*—The offense defined by this section is the keeping, harboring, boarding, feeding or permitting to stay about the premises of a dog not listed for taxation, without holding a receipt showing the payment of the tax. Morris v. State, 175 Ind. 654.

Dog Fund—Fines—Collection.

53. All money derived by the taxing of dogs by the township assessor or township trustee as provided by this act, shall constitute a fund known as the dog fund, which shall be used for the payment of damages sustained by owners of sheep, cattle, horses, swine and other live stock, or fowls killed, maimed or damaged by dogs, within any township of the State of Indiana, each township trustee shall collect all fines belonging to his township from the different courts, where such fines have been assessed and paid: Provided, That no damages shall be assessed or paid on sheep except where individual damage exists or is shown. (§3268 Burns R. S. 1914.)

Claims for Damages—Appraisement.

54. The owners of sheep, cattle, swine, horses, and other live stock or fowls, killed, maimed or damaged by dogs, shall within ten days from the time thereof, report to the trustee of his township, under oath, in which he shall state the number and age as he believes and the value of such stock or fowls so killed or damaged, and the damages sustained on account of such stock or fowls killed or maimed, in which affidavit, he must be joined by two disinterested and reputable freeholders or householders, and any person or persons who shall make any false statements of such damages shall, upon conviction, be fined in any sum not exceeding one hundred dollars, to which may be added imprisonment in the county jail for any term not exceeding thirty days: Provided, however, That no appraisement shall exceed the actual cash value for which such live stock or fowls would have sold for if placed on the market at the time such damage was sustained: Provided, further, That if any township trustee deems the appraisement of such live stock or fowls so killed or maimed to be excessive he shall tender to the owner or owners, or credit upon his books such amount which in his judgment is equal to the injuries sustained and if in any action at law by the owners thereof for the recovery of such damages said owner shall fail to recover a judgment exclusive of costs for an amount greater than the amount so tendered the defendant shall recover costs of such suit. (§3269 Burns R. S. 1914.)

Register of Claims—Surplus Fund.

55. The trustees shall register all losses in the order in which they are reported: Provided, That no person shall receive pay for sheep, horses, cattle, swine or other live stock or fowls killed or maimed by any dog or dogs owned or harbored by himself: Provided, further, That the dog fund heretofore collected shall be added to and applied with the fund arising under the provisions of this act. And when it shall so occur on the first Monday of March of any year in any township in the State of Indiana that said fund shall accumulate to an amount exceeding one hundred dollars over and above orders drawn on the same, the surplus aforesaid shall be paid and transferred to the county treasurer of the county in which such township is located and the fund arising from such surplus from the townships of the county shall constitute a county dog fund and shall be distributed among the townships of the county in which the orders drawn against the dog fund exceed the money on hand, this distribution shall be made on the second Monday in March of each year, and if said county dog fund be insufficient to pay for all the live stock or fowls maimed or killed by dogs of all the townships the distribution shall be made in the ratio of the orders drawn against the dog fund of the townships and unpaid and unprovided for, which ratio shall be obtained from the report of the trustees of the townships made to the auditor of the county, which it is hereby directed shall be made by each township trustee of the county upon the first Monday of March of each year, which report shall show all receipts into the dog fund of his township, and all orders drawn against the same in the order in which they were drawn. And when it shall occur upon the second Monday in March of any year that there is a surplus left of the county dog fund after provisions have been made for the payment of all the live stock or fowls killed or maimed, of all the townships of the county, such surplus shall be distributed for the schools of the county in the same manner the common school revenue of such county is distributed, except as provided in the next succeeding section. (§3270 Burns R. S. 1914.)

Hydrophobia Fund—County Auditor.

56. The county auditor shall annually on the first day of April of each year pay to the state auditor five per cent of

the surplus dog tax collected from the townships of the county. The amount received from all county auditors shall constitute a state hydrophobia fund in the state treasury: Provided, That if at the end of the fiscal year such fund shall exceed three thousand dollars the surplus shall be turned into the school fund of the state. (§7604a Burns R. S. 1914.)

Mortgage Indebtedness Deducted.

57. Any person being the owner of real estate liable for taxation within the State of Indiana, and being indebted in any sum, secured by mortgage upon real estate, may have the amount of such mortgage indebtedness, not exceeding one thousand dollars, existing and unpaid upon the first day of March of any year, deducted from the assessed valuation of mortgage premises for that year, and the amount of such valuation remaining after such deduction shall have been made shall form the basis for assessment and taxation for said real estate for said year: Provided, That no deduction shall be allowed greater than one-half of such assessed valuation of said real estate. (§10152 Burns R. S. 1914.)

1. *Constitutional.*—The supreme court of this state has held the statute permitting a deduction for mortgage indebtedness constitutional. *State v. Smith*, 158 Ind. 543 (63 N. E. Rep. 25; 64 N. E. Rep. 18); *Smith v. State*, 159 Ind. 695 (64 N. E. Rep. 1127). On appeal of the first case cited to the Supreme Court of the United States, the appeal was dismissed, and no decision was rendered on the validity of this statute. *Smith v. Indiana*, 24 Sup. Ct. Rep. 51; *Board v. Johnson*, 178 Ind. 76, 93; 89 N. E. 590.

Statement Under Oath.

58. Any person desiring to avail himself, or herself of the provisions of this act shall, between the first day of March and the first Monday of May, inclusive, of each year, file with the auditor of the county wherein said real estate is situate a sworn statement of the amount of such mortgage indebtedness existing and unpaid on the first day of March of that year, giving the name and residence of the mortgagee, and shall also give the name and residence of the assignee or bona fide owner or holder of said mortgage, if known, and if not known, said person shall state that fact, and shall also state the record and page where said mortgage is recorded, and a brief description of the real estate upon which such incumbrance exists. (§10153 Burns R. S. 1914.)

Auditor's Duty.

59. The county auditor with whom such statement is filed, in case the money, notes or credits evidenced by such mortgage indebtedness be liable for taxation in any county in the State of Indiana other than the one wherein such real estate is situate, shall immediately certify and transmit a copy of such sworn statement to the auditor of the county wherein the mortgagee, assignee or bona fide holder or owner of said mortgage resides, or wherein the money, notes or credits evidenced by mortgage is otherwise taxable. (§10154 Burns R. S. 1914.)

1. The county auditor shall receive the mortgage exemption affidavits, if in proper form containing the substance of what is required and file the same, and the board of review should pass upon them at the proper time and grant the right to mortgage exemption provided each of the affidavits is sufficient. Stansbury, 1917.

False Statement—Penalty.

60. Any person who shall wilfully make a false statement of the facts provided for in section 58 of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than fifty, nor more than five hundred dollars, to which may be added imprisonment in the county jail for any term not exceeding six months. (§10155 Burns R. S. 1914.)

1. *Man and Wife by Entireties.*—An affidavit for the purpose of securing a mortgage exemption on real estate held by man and wife, as tenants by entireties need not be sworn to by both. If the affidavit is sworn to by one of them and is filed with the auditor on behalf of both this will be sufficient to secure an exemption on land held by them as tenants by entireties. Honan, 1914.

2. *Man and Wife by Entireties.*—If a man and wife own land by entireties and claim a mortgage deduction of \$700 on this land then neither of them is entitled to any further deduction on lands of which each is the sole owner. Honan, 1914.

3. *No Mortgage Exemption to Vendee Under Conditional Sale Contract of Real Estate.*—Under a conditional sale contract for real estate in which title is not to pass until the purchase price has been paid in full and in which a delinquency of more than three months allows the vendor to declare the entire remainder of the purchase price due and collectible or allows the vendor to take possession, the vendee under such contract is not entitled to a mortgage exemption and the auditor has no authority to transfer said property for taxation on the transfer book to the name of the vendee. Honan, 1913.

4. *Holder of Life Estate Not Entitled To.*—The holder of a life estate in realty is not entitled to mortgage exemption where the fee is held by someone else. The owner of the fee is the only person entitled to mortgage exemption. Milburn, 1915.

Following are opinions given by Taylor in 1902:

1. *Mortgage Deduction Law.*—a. The affidavit required by section 1 of this law may be sworn to before any person authorized to administer oaths (this includes notaries public), and must be filed with the auditor before the first day of May and on or after the first day of March of each year showing the mortgage indebtedness on said first day of March. Said affidavit must be sworn to by the person securing the deduction personally. A husband can not make an affidavit for his wife, nor can she for him.
- b. The auditor or recorder is not required to furnish blanks to persons wishing to secure the benefits of said deduction, but the auditor may swear persons to the affidavit required and charge a fee therefor of 25 cents, which fee, however, belongs to the state and not to the auditor personally.
- c. The assessor has nothing whatever to do with the mortgage deduction law, and is not authorized to swear persons to the affidavit required by section 2.
- d. Under no circumstances can one person legally secure more than \$700 deduction under the law, no matter how many mortgages he may have given or assumed. Neither can he deduct his mortgage indebtedness from the assessed valuation of his real estate and then use that portion of his mortgage indebtedness so deducted as a deduction from his personal credit. (The acts of 1919 increased the \$700 to \$1,000.)
- e. Improvements on real estate are technically part of the real estate, provided such improvements are permanent. Therefore, in ascertaining the value of mortgaged premises, all improvements should be taken into consideration.
- f. Under no circumstances can a deduction from real estate exceed one-half the appraised value of such property for taxation. This means the appraised value as shown on the duplicate for the year in which the deduction is prayed.
- g. Man and wife may sign affidavit as owners as tenants by entireties of property and obtain deduction of \$700, or not to exceed one-half the value of the property. (\$700 now increased to \$1,000.)
- h. One joint owner can not make an affidavit for the benefit of the other joint owner. It is a personal privilege.
- i. A guardian can make an affidavit for his ward.
- j. One heir can not make an affidavit for all the heirs.
- k. Each heir may make deduction for his proportion of an undivided interest in lands. Each heir, however, can not claim a deduction of \$700 from the entire value of lands owned by heirs as tenants in common.
- l. If the description of the land is substantially correct, the deduction should be made. The description should be sufficient to show the land intended to be described.
- m. It is simply the duty of the auditor to receive the affidavits provided for in the mortgage deduction law for filing. The board of review passes on the validity of the claim for deduction.
- n. The word "mortgage," as used in this law, includes mortgages held by non-residents of this state, as well as school fund mortgages and mortgages held by building associations. But only one claim for deduction can be made upon any one mortgage. A bond for a deed, a vendor's lien, or a ditch assessment is not a mortgage, and does not entitle the owner of the land to a deduction thereunder.
- o. The words "assessed valuation of the mortgage premises" include improvements.
- p. The taxpayer is entitled to his deduction, no matter how many tracts his land may be divided into, but he can claim but one deduction; i. e., he can not have more than one deduction, no matter how many mortgages he may have on various tracts of land, or upon the same tract.

q. It is the duty of the county board of review to pass upon the validity of each claim for deduction, and reject or allow the same in the proper amount, and make a record of the rejection or the allowance, showing the sum allowed for deduction.

r. Each claim of this kind should be carefully examined by the county board to see that the law is substantially complied with; i. e., to see that the affidavit is in proper form, sets forth the facts required by the statute, and that the description of the land is substantially correct and is sufficient to show the land that is intended, and has been verified before an officer qualified to take the oath of the owner.

s. *Husband and Wife Separate and Joint Exemptions.*—A husband and wife may each claim \$700 mortgage exemption on their separate properties; but they can not in addition to these exemptions jointly claim an exemption upon property owned by them jointly. Taylor, 1902, p. 116. Honan, accord, 1910.

OPINION BY MILBURN.

"In the matter of firms, co-partnerships and corporations, the statute says that such shall be considered as persons. They are, therefore, entitled to exemptions, but firms and co-partnerships have no legal entity aside from the persons who compose the same, therefore, they may not have separate exemptions from those taken by the natural persons who are the owners. But one exemption may be had by the firm or co-partnership. The quality of ownership in a firm or co-partnership is joint and several, therefore the same rule applies as in the case of joint tenants. A benefit of the exemption by a firm or co-partnership cannot exceed \$700, but the individual members may have the benefit of mortgage exemption upon their separate properties to the extent of the difference between the pro rata benefit had in the one exemption and the \$700 to which every person under the statute is entitled, provided however, that the assessed value of the property must always be at least twice the mortgage exemption claimed. In the case of corporations, however, a corporation being capable of separate ownership without reference to the stockholders, the corporation is entitled to the full benefit of the \$700 exemption, and the stockholders of the corporation may have full exemption upon any property owned by them without reference to their ownership of shares of stock in the corporation which has taken advantage of the mortgage exemption statute." Milburn, 1915.

OPINIONS BY STANSBURY.

1. A duly authorized agent may legally execute a mortgage exemption affidavit for and on behalf of the applicant for such exemption.

2. Where mortgaged real estate is held by a husband and wife by entirety, either of them may execute such affidavit, provided the one making the affidavit is the authorized agent of the other. Stansbury, 1918.

3. This statute will not authorize a deduction where the mortgage is given to indemnify a security upon a note, which note was given for the payment of a debt. Stansbury, 1918.

OPINION BY LESH.

In case of joint tenants only one mortgage deduction is permitted. It was not the intention to give each joint owner a separate exemption. Lesh, 1921.

Soldiers' and Sailors' Tax Exemption.

60a. Any soldier or sailor who served three (3) months or more in the armies or navies of the United States during the Civil or Mexican Wars, as evidenced by a pension certifi-

icate, and who shall have reached the age of seventy (70) years or more; or the widow of any such soldier or sailor, as evidenced by a pension certificate, who shall have reached the age of sixty (60) years or more, may have the amount of one thousand dollars (\$1,000) deducted from the assessed valuation of his or her taxable property upon the first day of April of each year, wherein the amount of taxables as shown by the duplicate does not exceed \$5,000, and the balance remaining after such deduction shall have been made, shall constitute the basis for the assessment and taxation of the property of the soldier, sailor or widow herein mentioned.

Any person desiring to avail himself or herself of the provisions of this act shall, between the first day of March and the first day of May inclusive of each year, file with the auditor of the county, wherein he or she is a resident, a sworn statement of his or her age and place of residence, and as further evidence of identification, submit for the auditor's inspection his or her pension certificate.

Chapter 123, Acts 1919.

Where a soldier and his wife own real estate by entirety the soldier is entitled to his exemption of \$1,000 when the value of his property does not exceed \$5,000. A soldier's wife is not entitled to any exemption and where real estate is in the name of the wife, while the husband being a soldier is entitled to his exemption, he can not procure an exemption as to her real estate. Stansbury, 1919.

Rights and Privileges of Civil War Veterans Conferred.

60b. That soldiers and sailors, and their widows and orphans, of the late war with Germany, and of the war with Spain, and of the war in the Philippine Islands and in the regular service of the United States who are residents of the State of Indiana, shall have and are hereby given all the rights and privileges now held and enjoyed by soldiers and sailors, their widows and orphans, of the late civil war. (Acts S. S. 1920, p. 53.)

Blanks—Statement—Valuations.

61. On the first day of March of each year, or as soon thereafter as practicable, and before the fifteenth day of May, the assessor shall call upon each person required by this act to be assessed, and furnish him or her with the proper blanks for the purpose, and thereupon such person shall make to such assessor a full and correct description of all the personal property, of which such person was the owner on the

first day of March of the current year, and such person shall also, at the same time, make separate, full and true statements in like manner, in writing, distinctly setting forth in each a correct description of all the personal property held, possessed or controlled by him as executor, administrator, guardian, trustee, receiver, partner, agent, attorney, president or accounting officer of a corporation, consignee, pawnbroker, or in any representative or fiduciary capacity, and except as otherwise provided in this act, he shall fix what he deems the true cash value thereof to each item of property for the guidance of such assessor, who shall determine and settle the value of each item, after examination of such statement, and also an examination under oath of the party or any other person, if he deems it necessary. In determining and settling such valuation, such assessor except as otherwise provided in this act, shall be governed by what is the true cash value, and in determining the true cash value he may consider the market or usual selling price or the earning capacity of such property and all other facts and circumstances which may give any information concerning the true cash value. For the purpose of making such statements the person to be assessed shall receive the proper blanks from the assessor. (§10197 Burns R. S. 1914.)

Refusal to make list or take oath, or making false list, penalty, 1 Burns R. S. 1908, §2657. See post §§68 and 70.

1. *List Sworn To.*—The list of personal property must be sworn to by the owner of the property, except where agents under section 17 make out the list. *State v. Reynolds*, 108 Ind. 353; 9 N. E. Rep. 287.

2. *Lists As Evidence.*—Assessment lists properly made out are admissible in evidence. *Painter v. Hall*, 75 Ind. 208; but they must have been shown to have been executed by the taxpayer before they are evidence against him. *Bartlett v. Bender*, 11 Ind. App. 419; 39 N. E. Rep. 175; *Lafever v. Johnson*, 79 Ind. 554; *Curmal v. Rauh*, 100 Ind. 247.

3. *Schedule Controls.*—The schedule provided by the tax law controls in case of conflict with any other portion of that law. *Wasson v. First National Bank*, 107 Ind. 206, 212; 8 N. E. Rep. 97; *Clark v. Carter*, 40 Ind. 190; *Matter of Campbell*, 71 Ind. 512; *Evansville Bank v. Britton*, 105 U. S. 322.

4. *What Is a Valid Assessment.*—To constitute a valid assessment it must be made by the proper officer. There must, at least, be some attempt toward an assessment, and a compliance with the law by some officer authorized to make the assessment. *Evansville, etc., R. R. Co. v. Hays*, 118 Ind. 214, 220; 20 N. E. Rep. 736.

5. *Administering Oaths.*—The assessor and his deputies have authority, under the law, to administer all necessary oaths in connection with tax lists. *State v. Reynolds*, 108 Ind. 353; 9 N. E. Rep. 287.

6. *Valuation.*—While the person listing property is required to place a valuation upon it, such valuation will be regarded only as a mere

statement of opinion by him, and the assessor must determine and settle the value of each item himself. *Florer v. Sherwood*, 128 Ind. 495, 500; 28 N. E. Rep. 71. But when the assessor has fixed the value the county auditor can not increase it, although he may assess property either purposely or inadvertently omitted. *Parkinson v. Thompson*, 164 Ind. 609; 73 Ind. 109.

7. *Fair Cash Value*.—The taxable value of property is its fair cash value, a fair cash value being the market or selling price where the property shall be at the time of its liability to assessment, and if there be no market value, then it is the actual value that rules. *Willis v. Crowder*, 134 Ind. 515; 34 N. E. Rep. 315. A complaint for an injunction must show and the plaintiff must prove that the assessment was more than the fair cash value. *Fell v. West*, 35 Ind. App. 20; 73 N. E. Rep. 719.

8. *"Fair Cash Value" and "True Cash Value."*—The phrases "fair cash value" and "true cash value," where used in the taxing statutes, are to be considered as meaning the same thing. *Warrick v. Spry*, 49 App. 327.

9. *Adopting Owner's Valuation*.—Assessors are presumed to adopt the valuation fixed by the owner of property, unless such officer fixes a different value. *Du Bois v. Board*, 4 Ind. App. 138; 30 N. E. Rep. 206.

10. *Failure to Add Dollar Mark*.—A failure to add the dollar mark (or any other similar sign) in front of the amount of valuation of property in the assessment sheets does not render the assessment void; and this is especially true if it can be gathered from the entire assessment that the dollar mark was intended to be used but was accidentally omitted. *Midland Ry. Co. v. State*, 11 Ind. App. 433; 38 N. E. Rep. 57.

11. *Irregularities*.—Irregularities do not affect the correctness of a tax assessment, if the proceedings are substantially correct, and the assessment is fair and just. *Reynolds v. Bowers*, 138 Ind. 434; 36 N. E. Rep. 756; 37 N. E. Rep. 962.

12. *Evidence of Length of Time to Assess Townships*.—The question as to how long it would take to assess a township for taxation, and how much of such work could be done in a day, are not subjects of expert testimony. *Board v. Redifer*, 32 Ind. App. 93; 69 N. E. Rep. 305.

13. *Administrator or Executor*.—It is the duty of an administrator or executor to list for taxation the property of his decedent's estate which was in his possession on March 1. *Cullop v. City of Vincennes*, 34 Ind. App. 667; 72 N. E. Rep. 166.

14. *Unequal Assessment*.—Where property is assessed for more than its true cash value, or for more than other property of equal value, such assessment is unjust. *Fell v. West*, 35 Ind. App. 20; 73 N. E. Rep. 719.

15. *Time Allowed Assessor*.—The statute allows the township assessor from March 1 to May 15 following in each year to complete the assessment of the property of his township. *State v. Sharp*, 169 Ind. 128, 131; 81 N. E. Rep. 1150.

16. *Personal Property Under Control of Trustee or Agent*.—A trust company would be taxable on the securities for which the trust deeds and mortgage were given unless such trust company would disclose the real owners so that they may be properly taxed. The only way that a trust company may avoid being taxed for trust mortgages where such company does not own the paper is to disclose the name of the proper owner when the demand is made. *Honan*, 1913.

Interrogatories.

62. The person called upon or required by the assessor to list property shall answer in writing under his signature, the

following interrogatories under oath, upon the proper blank form thereof to be furnished by the assessor, who shall also administer the oath:

Interrogatory One. Are you or were you on the first day of March of the present year the executor of the last will or the administrator of the estate of any deceased person, or guardian of the estate of any infant or person of unsound mind or the trustee of the property of any person, or the receiver of any corporation, association or firm, or the agent or attorney, or banker, investing, loaning or otherwise controlling the money or other property of any other person residing in this state, or the president or accounting officer of any corporation, or a partner, consignee or pawnbroker? If yes, designate for whom you were then or now are acting in such representative or fiduciary capacity, and if you were or are now acting under the authority of any particular court, name the court and also state to what court you report.

Interrogatory Two. Have you before the first day of March of the present year either personally or through the agency of others caused all or any part of your taxable money or other property to be temporarily converted, either by sale, borrowing, exchange or in any other manner, into bonds or other securities of the United States not taxable, or any other property not taxable, with the intention to pay back, return or exchange, or sell back such property after you have made out your tax statement, for the purpose of evading the payment of taxes on such property; or did you on or after the first day of March of the present year, and before you saw this interrogatory, pay back, return or re-exchange, or sell back such property for the purpose aforesaid?

Interrogatory Three. If you have converted any of your money or property of any other person, as inquired of you, then state when the same was so converted or invested and the kind and the amount or the value thereof. (§10198 Burns R. S. 1914.)

1. *Injunction.*—If persons purposely convert taxable property into non-taxable property to avoid taxation, a court of equity will not enjoin the collection of a tax assessed upon such non-taxable property. *Ogden v. Walker*, 59 Ind. 460. (See *Stilwell v. Corwin*, 55 Ind. 433; 23 Am. Rep. 672.) *Durham v. State*, 6 Ind. App. 23; 32 N. E. Rep. 104.

2. *County Board of Review.—Mistake.—Injunction.*—While a county board of review has no right to add to the tax list legal tender notes (greenbacks), held in a bona fide manner March 1, still it is within its province to determine whether a taxpayer has temporarily converted his

taxable money into these notes for the express purpose of evading the payment of taxes thereon; and if it make a mistake or reach a wrong conclusion, a suit can not be maintained to prohibit the collection of the taxes assessed thereon. *Senour v. Matchett*, 140 Ind. 636; 40 N. E. Rep. 122; *Crowder v. Riggs*, 153 Ind. 158, 160; 53 N. E. Rep. 1019; *Mitchell v. Board*, 1 Otto (U. S.) 206.

Credits and Chattels.

63. Every person required by this act to make or deliver such statement or schedule shall set forth an account of the property held or owned by him as follows:

PERSONAL PROPERTY—CREDITS.

First. All annuities and royalties.

Second. All bonds, notes, mortgages, accounts, demands, claims, and other indebtedness owing to such person whether such indebtedness is owing from individuals or from corporations, public or private, and whether such debtors reside within or without the state.

Third. All bona fide indebtedness owing to such person which shall be held to mean notes and accounts only. (See Sec. 63a.)

PERSONAL PROPERTY—CHATTELS.

First. All shares in banks organized in this state under any law of this state, or of the United States, and their full market value, after deducting the value of the real estate as taxed to the banks.

Second. All shares in foreign corporations, other than banks, and their value.

Third. All shares in other corporations, organized under the laws of this state, when the property of such corporation is not exempt by some law, or is not taxable to the corporation itself, and the cash value of such shares.

Fourth. All moneys, including circulating notes of national banking associations and the United States legal tender notes and other notes and certificates of the United States payable on demand and circulating or intended to circulate as currency, and gold, silver and other coin.

Fifth. The value of all gold and silver plate, watches, diamonds and jewelry.

Sixth. The value of all household furniture and musical instruments.

Seventh. All patent rights and copyrights describing them and giving the number of each patent right and copyright and the value of each.

Eighth. The number and kinds of domestic animals and their value.

Ninth. All wagons, carriages and sleighs, and their value.

Tenth. All mechanical and agricultural implements and tools and their value.

Eleventh. All machinery not affixed to real property and its value.

Twelfth. All ships, boats and vessels, whether at home or abroad and their value.

Thirteenth. All merchandise and stock in trade and its value.

Fourteenth. All logs, timber, lumber, posts, ties, cord wood, staves or other felled or cut timber and their value.

Fifteenth. All other goods, chattels and personal property not heretofore specially mentioned and their value, except property specifically exempt from taxation. (§10199 Burns R. S. 1914.)

Annuities, Royalties, Etc., as Credits.

63a. Annuities, royalties, bonds (not exempt under state or federal law), real estate bonds, mortgage certificates, conditional sales contracts, accounts due or to become due, notes secured by mortgage including interest due thereon, all other notes including interest due thereon, shares in building and loan associations, interest on tax exempt bonds, dividends declared but not paid, money on deposit with banks, trust companies, or loan and deposit companies, due, owing to, or held by any taxpayer, and all other amounts due from any person, firm or corporation, shall be considered as credits, and upon return of his property for taxation he shall be entitled to deduct therefrom any bona fide indebtedness he may owe, and he shall be assessed for taxation for only such balance of such credits as may remain after such deduction. (Acts 1921, p. 771.)

1. *Law Must Authorize Taxation.*—Unless some statute authorizes the taxation of a particular kind of property, it can not be assessed for taxation. *State Board of Tax Commissioners v. Holliday*, 150 Ind. 216; 49 N. E. Rep. 14; 42 L. R. A. 826.

2. *Insurance Policy.*—An insurance policy can not be taxed. *State Board of Tax Commissioners v. Holliday*, 150 Ind. 216; 49 N. E. Rep. 14; 42 L. R. A. 826.

3. *Newly Incorporated Corporations.*—The stock of corporations formed after March 1 can not be taxed or listed for taxation the year of their incorporation. *King v. City of Madison*, 17 Ind. 48.

4. Shares of stock owned by residents of Indiana in non-resident banks, national or otherwise, are not taxable to them in Indiana. *Bingham*, 1909, p. 435.

5. *Shares in Foreign Corporations.*—Since this section requires the taxpayer to include in his schedule of property for taxation all shares of stock in foreign corporations, it is his duty to include shares in foreign corporations in its home state. *Hasely, Executor, v. Ensley, Treasurer*, 40 Ind. App. 598, 605; 82 N. E. Rep. 809.

6. *Laws of Other States.*—There is no law making it the duty of the township assessor, or of any other public officer, to investigate the laws of foreign states to ascertain whether property in this state is subject to taxation in such foreign state. *Hasely, Executor, v. Ensley, Treasurer*, 40 Ind. App. 598, 606; 82 N. E. Rep. 809.

7. *Contract for Lease of Lands Taxable.*—Where a contract for lease of lands for cash rent, by which the debt for rent is created, was made before March 1, the sum owing for such rent, whether due or not, should be taxable as a credit owing the holder thereof. *Honan*, 1913.

8. *Receipt or Agreement Given by Bank Upon the Loaning of Bonds to Bank.*—A receipt given by a bank to a person who loans United States bonds to the bank in which the bank agrees to return on demand or at a certain time thereafter government bonds of equal amount and value and to pay for the use of such bonds an agreed rate of interest, are in effect, certificates of deposit and as such are taxable. Likewise where the owner of United States bonds loans said bonds to a bank under an agreement that the bank will return these specific bonds to the owner on demand or at a certain time after demand, the bank agreeing to pay in the meanwhile an agreed rate of interest for the use of said bonds, said agreement is in effect a certificate of deposit and as such is taxable. *Honan*, 1913.

Refusal to List—Duty of Assessor.

64. In every case where any person shall neglect or refuse to make out and deliver a sworn statement of his property to the assessor as required by this act, or if the assessor shall be in doubt whether such statement is correct, such assessor is hereby authorized and required to examine on oath, any other person whom he believes to have knowledge of the amount or value of any property owned or held by such person so neglecting or refusing; and such assessor is authorized to set down and assess to such person such amount of personal property as he may deem just. (§10200 Burns 1914.)

Refusal to make list or take oath, or making false list, penalty, §2657 Burns R. S. 1914. See post, §70.

1. *Form of Oath.*—It has been held that the following form of oath is unobjectionable: "Do you solemnly swear that you will answer such questions that may be asked you by the county assessor, touching the persons whose property is affected by this examination, to wit;" stating the names of the persons about whose property the examination is held. *Burns v. State*, 5 Ind. App. 385; 31 N. E. Rep. 547.

2. *County Assessor.—Refusal to Answer.*—The county assessor is authorized to examine under oath any person whom he may suppose to

have knowledge concerning omitted property, or the valuation of that which has been undervalued. If any person refuse to be sworn by the assessor for the purpose of eliciting such information, he may be fined or fined and imprisoned for such refusal. *Burns v. State*, 5 Ind. App. 385; 31 N. E. Rep. 547.

3. *Indictment, Sufficiency*.—It is not necessary in an indictment charging an accused with a refusal to be sworn by the county assessor to aver that the person as to whose property the assessor was led to inquire were residents of any certain township in the county where the indictment is found by the grand jury, nor of any county of the state. *Burns v. State*, 5 Ind. App. 385; 31 N. E. Rep. 547.

4. *Duty to Answer Questions*.—If any person possess any information, and is within the limits of the assessor's territory, it is his duty to be sworn, when requested by the assessor, and if any improper question is propounded to him by the officer, he can refuse to answer. *Burns v. State*, 5 Ind. App. 385; 31 N. E. Rep. 547.

5. *Notice to Taxpayer*.—Notice to the taxpayer of the time and place of the examination of third persons concerning omitted property and its valuation need not be given by the taxing officer to the property owner until the time its assessment will be considered. *Co-operative, etc., Assn. v. State*, 156 Ind. 463; 60 N. E. Rep. 163.

Evasion—Assessor's Duty.

65. Whenever, from the answer to the second interrogatory on the schedule, or from the evidence before him, the assessor is satisfied that the person required to list his property has, since the first day of March of the preceding year, temporarily converted any part of his property into property not taxable for the purpose of preventing such property from being listed and of evading the payment of taxes thereon, such assessor shall cause such property to be assessed at its true cash value. (§10201 *Burns R. S.* 1914.)

1. *Injunction*.—If persons purposely convert taxable property into non-taxable property to avoid taxation, a court of equity will not enjoin the collection of a tax assessed upon such non-taxable property. *Ogden v. Walker*, 59 Ind. 460. (See *Stilwell v. Corwin*, 55 Ind. 433; 23 Am. Rep. 672.) *Durham v. State*, 6 Ind. App. 23; 31 N. E. Rep. 547.

Assessment and taxation of property which has been converted into non-taxable property to avoid taxation. *Crowder v. Riggs*, 153 Ind. 158.

Blanks—State Board to Prepare Schedule.

66. Before the first day of March of each year the county auditor shall have in readiness for delivery to the assessor the proper assessment books and necessary blanks for the assessment of all property, real and personal. The schedule, with interrogatories and affidavits thereto attached, shall be of a form provided by the state board of tax commissioners. (§10202 *Burns R. S.* 1914.)

1. *Right to Deductions*.—Taxpayers have a right to deduct from the demands due, and owing to, them the amount of their bona fide indebted-

ness. *Matter v. Campbell*, 71 Ind. 512; *Florer v. Sheridan*, 137 Ind. 28; 36 N. E. Rep. 365; 23 L. R. A. 278.

2. *Recovering Back Taxes*.—If a taxpayer is improperly refused permission to deduct his indebtedness from his credits, and pays taxes thereon under protest, he can recover back such taxes. *Indianapolis v. Vajen*, 111 Ind. 240; 12 N. E. Rep. 311.

3. *Money at Interest*.—"Money at interest" means money loaned. *Wasson v. First National Bank*, 107 Ind. 206; 8 N. E. Rep. 97.

4. *Fair Cash Value*.—The taxable value of property is its fair cash value, a fair cash value being the market or selling price where the property is at the time of its liability to assessment, and if there be no market value, then it is the actual value that rules. *Willis v. Crowder*, 134 Ind. 515; 34 N. E. Rep. 315.

5. *Imperfect Assessment*.—A failure to use the dollar mark (or any other similar sign) in front of the amount of the valuation of property in the assessment sheet does not render the assessment void; and this is especially true if it can be gathered from the entire assessment that the dollar mark was intended to be used but was accidentally omitted. *Midland Ry. Co. v. State*, 11 Ind. App. 433; 38 N. E. Rep. 57.

6. *Constitutional*.—The provision of the statute allowing the deduction of debts from credits is constitutional. *Florer v. Sheridan*, 137 Ind. 28; 36 N. E. Rep. 365; 23 L. R. A. 278; *First National Bank v. Turner*, 154 Ind. 456, 465; 57 N. E. Rep. 110.

7. *Valuation by Party*.—The valuation entered in the column headed "valuation by party" on a tax schedule, is to be regarded as having been adopted by the assessor, except so far as a different valuation is entered in the column headed "valuation by assessor." *Dubois v. Board*, 4 Ind. App. 138; 30 N. E. Rep. 206.

8. *Deducting Indebtedness from Value of Stock*.—The owner of stock in a national bank is not entitled to a deduction of his bona fide indebtedness from the assessed valuation of such stock for the purpose of taxation. *First National Bank of Richmond v. Turner*, 154 Ind. 456; 57 N. E. Rep. 110. This case necessarily overrules *Wasson v. First National Bank*, 107 Ind. 206; 8 N. E. Rep. 97; *City of Indianapolis v. Voger*, 111 Ind. 240; 12 N. E. Rep. 311.

9. *Only Notes and Accounts Can Be Deducted*.—In the schedule provision is made for deducting bona fide indebtedness due by the property owner, from indebtedness due him. The legislature deemed it wise to allow as deductions from credits, only such indebtedness as should be covered by notes and accounts; but it was never intended to define all indebtedness as including only notes and accounts. *State Board of Tax Commissioners v. Holiday et al.*, 150 Ind. 259; 49 N. E. Rep. 14; 42 L. R. A. 826.

10. *Sheriff's Certificate*.—Under the tax statute of 1891, as amended by the act of 1903, the certificate of purchase issued upon a sheriff's sale is subject to taxation during the period of redemption, though there was no redemption, and the holder of the certificate was compelled to pay the taxes against the real estate for the same period. *Miller v. Volmer*, 153 Ind. 26; 53 N. E. Rep. 949.

11. *Tax Certificate*.—Tax certificates are taxable under the law and should be reported by the taxpayer under item 5 of the schedule of personal property. *State v. Halter*, 149 Ind. 302; 47 N. E. Rep. 665.

12. *Indictment*.—As to what is a sufficient indictment for making a false oath under the above section, see *State v. Blackstone*, 74 Ind. 592.

13. *Schedule Controls*.—The schedule set out in the above section controls in case of a conflict between its provisions and other portions of the tax law. *Wasson v. First National Bank*, 107 Ind. 212; 8 N. E. Rep. 97; *Clark v. Carter*, 40 Ind. 190; *Matter of Campbell*, 71 Ind. 512; *Evansville Bank v. Britton*, 105 U. S. 322.

14. *Owner Must Swear To.*—Under the above section, the owner of the property listed is required to swear to his assessment. *State v. Reynolds*, 108 Ind. 353; 9 N. E. Rep. 287; *Buck v. Beach*, 164 Ind. 37; 71 N. E. Rep. 963.

15. *Who May Administer Oath.*—The assessor and his deputies have authority to administer all necessary oaths in connection with tax lists. *State v. Reynolds*, 108 Ind. 353; 9 N. E. Rep. 287.

16. *Tax List as Evidence.*—See section 61, note 2.

17. *Listing Non-Taxable Property.—Change of Schedule.*—Under its power to change the schedule for listing property, the state board of tax commissioners can not require the listing of property that is not taxable. *State Board of Tax Commissioners v. Holliday*, 150 Ind. 259; 49 N. E. Rep. 14; 42 L. R. A. 826.

18. *Deducting Indebtedness from Omitted Credits.*—If the owner of notes fails to list them they may be listed as omitted property; but from their amounts he is entitled to deduct his indebtedness, and the fact that he has failed in his property schedule to list such notes for taxation will not deprive him of the right to claim such deduction when such notes are listed by the taxing officer. *McCrorry v. O'Keefe*, 162 Ind. 534; 70 N. E. Rep. 812.

19. *Deductions from Value of Corporate Stock.*—Debts should not be subtracted from the value of corporate stock, though they should be treated as one of several factors in fixing its value. *Smith*, 1892, p. 92.

20. *Deductions, Time for Claiming.*—A taxpayer who fails to claim deductions on account of bona fide indebtedness at the time of making out his list may do so before the county board of review. *Smith*, 1892, p. 103.

21. *Shares of Stock in Foreign Corporations.*—All shares of stock in foreign corporations owned by inhabitants of this state should be assessed for taxation, regardless of whether the property of the corporation is taxed in a foreign state or not. *Hasely, Executor, v. Ensley, Treasurer*, 40 Ind. App. 598, 606; 82 N. E. Rep. 809.

22. *Assessor Accepts List.*—The assessor is required to take the list of property furnished by the taxpayer as he finds it, to make up the assessment from that list, and return it to the auditor as property subject to taxation. *Hasely, Executor, v. Ensley, Treasurer*, 40 Ind. App. 598, 606; 82 N. E. Rep. 809.

23. *Definition of "True Cash Value."*—This section requires that all personal property be assessed at its "true cash value," that being "the price which could be obtained for said property at private sale and not at forced or auction sale." *Smith v. Stephens, Treasurer*, 173 Ind. 564, 568; 91 N. E. 167.

24. *Lists Admissible As Evidence.*—It is well settled that assessment lists of personal property are admissible as evidence to prove the ownership of such property by the person assessed at the time of the assessment. *Indiana Union Traction Co. v. Benadum*, 42 Ind. App. 121, 124; 83 N. E. Rep. 261.

25. *Assessment Becomes Sworn Statement of True Cash Value.*—Since the enactment of the present tax law in 1891, an assessment list becomes the sworn statement of the party assessed, not only as to the ownership, but as to the cash value of the property listed as well, and such assessment list is admissible in evidence to show the value of the property at the time it was listed. *Indiana Union Traction Co. v. Benadum*, 42 Ind. App. 121, 126; 83 N. E. Rep. 261; distinguishing and explaining *Cincinnati, etc., R. Co. v. McDougal*, 108 Ind. 179; 8 N. E. Rep. 571, and *German Mutual Ins. Co. v. Niewedde*, 11 Ind. App. 624; 39 N. E. Rep. 534.

26. *Money in Savings Banks.*—Money deposited in savings banks is to be taxed as the property of the depositors. *Beard v. People's Saving Bank*, 53 Ind. App. 185.

27. *Surplus of Savings Banks.*—The surplus fund of savings banks is taxable to such banks, unless the same is invested in non-taxable securities. *Beard v. People's Savings Bank*, 53 Ind. App. 185.

Mutes—Blind—Insane—Idiots.

67. It shall be the duty of the assessor at the time of assessing property to ascertain and set down in tables prepared for that purpose, a list of all persons in their respective townships who are deaf and dumb, blind, idiotic or insane, setting forth the name, age and sex of each, also the names of the father, mother or guardian, and their postoffice address, and in addition the assessor of the township wherein the county poorhouse is located shall set down the number of the incurably insane who are kept therein, which list he shall return to the county auditor at the same time they return the list of property. The said county auditor shall report the same to the state board of charities at the time of making his returns of the lists of property; and the secretary of said board shall lay before the superintendents of the institute for the education of the blind, the insane, feeble-minded and of the deaf and dumb copies of the lists so made. (§10203 Burns R. S. 1914.)

False Statement—Penalty.

68. If any person or corporation shall give a false or fraudulent list, schedule or statement required by this act, or shall wilfully fail or refuse to deliver to the assessor, when called on for that purpose, a list of the taxable property which he is required to list under this act, or shall temporarily convert any part of his property into property not taxable for the fraudulent purpose of preventing such property from being listed and of evading the payment of taxes thereon, he or it shall be liable to a penalty of not less than fifty dollars nor more than five thousand dollars, to be recovered in any proper form of action in the name of the State of Indiana, on the relation of the prosecuting attorney. The assessor shall forthwith notify the prosecuting attorney of such delinquency or offense, and he shall prosecute such offender to final judgment and execution, and such fine when collected shall be paid into the county treasury for the use of the county, and the prosecuting attorney shall receive ten per centum commission of all moneys so collected and paid in, and a docket fee of ten dollars, to be taxed and collected with costs in such actions.

Absence from the township during the seventy-five days without design to avoid the listing, or sickness during such period shall be a sufficient defense to such prosecution: Provided, That no action shall be brought as set out in this section in any case after a corrected schedule or statement shall have been made by such person or corporation and his or its property has been placed upon the tax duplicate in accordance with such correction. (§10204 Burns R. S. 1914.)

Refusal to make list or take oath, or making false list, penalty, 1 Burns R. S. 1914, §2657. See post, §69.

1. *Constitutional*.—This section is constitutional. *Burgh v. State*, 108 Ind. 132; 9 N. E. Rep. 75; *State v. Lauer*, 116 Ind. 162; 18 N. E. Rep. 527.

2. *Indictments Not Permissible*.—Persons who violate the provisions of this section must be proceeded against as herein provided, and not by indictment. *Durham v. State*, 116 Ind. 514; 19 N. E. Rep. 329; *Durham v. State*, 117 Ind. 477; 19 N. E. Rep. 327; *State v. Lauer*, 116 Ind. 162; 18 N. E. Rep. 527; *Burgh v. State*, 108 Ind. 132; 9 N. E. Rep. 75.

3. *Complaint*.—As to necessary averments in a complaint under this section, see *Burgh v. State*, 108 Ind. 132; 9 N. E. Rep. 75; *State v. Lauer*, 116 Ind. 162; 18 N. E. Rep. 527; *Davis v. State*, 119 Ind. 555; 22 N. E. Rep. 9; *Warner v. State*, 3 Ind. App. 60; 29 N. E. Rep. 173; *Swift v. State*, 3 Ind. App. 285; 29 N. E. Rep. 488; *Brand v. State*, 3 Ind. App. 469; *Durham v. State*, 6 Ind. App. 23; 32 N. E. Rep. 104; 28 N. E. Rep. 1030.

4. *Separate Action for Each Year*.—The state has a separate action for each year a taxpayer gives a false or fraudulent list, schedule or statement, or fails or refuses to deliver to the assessor a list of taxable property, which he is required to list. *State v. Halter*, 149 Ind. 292; 47 N. E. Rep. 665; *LaPlante v. State*, 152 Ind. 80; 52 N. E. Rep. 452.

5. *Paragraph for Each Year*.—In an action to recover penalties for failure to list property for taxation for more than one year, the cause of action for each year should be stated in a separate paragraph of complaint. *State v. Halter*, 149 Ind. 292; 47 N. E. Rep. 665.

6. *Foundation of Action*.—In an action to recover the penalty provided by the above section, for failure to list property for taxation, the alleged fraudulent tax lists are not the foundation of the action and need not be filed with the complaint. *State v. Halter*, 149 Ind. 292; 47 N. E. Rep. 665.

7. *Constitutional*.—A statute providing for the recovery of a penalty from a property owner who refuses to furnish a list for taxation, or who furnishes a false list of his property, is not unconstitutional because it provides that the penalty recovered shall be paid into the county treasury for county purposes, instead of the common school fund. *State v. Indiana, etc., R. R. Co.*, 133 Ind. 69; 32 N. E. Rep. 817; 18 L. R. A. 502.

8. *Complaint—Failure to Return List*.—A complaint which alleges that a taxpayer wilfully failed and refused to deliver to the assessor a list of his taxables, is sufficient to show that such taxpayer had a list on which to make a return, or could have obtained the same, and is sufficient in that respect. *Gilliland v. State*, 13 Ind. App. 651; 42 N. E. Rep. 238.

9. *Indictment—Withholding Money*.—One who fraudulently omits from the tax list returned by him money on deposit belonging to him,

is liable to the pecuniary penalty of not less than fifty dollars nor more than five thousand dollars prescribed by the above section, which is recoverable in an action in the name of the state on the relation of the prosecuting attorney, and not by indictment. *Burgh v. State*, 108 Ind. 132; 9 N. E. Rep. 75; *State v. Lauer*, 116 Ind. 162; 18 N. E. Rep. 527; *Durham v. State*, 116 Ind. 514; 19 N. E. Rep. 329; *Durham v. State*, 117 Ind. 477; 19 N. E. Rep. 327.

10. *Criminal Prosecution*.—The offenses defined in the above section, and those defined by the next section (§2657, R. S. 1908), in relation to false returns of property for taxation, are separate and distinct, the one subjecting the taxpayer to criminal prosecution and the other rendering him liable to a pecuniary penalty recoverable in a civil action. *Durham v. State*, 117 Ind. 477; 19 N. E. Rep. 327.

11. *Survival of Action*.—A cause of action to recover the penalty imposed by the section above, upon any person who gives a false and fraudulent list or statement of his taxable personal property, does not die with the taxpayer, but, under section 284, R. S. 1901, survives and may be maintained against his personal representative. *Davis v. State*, 119 Ind. 555; 22 N. E. Rep. 9.

12. *Action on Relation of Prosecuting Attorney*.—An action by the state for failure to list property for taxation is properly brought on the relation of the prosecuting attorney. *LaPlante v. State*, 152 Ind. 80; 52 N. E. Rep. 452.

13. *Complaint—Accruing Value of Property Omitted*.—A complaint in an action by the state on the relation of the prosecuting attorney for recovery of the penalty provided by statute for failure to list property for taxation which discloses that the omitted property consisted of money, bonds, mortgages, notes, etc., subject to taxation, is sufficient without averring the value of the particular property. *LaPlante v. State*, 152 Ind. 80; 52 N. E. Rep. 452; *Swift v. State*, 3 Ind. App. 285; 29 N. E. Rep. 488; *Warner v. State*, 3 Ind. App. 60; 29 N. E. Rep. 173.

14. *Excessive Penalty*.—A penalty of \$1,500 for failure to list property for taxation is not excessive where the evidence showed that the defendant omitted from his tax list over \$20,000 worth of property held by him, subject to taxation, and converted about \$1,800 for the purpose of avoiding taxation. *LaPlante v. State*, 152 Ind. 81; 52 N. E. Rep. 452.

15. *Conversion of Taxable Into Non-Taxable Property*.—The above section is not limited to transactions whereby taxable property is removed from the state, or whereby it is transferred to a non-resident. *Durham v. State*, 6 Ind. App. 23; 32 N. E. Rep. 104.

16. *Notice to Prosecuting Attorney*.—It is not necessary for the assessor to notify the prosecuting attorney of the offense committed under this section, in order to enable him to maintain an action. The notice is no part of the office. *State v. Lauer*, 116 Ind. 162; 18 N. E. Rep. 527.

17. *Penalty for Making False Statement*.—Any person or corporation giving a false or fraudulent statement of his property is liable to a penalty of not less than fifty nor more than five thousand dollars. *Smith*, 1892, p. 67.

18. *Refusal to Answer Is An Offense and Should Be Prosecuted*.—The refusal of any person to answer interrogatories or submit for inspection books or records within his keeping should be reported to the prosecuting attorney of the circuit and an affidavit promptly filed against the offender. It thereupon becomes the duty of the prosecuting attorney to prosecute such person for the offense. *Smith*, 1892, p. 70.

Giving False List of Taxables.

69. Whoever, when requested by any officer or board authorized by law to assess property for taxation, fails to give a

true list of all his taxable property, or to take and subscribe any oath in that behalf, as required by law, or shall fix a fraudulent value where an oath is not required on such property, shall, on conviction, be fined not less than ten dollars nor more than five hundred dollars. (§2657 Burns R. S. 1914.)

1. *Indictment.*—An indictment charging that the defendant "being requested as required by law," failed to give a true list of his property for taxation is sufficient to charge the offense set out in the above section without setting out the exact manner in which the request to furnish a list of taxable property was made by the assessor. *State v. Hilgendorf*, 28 Ind. App. 207; 55 N. E. Rep. 102.

2. *Indictment.*—An indictment for failure to give a true list of property for taxation must set forth such a state of facts as will show that property was subject to taxation which by law the defendant was required to list for taxation. *Lose v. State*, 72 Ind. 285; *State v. Reynolds*, 108 Ind. 853; 9 N. E. Rep. 287; *Burns v. State*, 5 Ind. App. 385; 31 N. E. Rep. 547.

3. *Oath, Statement Concerning.*—In charging a person with refusing to take an oath to a tax list, it must be shown that the oath was such a one as is authorized by law. *Buckingham v. State*, 17 Ind. 305.

Assessor's Valuation.

70. In every case where any person shall refuse to make out and deliver to the proper assessor the statement required under this act, or shall refuse to take and subscribe to any of the oaths or affirmations required by this act, the assessor shall proceed to ascertain the number of each description of the several enumerated articles of property and the value thereof, and for this purpose he may examine on oath any person or persons whom he may suppose to have knowledge thereof, and such assessor shall make a note of such refusal in a column opposite the person's name, and the county auditor shall add to such valuation when returned by the assessor fifty per centum on the value so returned. (§10205 Burns R. S. 1914.)

1. *Presumption.*—Assessors are presumed to adopt the valuation fixed by the owner or taxpayer unless a different value is fixed. *DuBois v. Board*, 4 Ind. App. 138; 30 N. E. Rep. 206.

2. *Refusal to Make Return.—Penalty.*—It is the duty of the county auditor to add fifty per centum as penalty to the value of the property of any taxpayer who shall refuse to make and deliver to the assessor a proper schedule and statement of his property. *Smith*, 1892, p. 67.

3. *Refusal to Make Return.—Penalty.*—Where persons or corporations refuse to file a sworn statement of their property, the assessor must proceed with the examination of any person or persons having a knowledge thereof, for the purpose of determining, as nearly as possible, the character and amount of such property. The assessor's valuation, thus reached, should be filed with the county auditor, and that officer should in turn arbitrarily add to the estimate made by the assessor, fifty per centum of the value so returned. *Smith*, 1892, p. 70.

Penalties.

71. If any person required by the assessor to give evidence, as provided in the preceding section, or in any case when interrogated by the assessor as to any property, real or personal, of himself or others, shall refuse to be sworn or affirm, or if having been sworn or affirmed, he shall refuse to answer the interrogatories hereinbefore set out, or any other questions touching the subject of inquiry, such person upon conviction thereof shall be fined in any sum not more than five hundred dollars, nor less than ten dollars, to which may be added imprisonment in the county jail not exceeding six months. (§10206 Burns R. S. 1914.)

Refusal to make list or take oath, or making false list, penalty, §2657 Burns R. S. 1914. See supra, §70.

1. *Refusing to Testify.*—Persons who improperly refuse to testify before the assessor are liable under this section. *Burns v. State*, 5 Ind. App. 385; 31 N. E. Rep. 547.

2. *Omitted Property.—Appearance Before Auditor.—Refusal to Answer Questions.*—Where one appears before the county auditor to show cause why certain property should not be assessed, and refuses to answer proper questions as to the property sought to be assessed, he may be indicted by the grand jury under the above section. *Ketcham*, 1897, p. 107.

Sickness or Absence—Proceedings.

72. When any person shall have been prevented from making and verifying his statement by reason of sickness or absence from the county during the seventy-five days, and the assessor shall have made a statement for him, he may at any time before the assessment of taxes thereon by the county auditor, make, verify and file with the county auditor the proper statement; but in such case before the auditor shall receive such statement the person making the same must add to the ordinary affidavit a statement to the effect that his failure to give to the assessor such statement was occasioned by his sickness or absence, and if from absence that such absence was without design to avoid the listing of his property, and on the filing of such statement the auditor shall correct the statement made by the assessor: Provided, however, That such statement must first be approved by the county assessor. (§10207 Burns R. S. 1914.)

Taxation of Bank Stock.

73. The shares of capital or capital stock of any bank, banking association or trust company located within this state,

whether organized under the laws of this state or the United States, or of any other state or country, shall be assessed to the owner thereof in the township, city or town where such bank, banking association or trust company is located, and shall be taxed at the same rate as other property in the same locality is taxed and with reference to its value on the first day of March of the current year. (§10208 Burns R. S. 1914.)

1. *National Bank Shares.—Other Moneyed Capital.*—A state tax upon bank stock, state and national, at a higher rate than is imposed upon intangible personal property in general, including bonds, notes and other evidences of indebtedness, violates the provisions of U. S. Rev. Stat., Sec., 5219, that state taxation of shares in national banks "shall not be at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such state." *Merchants Nat. Bk. of Richmond, Va., v. City of Richmond*, ——— U. S. ———, (Decided June 6, 1921.)

2. *Decisions Under Former Law.*—For decisions under the statute relating to the assessment of banks see *Eaton v. Union Natl. Bank*, 141 Ind. 136; 40 N. E. Rep. 668; *First Natl. Bank v. Turner*, 154 Ind. 456; 57 N. E. Rep. 110.

3. *Personal Property of Banks.*—Personal property of banks and trust companies is listed and assessed in the township where it is situated. See §15.

4. *Indebtedness of Shareholders.*—The indebtedness of a taxpayer can not be deducted from the assessed value of shares in a national bank held by him. *First National Bank v. Turner*, 154 Ind. 456; 57 N. E. Rep. 110. See *Board v. First National Bank*, 25 Ind. App. 94; 57 N. E. Rep. 728.

5. *Shares in National Banks.*—Shares in national banks are taxable. *First National Bank v. Turner*, 154 Ind. 456; 57 N. E. Rep. 110. See *City of Richmond v. Scott*, 48 Ind. 568; *Board v. Bank*, 25 Ind. App. 94; 57 N. E. Rep. 728; *Croph v. Tuttle*, 27 Ind. 332; *Wright v. Stittz*, 27 Ind. 338; *Strader v. Manville*, 33 Ind. 111; *Whitney v. Ragsdale*, 33 Ind. 107; 5 Am. Rep. 185.

6. *Constitutional.—Non-Resident.*—The requirement of the above section that the stock shall be taxed at the place where the bank is located, is not invalid where the owner of the stock lives in another county or state. *Whitney v. Ragsdale*, 33 Ind. 107; 5 Am. Rep. 185; *Strader v. Manville*, 33 Ind. 111.

7. *Not Taxable Where Stockholders Reside.*—Bank stock is taxable where the bank is located, and is not liable to taxation again at other places where the stockholders reside. *Strader v. Manville*, 33 Ind. 111.

8. *Invalid as to National Banks.*—In the case of the *Indiana National Bank v. Smith*, Auditor of Marion County (not reported) in 1903, the United States Circuit Court for the District of Indiana held that so much of the act of 1903 relating to the assessment of banks as assessed the shares of national banks with the capital stock owned by its stockholders was invalid, because in conflict with the provisions of sections 5214 and 5219 of the U. S. Revised Statutes. See §§76-80.

9. *Reduction of Assessment on Appeal.*—If the assessment of the stock and property of a bank be reduced on appeal to the state board of tax commissioners, then the amount of tax must be based on the amount as fixed by that board. *First National Bank v. Gieger*, 157 Ind. 479; 62 N. E. Rep. 21.

10. *Bank Incorporated After March 1.*—Where a bank is incorporated after March 1, its stock can not be assessed for that year. *King v. City of Madison*, 17 Ind. 48.

11. *Duty of Bank Officers.*—The legislature has power to require the officers of national banks to make a list of the shares of stock of such banks for taxation. *Whitney v. Ragsdale*, 33 Ind. 107; 5 Am. Rep. 185.

12. *Shareholders Liable for Taxes.*—The assessment of bank stock in the name of the bank instead of the stockholders will not affect the lien for taxes, nor relieve the owner from the payment of the tax. *Small v. Lawrenceburgh*, 128 Ind. 231; 27 N. E. Rep. 500.

13. *Real Estate of Banks.*—Real estate owned by national bank, by the provisions of the statutes, state and national, as construed together, should be assessed for taxation as realty in the township where situated, and not as a part of the capital stock of the bank. *Loften v. Citizens National Bank*, 85 Ind. 341.

14. *Moneyed Capital.—Competition with National Banks.*—Where moneyed capital in the hands of individuals invested in bonds, notes, and other evidences of indebtedness comes into competition, relatively material in amount, in the loan market, with the moneyed capital of national bank by the term of U. S. R. S. §5219, such bank stock cannot be valued at a higher rate than such moneyed capital. *Merchants Nat. Bk. of Richmond, Va., v. City of Richmond*, — U. S. — (1921).

15. *Double Taxation.*—To assess both the stock and the physical property of a bank is double taxation. *Board v. First National Bank*, 25 Ind. App. 94, 98; 57 N. E. Rep. 728.

16. *Stock Assessed to Owner.*—This action being a later enactment than section 10214 (post, §76), controls in the assessment of bank stock, and requires that such stock be assessed to the owner thereof and not to the bank, *Kuhn v. Bowman*, 46 Ind. App. 677, 689; 93 N. E. 455; *Beard v. People's Savings Bank*, 53 App. 185.

Taxation upon shares of bank stock assessed in 1909 could not lawfully be assessed against the bank, but should have been assessed to the stockholders, and an assessment against the bank may be enjoined. *Kuhn v. Bowman*, 46 Ind. App. 677, 690; 93 N. E. 455.

17. *How Value of Is Ascertained.*—Surplus funds and undivided profits of a banking association enter into the value of stock, and are subject to taxation. The property of a banking association is taxed according to the value of its stock; and in determining such value the taxing officer should be governed by the market or selling price of such stock. If there be no market value, he must determine the actual value, taking into consideration the surplus and undivided profits. *Smith*, 1892, p. 78.

18. *Bank Deposits Checked Against.*—Where property is sold on the first day of April [now March] and a check given in payment thereof, the property should be assessed for taxation to the purchaser thereof, and the check, where the money has not been drawn thereon, should be assessed to the seller as a credit, from which the holder, if indebted, might deduct his indebtedness, and such purchaser would not be entitled to deduct the amount of such check from his deposit in bank, but would be required to return the full amount thereof for taxation. *Ketcham*, 1897, p. 130.

19. *Construction of Statutes.*—Construction of the statutes regulating the assessment of banks for taxation, and rule when some of the capital stock of the bank is invested in real estate. *Smith v. Stephens*, 173 Ind. 564.

20. *Taxation of Real Estate Owned by Banks.*—Where a bank owns real estate, which it does not carry or report as a part of its capital stock, surplus or undivided profits, then the board in arriving at the value of the capital stock should consider only the capital stock, surplus

and undivided profits carried and reported as such by the bank, and value the stock upon that basis. In that case there is no deduction to be made from the valuation to be arrived at, on account of the valuation of the real estate not carried in said fund. The real estate in such case is taken care of separately by the assessment thereof to the bank as real estate. Honan, 1914.

Savings Banks—How Taxed.

74. The surplus and undivided profits of all savings banks in the State of Indiana shall be assessed for taxation in the same manner as the surplus and undivided profits of national and state banks in the State of Indiana; and the taxes assessed against said surplus and undivided profits shall be paid by said savings banks: Provided, That whenever any such savings bank shall have acquired an ownership in real estate, so much of the value of such investment in real estate as may be carried in the surplus and undivided profits funds of such banks on the first day of March of the current year and shown in the statement of assets and liabilities to be filed as herein provided, shall be deducted from the valuation of such surplus and undivided profits funds of such savings bank. All savings banks in the State of Indiana shall make the same reports of surplus and undivided profits to the taxing authorities as it is now provided by law shall be made by national and state banks and such other similar institutions.

Unincorporated Bank.

75. The shares of stock or membership shares or certificates of stock in any bank owned and operated by any individual, partnership or unincorporated association within the State of Indiana shall be assessed to the owner of such shares in accordance with the provision of the preceding section. (§10209 Burns R. S. 1914.)

Bank Officers—Duties—State Board—Duties.

76. The president, cashier or other accounting officer of any bank, banking association or trust company or mortgage guarantee company, or individual, partnership, or unincorporated association shall, between the first day of March and the first day of April of each year, make out a statement under oath in duplicate, showing the number of shares, certificates of capital or capital stock of such bank, banking association or trust company or mortgage guarantee company

or individual, partnership or unincorporated association, the name and residence of each stockholder or shareholder with the number of shares owned by such stockholder or shareholder in such bank, banking association or trust company or mortgage guarantee company, or individual, partnership or unincorporated association and shall fix what he deems the true cash value of each of said shares and also the true cash value of the entire capital or capital stock of such bank, banking association or trust company or mortgage guarantee company, or individual, partnership or unincorporated association as of the first day of March of the current year and shall deliver said statement to the auditor of the county wherein such bank, banking association or trust company or mortgage guarantee company, or individual, partnership or unincorporated association is located, and said county auditor shall thereupon immediately forward said statement to the state board of tax commissioners. Said state board of tax commissioners shall value and assess for taxation the capital or capital stock of such bank, banking association or trust company or mortgage guarantee company, individual, partnership or unincorporated association as hereinafter provided. Whenever any such bank, banking association or trust company, or mortgage guarantee company, individual, partnership or unincorporated association shall have acquired an ownership in real estate so much of the value of such investment in real estate as may be carried in the capital stock account (capital stock, surplus or undivided profit accounts) on the first day of March of the current year and shown in the statement of assets and liabilities to be filed as herein provided, shall be deducted from the valuation of the capital stock of such bank, banking association, or trust company, or mortgage guarantee company, individual, partnership or unincorporated association.

In making such statement of the true cash value of such shares the credits shall be given and the bona fide indebtedness of such bank, banking association or trust company or mortgage guarantee company, individual, partnership or unincorporated association shall be deducted therefrom as in the case of individuals; and in giving such credits and such deductions such bank, banking association or trust company, or mortgage guarantee company, individual, partnership or

unincorporated association shall file a true statement of all the assets and the liabilities of such bank, banking association or trust company, or mortgage guarantee company, individual, partnership or unincorporated association the same as carried in its daily statement or balance sheet as of said first day of March of the current year. The state board of tax commissioners shall determine and settle the true cash value of each share of stock after an examination of such statement and also an examination, under oath, of such officer or officers if it be deemed necessary; and, in determining and fixing the true cash value of each of said shares of stock, it shall take into consideration the capital, surplus, undivided and other profits remaining in the hands of such bank, banking association or trust company, mortgage guarantee company, individual, partnership or unincorporated association together with all reserve accounts taken from the earnings of and carried by such bank, banking association or trust company, mortgage guarantee company, individual, partnership or unincorporated association for any purpose whatever. Said state board of tax commissioners may take into consideration in determining and fixing the true cash value of such shares of stock the earning power and the dividends made and distributed by such bank, banking association, trust company, mortgage guarantee company, individual, partnership or unincorporated association and such other facts as may be pertinent to such determination. (§10210 Burns R. S. 1914.)

1. *Constitutional.*—This section is not unconstitutional, although it provides for a deduction of the "assessed value" only of any real estate the bank or trust company may own, and the assessed value may not be equal to the real value. *Smith v. Stephens, Treasurer*, 173 Ind. 564, 573; 91 N. E. 167. (Instead of the "assessed value" the amount carried in the daily statement is now deducted.)

2. *Bank Owning Real Estate.*—The bank or trust company that owns real estate may deduct "the assessed value of such real estate" from the valuation of its capital stock, but it cannot deduct the real estate as distinguished from the "assessed value." The statute intends that they shall be the same, and the fact that the assessors violate the law by assessing such property at less than its real value, is immaterial. *Smith v. Stephens, Treasurer*, 173 Ind. 564, 569; 91 N. E. 167.

4. *Cash Value and Assessed Value of Land.*—The statute provides for the deduction of the assessed value of the land, upon the theory that it is cash value, and upon that theory the one would approximately, at least, equal the other, and there is no double taxation of any of the property of the bank or trust company. Assessments upon the cash value would operate equally, and that is the design of the statute. *Smith v. Stephens, Treasurer*, 173 Ind. 564, 572; 91 N. E. 167.

5. *Acts of Board of Review Administrative.*—Acts of the board of review in deducting the assessed value of the real estate of the bank from the value of its capital stock are purely administrative, but the board has no authority to depart from the statute and make a larger deduction than the statute directs. *Smith v. Stephens, Treasurer*, 173 Ind. 564, 572; 91 N. E. 167.

6. *Amount Invested in Real Estate Not Added to Surplus.*—In assessing the property of a bank having a surplus, the amount invested in real estate should not be added to the surplus, as the real estate is separately reported and taxed. *Smith v. Stephens, Treasurer*, 173 Ind. 564, 573; 91 N. E. 167.

7. *All Banks on Same Basis.*—The present law for the taxation of banks, enacted in 1907, places unincorporated and incorporated banks in the same class, and each is permitted to deduct the assessed value of real estate and its indebtedness in fixing the taxable property. *Board of Commissioners of Johnson County v. Johnson*, 173 Ind. 76, 92; 89 N. E. 590.

8. *Individual Banker Cannot Deduct His Indebtedness.*—An individual banker cannot deduct his indebtedness not incurred in the banking business from the bank assets in fixing the value of the banking property for taxation. *Board of Commissioners of Johnson County v. Johnson*, 173 Ind. 76, 92; 89 N. E. 590.

9. *No Discrimination Between Incorporated and Unincorporated Bank.*—Although the law for assessment of banks enacted in 1895 provided that unincorporated banks might deduct their deposits from the gross assets, less property exempt, while incorporated banks were permitted to deduct the assessed value of their real estate and other tangible property, in addition to their indebtedness, from the capital stock in determining the value of the shares to be taxed to the owners thereof, the results were practically the same, and there was no distinction or discrimination as between unincorporated, and incorporated banks so as to bring the statute in conflict with the fourteenth amendment or section of the state Constitution, requiring a uniform rate and equal assessment of property for taxation or the local and special law clause of the state Constitution. *Board of Commissioners of Johnson County v. Johnson*, 173 Ind. 76, 92; 89 N. E. 590.

10. *Basis of Valuation.*—In the assessment of incorporated banks, the market value of the capital stock, less the value of real estate and tangible property, is the taxable property. *Clark, Auditor, v. Vandalia R. R. Co.*, 172 Ind. 409, 416; 86 N. E. 851.

11. *Surplus Subject to Taxation.*—The surplus funds on hand in a savings bank pursuant to Burns R. S. 1914, §3375, are subject to taxation unless invested in non-taxable securities. *Beard v. People's Savings Bank*, 53 App. 185.

12. *Money on Deposit.*—Money on deposit in a savings bank is regarded for taxation as the property of the depositor, and not as a credit due him, and hence is taxable to the depositor. *Beard v. People's Savings Bank*, supra.

Failure of Bank Official to Make Return—How Secured.

77. In the case of the failure or the refusal of the president, cashier or other proper accounting officer of such bank, banking association or trust company, mortgage guarantee company or individual, partnership or unincorporated association to make and return such statements within the time aforesaid the auditor of the proper county shall and the state

board of tax commissioners may summon such officer to appear forthwith before him, and in the case of the state board of tax commissioners it, with the books of such bank, banking association or trust company, mortgage guarantee company, or individual, partnership or unincorporated association, and said auditor and state board of tax commissioners are hereby empowered to compel the attendance of said officers in obedience to such summons and to examine them under oath and make such investigation at the expense of such bank, banking association or trust company, mortgage guarantee company, or individual, partnership or unincorporated association, as may be necessary to obtain the information provided for in the preceding section. (§10211 Burns R. S. 1914.)

Bank May Pay Stockholders' Tax—Withhold Same from Dividends.

78. It shall be the duty of every such bank, banking association or trust company, mortgage guarantee company, individual, partnership or unincorporated association, or the managing officer or officers thereof, after being notified in writing to do so by the county treasurer, to retain so much of any dividend or dividends belonging to such stockholders, as shall be necessary to pay any tax levied upon their shares of stock respectively, until it shall be made to appear to such bank, banking association or trust company, mortgage guarantee company, or individual, partnership or unincorporated association that said taxes have been fully paid and satisfied. And such bank, banking association, trust company, mortgage guarantee company or individual, partnership or unincorporated association shall pay over to such county treasurer, upon his demand, the amount of such dividend or dividends as may be necessary to pay such tax. And any such bank, banking association, or trust company, mortgage guarantee company or individual, partnership or unincorporated association which shall pay over, or authorize the paying over, of any such dividend or dividends, or any portion thereof, contrary to the provisions of this section, shall thereby become liable for such tax; or such bank, banking association, trust company or mortgage guarantee company or individual, partnership or unincorporated association may pay the tax due from any of its shareholders and retain the

amount thereof from any dividends due or from subsequent dividends. (§10212 Burns R. S. 1914.)

County Auditor to Enter Valuation on Duplicate.

79. The county auditor shall enter the valuation of such shares of capital stock on the tax duplicate of the current year after the same has been certified to him by the state board of tax commissioners and shall compute and extend taxes thereon the same as against the valuation of other property in the same township, town or city. (§10213 Burns R. S. 1914.)

Taxes—When Lien on Shares.

80. Taxes assessed upon shares of stock of bank, banking association or trust company, mortgage guarantee company, individual, partnership or unincorporated association shall become a lien thereon upon the first day of March of the current year, and such lien shall be in nowise affected by any sale or transfer of such stock. Such taxes shall be paid by the bank, banking association or trust company, mortgage guarantee company, or individual, partnership or unincorporated association in the same manner that other individuals or corporations pay their taxes, and subject to the same penalties. (§10214 Burns R. S. 1914.)

1. *Liens Not Released.*—The assessment of bank stock in the name of the bank instead of the stockholders will not affect the lien for taxes, nor relieve the owner from the payment of the tax. *Small v. Lawrenceburgh*, 128 Ind. 231; 27 N. E. Rep. 500.

Municipal Taxing.

81. Nothing in this act shall be so construed as to exempt from taxation for municipal purposes the shares of capital or capital stock of any bank or banking association, trust company, mortgage guarantee company or individual, partnership or unincorporated association organized under the laws of this state or the United States, but all such shares of stock may be assessed and taxed for all purposes at the same rate that other property is assessed and taxed in the same locality. (§10215 Burns R. S. 1914.)

1. *Bank Stocks.*—Bank stocks are taxable for municipal purposes the same as other property. *DePauw v. New Albany*, 22 Ind. 204; *City of Richmond v. Scott*, 48 Ind. 568; *Whitney v. Ragsdale*, 33 Ind. 107; 5 Am. Rep. 185.

2. *Foreign Stock.*—A city has the right to tax its citizens for stock owned by them in foreign corporations, although a tax has been paid

thereon in the state where the corporations are located. *Seward v. Rising Sun*, 79 Ind. 351.

Insurance Companies.

82. Every insurance company not organized under the laws of this state and doing business therein shall in the months of January and July of each year, report to the auditor of state under oath of the president and secretary the gross amount of all receipts received in the State of Indiana on account of insurance premiums for the six months last preceding, ending on the last day of December and June of each year next preceding, and shall at the time of making such report pay into the treasury of the state the sum of three dollars on every one hundred dollars of such receipts, less losses actually paid within the state and any such insurance company failing or refusing for more than thirty days, to render an accurate account of its premium receipts as above provided and pay the required tax thereon shall forfeit one hundred dollars for each additional day such report and payment shall be delayed, to be recovered in an action in the name of the State of Indiana on the relation of the auditor of state in any court of competent jurisdiction, and it shall be the duty of the auditor of state to revoke all authority of any such defaulting company to do business within this state. (§10216 Burns R. S. 1914.)

1. *Basis of Taxation.*—Foreign insurance companies are taxed on the gross receipts, less gross losses paid, and not on the amount of moneys on hand or on deposit on the first of March. *Clark, Auditor, v. Vandalia R. R. Co.*, 172 Ind. 409, 416; 86 N. E. 851.

2. *Payment to Treasurer.*—This section clearly provides how, to whom, when and where the taxes on foreign insurance companies shall be paid. It provides that all such insurance companies shall, in July and January of each year, report to the auditor of state the gross amounts of all premiums received in the state and shall pay into the state treasury the sum of \$3 on every \$100 of such receipts, less losses actually paid within the state. The payment of such taxes to the auditor of state is unauthorized, and taxes of this kind that are paid to him are not collected or received with the authority of the state and do not become the property of the state without some act amounting to an acceptance or ratification by the state. *Daily v. State, ex rel., Bigler*, 171 Ind. 646, 653; 87 N. E. Rep. 4.

3. *Auditor Not Liable.*—The auditor of state is not liable to the State of Indiana for moneys collected by him from foreign insurance companies unless it can be shown that the state has ratified the acts of the auditor in making such collection. *Daily v. State, ex rel., Bigler*, 171 Ind. 646, 654; 87 N. E. Rep. 4.

4. *Reports to Auditor.*—This statute contemplates that foreign insurance companies shall make their reports to the auditor of state, but that the prescribed fee shall be paid into the state treasury, and if they

elect to pay such fee to the auditor, he becomes the agent of the insurance companies and not of the state. *Sherrick v. State*, 167 Ind. 345, 357; 79 N. E. Rep. 193.

5. *Auditor the Agent*.—Insurance companies paying to the auditor of state the amounts required of them by this section constitute him their agent to transfer the money to the state treasurer, and until they have some notice of the acceptance or ratification of their acts by the state, such companies may revoke the agency and recover their money from the auditor as for money had and received. *Sherrick v. State*, 167 Ind. 345, 360; 79 N. E. Rep. 193.

6. *Failure to Pay Taxes, No Interest*.—If an insurance company fails to pay taxes when due, interest cannot be charged on the amount of the taxes assessed from the time payment should have been made, until payment was made. *State v. Mutual Life Ins. Co.*, 175 Ind. 59.

Telegraph Companies.

83. Any joint stock association, company, copartnership or corporation, whether incorporated under the laws of this state or of any other state, or of any foreign nation, engaged in transmitting to, from, through, in or across the State of Indiana, telegraphic messages shall be deemed and held to be a telegraph company, and every such telegraph company shall, annually, between the first day of March and the first day of April, make out and deliver to the state board of tax commissioners a statement verified by the oath of the officer or agent of such company making such statement with reference to the first day of March next preceding, showing:

First. The total capital stock of such association, company, co-partnership or corporation.

Second. The number of shares of capital stock issued and outstanding, and the par or face value of each share.

Third. Its principal place of business.

Fourth. The market value of said shares of stock on the first day of March next preceding, and if such shares have no market value, then the actual value thereof.

Fifth. The dividends which have been paid during the year last preceding the making of said report on said stock; the amount of the surplus or reserve fund of said joint stock association, company, co-partnership or corporation and its net income from its telegraphic business during the year last preceding the filing of said report.

Sixth. The real estate, structures, machinery, fixtures and appliances owned by said association, company, co-partnership or corporation and subject to local taxation within the state, and the location and assessed value thereof in each county or township where the same is assessed for local taxation.

Seventh. The specific real estate, together with the permanent improvements thereon, owned by such association, company, co-partnership or corporation, situate outside the State of Indiana and not directly used in the conduct of the business, with a specific description of each such piece, where located, the purpose for which the same is used and the sum at which the same is assessed for taxation in the locality where situated.

Eighth. All mortgages upon the whole or any of its property, together with the dates and amounts thereof.

Ninth. (a) The total length of the lines of said association or company.

(b) The total length of so much of their lines as is outside the State of Indiana.

(c) The length of the lines within each of the counties and townships within the State of Indiana.

(d) Any other information that the state board of tax commissioners may require to aid in determining valuation.

(e) The total value of all the property of said joint stock association, company, co-partnership or corporation, used or useful for rate making purposes. (§10217 Burns R. S. 1914.)

1. *Constitutional.—Construction.*—This section is constitutional, and is to be construed in connection with and as a part of the original tax law. *Western U. Tel. Co. v. Taggart*, 141 Ind. 281; 40 N. E. Rep. 1051; *Western U. Tel. Co. v. Taggart*, 163 U. S. 1; 16 Sup. Ct. Rep. 1054; *Western U. Tel. Co. v. Henderson*, 68 Fed. Rep. 589; *Western U. Tel. Co. v. State*, 146 Ind. 54; 44 N. E. Rep. 793; *Western U. Tel. Co. v. Massachusetts*, 125 U. S. 530; *Massachusetts v. Western U. Tel. Co.*, 141 U. S. 40.

2. *Does Not Authorize Assessment of Capital Stock.*—The act of 1872 relating to the assessment of property for taxation did not authorize the assessment of the capital stock of foreign corporations. *Riley v. Western Union Co.*, 47 Ind. 511.

Telephone Companies.

84. Every telephone company doing business in this state, whether incorporated under the laws of this state or of any other state, or of any foreign nation, shall, annually, between the first day of March and the first day of April, make out and deliver to the state board of tax commissioners a statement, verified by the oath of the officer or agent of such company making such statement, with reference to the first day of March next preceding, showing:

First. The total capital stock of such association, company, co-partnership or corporation.

Second. The number of shares of capital stock issued and outstanding, and the par or face value of each share.

Third. Its principal place of business.

Fourth. The market value of said shares of stock on the first day of March next preceding, and if such shares have no market value, then the actual value thereof.

Fifth. The dividends which have been paid during the year last preceding the making of said report on said stock; the amount of the surplus or reserve fund of said joint stock association, company, co-partnership or corporation and its net income from its telephone business during the year last preceding the filing of said report.

Sixth. The real estate, structures, machinery, fixtures and appliances owned by said association, company co-partnership or corporation and subject to local taxation within the state, and the location and assessed value thereof in each county or township where the same is assessed for local taxation.

Seventh. The specific real estate, together with the permanent improvements thereon, owned by such association, company, co-partnership or corporation, situate outside the State of Indiana and not used directly in the conduct of the business with a specific description of each piece, where located, the purpose for which the same is used and the sum at which the same is assessed for taxation in the locality where situated.

Eighth. All mortgages upon the whole or any of its property, together with the dates and amounts thereof.

Ninth. (a) The total length of the lines of said association or company.

(b) The total length of so much of their lines as is outside the State of Indiana.

(c) The length of the lines within each of the counties and townships within the State of Indiana.

(d) Any other information that the state board of tax commissioners may reasonably require to aid in determining valuation. (§10219 Burns R. S. 1914.)

1. *Manner of Assessing Omitted Property.*—As to the manner of assessing the tangible property and capital stock of telephone companies, and how such property may be assessed as omitted property. *Parkinson v. Jasper Tel. Co.*, 31 App. 135.

2. *Basis of Taxation.*—Telegraph and telephone companies, whether organized in this state or another, are assessed on the value of their capital stock, that assessable value being ascertained from a considera-

tion of all the belongings of the company, as exhibited on schedules and lists directed by the statute, and the amount of money on hand is not taken into consideration. *Clark, Auditor, v. Vandalia R. R. Co.*, 172 Ind. 409, 416; 86 N. E. 851.

3. *Advanced Rentals in the Hands of Telephone Companies March 1.*—Telephone rentals collected in advance and in the hands of a telephone company on March 1 is liable for tax and the only possible person who could be assessed for such money is the telephone company holding it on that date. *Milburn*, 1915.

Express Companies.

85. Every joint stock association, company, co-partnership or corporation incorporated or acting under the laws of this or any other state, or any foreign nation engaged in conveying to, from, through, in, or across this state, or any part thereof, money, packages, gold, silver plate, merchandise, freight or other articles, under any contract, express or implied, with any railroad company or the managers, lessees, agents, or receivers thereof: Provided, Such stock association, company, co-partnership or corporation is not a railroad company, shall be deemed and held to be an express company within the meaning of this act, and every such express company shall annually, between the first day of March and the first day of April make out and deliver to the state board of tax commissioners a statement, verified by the oath of the officer or agent of such association, company, co-partnership or corporation making such statement with reference to the first day of March next preceding, showing:

First. The total capital stock or capital of said association, company, co-partnership or corporation.

Second. The number of shares of capital stock issued and outstanding and the par or face value of each share, and in case no shares of capital stock are issued, in what manner the capital thereof is divided and in what manner such holdings are evidenced.

Third. Its principal place of business.

Fourth. The actual value of the said shares of stock on the first day of March next preceding; and in case no shares of stock have been issued state the actual value of the capital thereof and the manner in which the same is divided.

Fifth. The market quotation for said shares of stock, if there is such market quotation.

Sixth. The dividends which have been paid during the year last preceding the making of said report on said stock;

the amount of the surplus or reserve fund of said joint stock association, company, co-partnership or corporation and its net income from the express business during the year last preceding the filing of said report.

Seventh. The real estate, structures, machinery, fixtures and appliances owned by said association, company, co-partnership or corporation, and subject to local taxation within the State of Indiana, and the location and assessed value thereof in each county or township where the same is assessed for local taxation.

Eighth. The specific real estate, together with the improvement thereon, owned by said association, company, co-partnership or corporation, situate outside the State of Indiana and not used directly in the conduct of the business, with a specific description of each piece, where located, the purpose for which the same is used, and the sum at which the same is assessed for taxation in the locality where situated.

Ninth. All mortgages upon the whole or any part of its property, together with the dates and amounts thereof.

Tenth. (a) The total length of the lines or routes over which such association, company, co-partnership or corporation transports such merchandise, freight or express matter.

(b) The total length of such lines or routes as are outside the State of Indiana.

(c) The length of such lines or routes within each of the counties and townships within the State of Indiana.

(d) Any other information that the state board of tax commissioners may reasonably require to aid in determining valuation. (§10220 Burns R. S. 1914.)

1. *Basis of Assessment.—Measured.*—Basis of assessment of express companies for taxation and the means that may be used to obtain information. *State v. Adams Ex. Co.*, 144 Ind. 549.

Sleeping and Freight Car Companies.

86. Every joint stock association, company, co-partnership, or association incorporated or acting under the laws of this or any other state, or of any foreign nation, and conveying to, from, through, in, or across this state or any part thereof passengers or travelers, or freight in palace cars, drawing-room cars, sleeping cars, dining cars or chair cars, oil cars, refrigerator cars, fast freight cars or cars for the transportation of horses, cattle, hogs, sheep, or any other kind of freight

whatever, under any contract, express or implied, with any railroad company or the managers, lessees, agents or receivers thereof, shall be deemed and held to be a sleeping car company, for the purposes of this act; and every such sleeping car company doing business in this state shall annually, between the first day of March and the first day of April, make out and deliver to the state board of tax commissioners a statement, verified by the oath of the officer or agent of such company making such statement, with reference to the first day of March next preceding, showing:

First. The total capital stock of such association, company, co-partnership or corporation.

Second. The number of shares of capital stock issued and outstanding, and the par or face value of each share.

Third. Its principal place of business.

Fourth. The market value of said shares of stock on the first day of March next preceding, and if such shares have no market value then the actual value thereof.

Fifth. The dividends which have been paid during the year last preceding the making of said report on said stock; the amount of the surplus or reserve fund of said joint stock association, company, co-partnership or corporation and its net income from its business during the year last preceding the filing of said report.

Sixth. The real estate, structures, machinery, fixtures and appliances owned by said association, company, co-partnership or corporation, and subject to local taxation, within the state, and the location and assessed value thereof in each county or township where the same is assessed for local taxation.

Seventh. The specified real estate together with the permanent improvements thereon owned by such association, company, co-partnership or corporation situate outside the State of Indiana and not used directly in the conduct of the business, with a specific description of each such piece, where located, the purpose for which the same is used, and the sum at which the same is assessed for taxation in the locality where situated.

Eighth. All mortgages and where recorded and the names and residences of the holders of the same upon the whole or any of its property, together with the franchises and amounts thereof.

Ninth. (a) The total length of the main lines of all the railroad companies over which said cars are run; (b) the total length of so much of the main lines of the railroad companies over which said cars are run as is outside the State of Indiana; (c) the length of the lines of said railroad companies over which said cars are run within each of the counties and townships within the State of Indiana: Provided, That where the railroads over which said lines have double tracks, or a greater number of tracks than a single track, the statement shall only give the mileage as though such tracks were but a single track; and in case the state board of tax commissioners shall require it, such statement shall show the number of miles of each or any particular railroad system or division in detail; (d) any other information that the state board of tax commissioners may reasonably require to aid in determining valuation. (§10218 Burns R. S. 1914.)

1. *Tax on Earnings.*—The state can not levy a tax upon the earnings of a sleeping car company engaged in the business of transporting business from one state to another, in the proportion that the distance traveled through this state bears to the entire distance for which fares are received. *State v. Woodruff Sleeping, etc., Co.*, 114 Ind. 155; 15 N. E. Rep. 814.

2. *Constitutional.*—See *Pullman's Palace Car Co. v. Pennsylvania*, 141 U. S. 18.

3. *Assessed Same as Telegraph Companies.*—Sleeping car and express companies are assessed in the same manner as just stated regarding telegraph and telephone companies. *Clark, Auditor, v. Vandalia R. R. Co.*, 172 Ind. 409, 416; 86 N. E. 851.

Pipe Line Companies.

87. Every joint stock association, company, co-partnership, or association, whether incorporated under the laws of this state, or of any other state, or of any foreign nation, which owns a pipe line or lines wholly or in part situate in the State of Indiana, whether such pipe lines be used for the transmission of oil, natural or artificial gas, whether the same is for illuminating or fuel purposes, or for any other purpose, or steam for heat or power, or for the transmission of power, or for the transmission of articles by pneumatic or other power, shall be deemed and held to be a pipe line company, and every such pipe line company shall annually, between the first day of March and the first day of April, make out and deliver to the state board of tax commissioners a statement, verified by the officer or agent of such company making such statement with reference to the first day of March next preceding, showing:

First. The total capital stock or shares of such association, company, co-partnership or corporation.

Second. The number of shares of capital stock issued and outstanding and the par or face value of each share.

Third. Its principal place of business.

Fourth. The market value of said shares of stock on the first day of March next preceding, and if such shares have no market value, then the actual value thereof.

Fifth. The dividends which have been paid during the year last preceding the making of said report on said stock; the amount of the surplus or reserve fund of said joint stock association, company, co-partnership or corporation and its net income from its business during the year last preceding the filing of said report.

Sixth. The real estate, structures, machinery, fixtures and appliances owned by said association, company, co-partnership or corporation, and subject to local taxation within the state, and the location and assessed value thereof in each county or township where the same is assessed for local taxation.

Seventh. The specific real estate, together with the permanent improvement thereon, owned by said association, company, co-partnership or corporation situate outside the State of Indiana, and not directly used in the conduct of the business, with specific description of each such piece, where located, the purpose for which the same is used, and the sum at which the same is assessed for taxation in the locality where situated.

Eighth. All mortgages and where recorded and the names and residences of holders of the same upon the whole or any part of its property, together with the debts and amounts thereof.

Ninth. A schedule of all other property owned by said associations, companies, co-partnerships or corporations other than real estate, located without the State of Indiana, and the assessed value thereof, if any; also a schedule of all other property, including the length, size and value of lines, tanks and capacities thereof, and all other property owned by said associations, companies, co-partnerships or corporations, other than real estate, as set out in clause sixth of this section, located within the State of Indiana, with the location and value thereof.

Tenth. Any other information that the state board of tax commissioners may reasonably require to aid in determining valuation. (§10222 Burns R. S. 1914.)

1. *Assessment by Local Assessors.*—Local assessors under this section should assess all real estate, the buildings on such real estate, and the machinery and appliances, which include power houses, engines and pumping stations and the machinery therein. All wells, both gas and oil, including the derricks thereat, as well as all pipe lines and tanks, should be assessed by the state board of tax commissioners and not by local assessors. Taylor, 1902, p. 116.

Public Utilities.

88. Every corporation, company, individual, association of individuals, their lessees, trustees or receivers appointed by any court whatsoever that now or hereafter may own, operate, manage or control any plant or equipment within the State of Indiana for the production, transmission, delivery or furnishing of heat, light, water or power, or for the furnishing of elevator or *warehouse* service either directly or indirectly to or for the public shall be deemed a public utility, and every such public utility shall annually, between the first day of March and the first day of April, make out and deliver to the state board of tax commissioners a statement, verified by the officer or agent of such public utility making such statement, with reference to the first day of March of the current year showing:

First. The name and location of such public utility.

Second. The names and postoffice addresses of its officers and the name and address of the officer, agent or employe in charge of the operation of its business.

Third. The amount of the capital stock, both common and preferred, authorized; and the amount of the same outstanding, together with the number of shares into which such capital stock is divided if such public utility is a corporation. If such public utility is not organized as a corporation then the amount of the actual investment in such public utility.

Fourth. The true cash value of such capital stock or investment.

Fifth. The real estate, structures, machinery, fixtures and appliances owned by such public utility subject to local taxation within the state, and the location and assessed value thereof in each county, township, town and city where the same is assessed.

Sixth. The specific real estate, together with the permanent improvements thereon, owned by such public utility situate outside the State of Indiana, with specific description of each such piece, where located, the purpose for which the same is used, and the sum at which the same is assessed for taxation in the locality where situated.

Seventh. A schedule of all other property owned by such public utility, other than real estate, located without the State of Indiana, its location and the assessed value thereof for taxation in the locality where situate.

Eighth. The name and value of each franchise or privilege owned or enjoyed by such public utility.

Ninth. A schedule of all other property not included in the foregoing, both tangible and intangible, within the State of Indiana, and where situate, together with a statement of the true cash value of the same.

Tenth. The total amount of all indebtedness, together with a description of the same, giving names and residence of the holders of such indebtedness.

Eleventh. The true cash value of all tangible property.

Twelfth. The dividends which have been paid during the year last preceding the making of such report.

Thirteenth. The amount of the surplus, undivided profits and all reserve funds of such public utility as of the first day of March of the current year.

Fourteenth. The amount of the gross and net income from its business during the year last preceding the filing of such report together with a copy of its balance sheet or statement as of March first of the current year.

Such statement shall be made in conformity to such instructions and forms as may be prescribed by the state board of tax commissioners. And such state board of tax commissioners shall have the power and authority to add to or change the form and requirements of such statement from time to time as it may deem necessary and to require any other or additional information to aid it in determining valuation for taxation.

In case of the failure or refusal to make such statement such public utility shall forfeit and pay one hundred dollars for each additional day such report is delayed beyond the said first day of April, to be sued for and recovered in any proper

form of action in the name of the State of Indiana on the relation of the attorney general, such penalty, when collected, to be paid into the general fund of the State of Indiana. And the attorney general, in every case of recovery, shall be entitled to ten per centum on the amount of such judgment so recovered when the same shall be paid to the State of Indiana.

Building and Loan Associations.

89. Every association heretofore or hereafter incorporated under any law providing for the incorporation of building, loan fund, and savings association, and every association heretofore or hereafter incorporated under any law for the purpose of assisting its members to accumulate or invest their savings by accumulating a fund by periodical payments on its stock, or otherwise, to be loaned among its members, shall be known in this act as a building and loan association. The president, secretary, or other accounting officer of any such building and loan association shall, between the first day of March and the first day of April of each year, make out a statement under oath, in duplicate, showing as of and with reference to the first day of March of the current year:

First. A statement of all its tangible personal property, including office furniture and fixtures, together with a statement of the actual true cash value of the same.

Second. A statement of the amount of the contingent fund held in the hands of said association upon the date aforesaid.

Third. The amount of all other reserves held by such building and loan association which have been paid in by the stockholders as a reserve fund, or which have been taken from the earnings of such building and loan association.

Fourth. A statement or balance sheet showing the assets and liabilities of such building and loan association as of the said first day of March, which statement shall be similar in form and substance as that carried by such association as a trial balance sheet.

State Board to Value.

90. This statement such association shall deliver to the auditor of the county where such building and loan association is located, and such county auditor shall immediately forward such statement to the state board of tax commissioners. Said

state board of tax commissioners shall value and assess for taxation the aforesaid tangible personal property, together with such contingent and reserve funds of such association, as hereinafter in this act provided. The state board of tax commissioners shall determine and settle the true cash value of all the aforesaid tangible property, contingent and reserve funds after an examination of such statement, and also an examination, under oath, of such officer or officers if it be deemed necessary: Provided, That whenever any such building and loan association shall have acquired an ownership in real estate, so much of the value of such investment in real estate as may be carried in the contingent and reserve funds of such building and loan association on the first day of March of the current year and shown in the statement of assets and liabilities, to be filed as herein provided, shall be deducted from the valuation of such contingent and reserve funds of such building and loan association.

Officers Failing to Report—Compelled to Report.

91. In the case of the failure or refusal of the president, secretary or other proper accounting officer of such building and loan association, to make and return such statement within the time aforesaid, the auditor of the proper county shall, and the state board of tax commissioners may, summon such officer or officers to appear forthwith before him, or in the case of the state board of tax commissioners, it, with the books of such building and loan association and said auditor and said state board of tax commissioners are hereby empowered to compel the attendance of said officers in obedience to such summons, and to examine them under oath and make such investigation at the expense of such building and loan association as may be necessary to obtain the information as provided for above.

Contingent and Reserve Funds Taxed:

92. The tangible personal property, together with such contingent and other reserve funds as provided for herein, shall be assessed to such building and loan association in the township, town or city where such building and loan association is located and shall be taxed at the same rate as other property in the same locality is taxed with reference to its value on the first day of March of the current year.

County Auditor Extends Taxes Certified by State Board.

93. The county auditor shall enter the valuation of such tangible personal property, contingent and other reserve funds after the same have been certified to him by the state board of tax commissioners, and shall compute and extend taxes thereon the same as against the valuation of other property in the same township town or city. Taxes assessed and so extended upon such property shall become a lien thereon upon the first day of March of the current year. Said taxes shall be paid in the same manner that other individuals or corporations pay their taxes and subject to the same penalties.

Shares of Stock in Building Loan Association—To Owner.

94. The shares of capital stock in any building loan association shall be assessed to owners of same on the first day of March each year and listed as a credit and valued for taxation as herein provided. (§4128 Burns R. S. 1914.)

Borrower of Building Loan Association—Deduction.

95. Any person, being the owner of any of the stock of a building and loan association, liable for taxation within the State of Indiana, and being indebted to it in any sum secured by the pledge of such stock of such building and loan association, may have the amount of such indebtedness, existing and unpaid on the first day of March of the year in which such stock is assessed for taxation, deducted from the value of such stock of such building and loan association for that year. The certificate of the president, secretary, or other accounting officer of such building and loan association shall be filed by every such person claiming such deduction as a sufficient evidence for such deduction, unless the proper assessing officer or officers shall desire to examine such president, secretary, or other accounting officer, or the books of such building and loan association touching such statement, and in such event such assessing officer or officers are hereby empowered to compel the attendance of such president, secretary or other accounting officer of such building and loan association, as has been herein provided.

Assessment—Manner of Making—State Board.

96. The state board of tax commissioners shall first ascertain the true cash value of the entire property owned by the

association, company, co-partnership or corporation, from said statements, or otherwise, for that purpose, taking the aggregate actual value of all the shares of the capital stock of said association, company, co-partnership or corporation, and in case said association, company, co-partnership or corporation, has no shares of stock, taking the actual value of the capital of said association, company, co-partnership or corporation, in whatever manner the same is divided: Provided, however, That in case the whole or any part of the property of such association, company, co-partnership or corporation shall be encumbered by a mortgage or mortgages, such board shall ascertain the true cash value of such property by adding to the actual value of the aggregate shares of stock, or to the value of the capital, in case there shall be no such shares, the aggregate amounts of such mortgage or mortgages, and the result shall be deemed and treated as the true cash value of the property of such corporation: Provided further, however, That the state board of tax commissioners in its discretion may adopt any other source of information, hereinafter mentioned, in determining such true cash value. Such state board of tax commissioners shall, for the purpose of ascertaining the true cash value of the property within the State of Indiana, next ascertain from such statements, or otherwise, the assessed value for taxation in the localities where the same is situated, of the several pieces of real estate without the State of Indiana, and not specifically used in the general business of such association, company, co-partnership or corporation; which said assessed values for taxation shall be by said board deducted from the gross value of the property, as above ascertained. Said state board of tax commissioners shall next ascertain and assess the true cash value of the property of such associations, companies, co-partnerships, corporations or persons within the State of Indiana, by taking the proportion of the whole aggregate value of said associations, companies, co-partnerships, corporations or persons as above ascertained, after deducting the assessed value of such real estate without the state, which length of lines of said associations, companies, co-partnerships, corporations or person in the case of telegraph and telephone companies within the state bears to the total length of lines thereof, and in the case of palace, drawing-room, sleeping, dining, chair car, oil car, refrigerator car com-

panies, and companies owning cars for the transmission of fast freight, horses, cattle, hogs, sheep, or any other freight of any description, the proportion shall be *the proportion of such aggregate value after such deductions, which the length of lines within the state over which said cars are run bears to the length of the whole lines over which said cars are run*, and in case of express companies the proportion shall be in the proportion of the whole aggregate value after such deductions, which the length of lines or routes within the State of Indiana bears to the whole length of the lines or routes of such associations, companies, co-partnerships or corporations, and in case of pipe line companies the proportion shall be that proportion of the whole aggregate length, size and value of its pipe lines and other property, after such deductions, which the length, size and value of the said pipe lines and other property within the State of Indiana bears to the whole length, size and value of the said line and other property of such associations, and such amount so ascertained shall be deemed and held as the entire value of the property of said associations, companies, co-partnerships, or corporations within the State of Indiana. From the entire value of the property within the state so ascertained there shall be deducted by the said board the assessed value for taxation of all the real estate, structures, machinery and appliances within the state and subject to local taxation in the counties and townships as provided in this act, and the residue of such value so ascertained, after deducting therefrom the assessed value of such local properties, shall be by such board assessed to said association. In case of public utilities, the board shall consider any and all elements, adding value as set out in this act in determining the assessment to be placed against such utility. In determining the value of the capital or capital stock of any bank, banking association or trust company or mortgage guarantee company or individual partnership or unincorporated association as designated in this act, the board shall follow the method therein set out in fixing the value. In determining the value that shall be assessed against building and loan associations, the board shall consider the methods for determining the value of such associations as set out in this act. That for the purpose of determining the actual value of said shares of stock or of said capital in case there are no shares of stock the said

state board of tax commissioners may take into consideration the market value of said shares of stock, or capital, the dividends paid by the earning capacity of said joint stock association, company, co-partnership or corporation, and all other facts and circumstances in relation to the actual value of said shares of stock or capital. The state board of tax commissioners, in the case of pipe line associations, companies, co-partnerships, or corporations shall distribute and apportion to the different counties, townships, cities or towns such residue, in the proportion that the length, size and value of the lines in each of said counties, townships, cities or towns bears to the total assessed value in the state. In the case of public utilities as defined in this act, the state board of tax commissioners shall distribute a proportion to the different counties, townships, cities, or towns of such residue in the proportion that the assessed value of the tangible property in the said taxing units bears to the total assessed value of its tangible property in this state. (§10226 Burns R. S. 1914.)

1. *Information.*—In the assessment of express companies for taxation the state board of tax commissioners is not confined for information to the statements furnished by such companies pursuant to the statute, but resort may be had to other means of information. *State v. Adams Ex. Co.*, 144 Ind. 549; 42 N. E. Rep. 483.

2. *Assessment According to Mileage.*—An assessment upon an express company of another state proportioned to mileage is bad when it appears that the total valuation is made up principally from real and personal property, not necessarily used in the actual business of the company, and which is permanently located in the state where the company is incorporated. *Fargo v. Hart*, 193 U. S. 490.

3. *Unit System of Valuation.*—The state board of tax commissioners may use the unit system of valuation, and in so doing the length of the route and the proportion of such length within the state may be taken into consideration. *State v. Adams Express Co.*, 144 Ind. 549; 42 N. E. Rep. 483.

4. *Presumption.*—The presumption is that the state board of tax commissioners in fixing the value of so much of a telegraph line as was within this state, deducted from the total value of all interstate property such values of extra state property, if any, as left the remaining property, within and without this state, as near as may be, of equal proportional value. *Western U. Tel. Co. v. Taggart*, 141 Ind. 281; 40 N. E. Rep. 1051.

5. *Fraud in Valuation.*—The judgment of the state board of tax commissioners can not be set aside by the testimony of witnesses that the valuation was other than that fixed by the board, where there is no evidence of fraud or of gross error in the system on which valuations are made. *Pittsburgh, etc., Ry. Co. v. Backus*, 154 U. S. 421, affirming 133 Ind. 625; 33 N. E. Rep. 432.

Collection of Tax from Freight Lines.

97. In lieu of the method heretofore provided by law for the taxation of joint stock associations, companies, co-part-

nerships, or associations engaged in carrying or transporting freight in oil cars, refrigerator cars, fast freight cars or cars for the transportation of cattle, hogs, sheep, or any other kind of freight whatever under any contract, express or implied, with any railroad company, the said state board of tax commissioners shall, after ascertaining the true cash value of the property owned by such association, company, co-partnership or corporation in the State of Indiana as provided by law, from the statement filed with said board on blank forms prepared by said board, report to the auditor of state, the amount fixed by it as the value of the capital stock, representing the capital and property of such association, company, co-partnership or corporation employed and used in the State of Indiana, whereupon it shall be the duty of the auditor of state, in the month of November annually to charge and collect from each of such associations, companies, co-partnerships or corporations doing business or owning cars which are operated in the State of Indiana, a sum in the nature of an excise tax, to be computed by taking one per cent of the amount fixed by the state board of tax commissioners as the value of the proportion of the capital stock representing the capital and property of such company owned and used in the State of Indiana and certified to the auditor of state after deducting the value of the real estate of the company in Indiana assessed and taxed locally, if any there be. The taxes collected by the auditor of state under the provisions of this act shall be paid into the state treasury, and be credited to the general revenue fund. If any such company, association, co-partnership or corporation fails or refuses to pay said tax during the month of November in any year, the auditor of state shall forthwith add to the tax due a penalty of fifty per centum thereon; and it shall be the duty of the attorney-general, on request of the auditor of state, to prosecute any proceedings for the collections of such tax, which officer shall be allowed for his services the penalty hereinabove provided. The tax collected shall be paid into the state treasury. Suit for the collection of such taxes and penalty may be brought in the name of the state in any county in the state through which passes any railroad or through transportation line over which the cars of any such association, company, co-partnership or corporation are running, and service of summons against such association, company, co-partnership or

corporation may be made upon any officer or agent of said company found within the State of Indiana; or if such officer or agent can not be found, then upon any conductor or officer, agent or employe of such company in charge of any car owned and used by such company in any county in this state in which any transportation line over which the cars of such company are running is located or through which it passes. (§10223 Burns R. S. 1914.)

Duty of State Board of Tax Commissioners.

98. Upon the filing of such statements the state board of tax commissioners shall examine them, and each of them, and if it shall deem the same insufficient, or in case it shall deem that other information is requisite, it shall require such officer to make such other and further statements as said state board of tax commissioners may call for. In case of the failure or refusal of any association, company, co-partnership or corporation to make out and deliver to the state board of tax commissioners any statement or statements required by this act, such association, company, co-partnership or corporation shall forfeit and pay to the State of Indiana one hundred dollars for each additional day such report is delayed beyond the first day of April, to be sued and recovered in any proper form of action, in the name of the State of Indiana, on the relation of the state board of tax commissioners, and such penalty, when collected, shall be paid into the general fund of the state. (§10224 Burns R. S. 1914.)

1. *Information.*—The state board of tax commissioners is not confined to the statements made by corporations for purposes of taxation, but may seek other sources of information. *State v. Adams Express Co.*, 144 Ind. 549; 42 N. E. Rep. 483.

May Compel Attendance of Witnesses.

99. Upon the meeting of the state board of tax commissioners for the purpose of assessing railroad and other property, it shall thereon value and assess the property of each association, company, co-partnership or corporation in the manner hereinafter set forth, after examining such statements and after ascertaining the value of such properties therefrom, and from such other information as it may have or obtain. For that purpose it may require the agents or officers of said association, company, co-partnership or corporation to appear be-

fore it with such books, papers or statements as it may require, or it may require additional statement to be made to it, and may compel the attendance of witnesses in case it shall deem it necessary to enable it to ascertain the true cash value of such property. (§10225 Burns R. S. 1914.)

Valuation of Property Per Mile.

100. Said state board of tax commissioners shall thereupon ascertain the value per mile of the property within the state by dividing the total value, as above ascertained, after deducting the specific properties, locally assessed within the state, by the number of miles within the state, and the result shall be deemed and held as the value per mile, of the property of such association, company, co-partnership or corporation within the State of Indiana. (§10227 Burns R. S. 1914.)

Apportionment of Assessment.

101. The state board of tax commissioners shall thereupon, for the purpose of determining what amount shall be assessed by it to said association, company, co-partnership or corporation in each county in the state through, across, into or over which the line of said association, company, co-partnership or corporation extends, multiply the value per mile, as above ascertained by the number of miles in each such counties, as reported in said statements or as otherwise ascertained, and the result thereof shall be, by said board, certified to the auditors, respectively, of the several counties through, into, over or across which the lines or routes of said association, company, co-partnership or corporation extend, and such auditors shall apportion the amount certified for their counties, respectively, among the several townships, towns and cities into, through, over or across which such lines or routes extend, in proportion to the length of the lines in such townships, towns, and cities. (§10228 Burns R. S. 1914.)

1. *Injunction.*—The transmission of the assessment by the state auditor to the auditors of the several counties may be enjoined when the assessment is not authorized by law. *Fargo v. Hart*, 193 U. S. 490.

Duty of County Auditors.

102. To enable said county auditors to properly apportion the assessment between the several townships, towns and cities they are authorized to require the agent of said associa-

tion or company to report to them, respectively, under oath, the length of the lines in each township, town and city and the auditor shall thereupon add to the value, so apportioned, the assessed valuation of the real estate, structures, machinery, fixtures and appliances situated in any township, town and city and extend the taxes thereon upon the duplicates as in other cases. (§10229 Burns R. S. 1914.)

Collection of Taxes.

103. In case any such association, co-partnership or corporation, shall fail or refuse to pay any taxes assessed against it in any county, township, town or city in the state, in addition to other remedies provided by law for the collection of taxes, an action may be prosecuted in the name of the State of Indiana by the prosecuting attorneys of the different judicial circuits of the state on the relation of the auditors of the different counties of the state, and the judgment in said action shall include a penalty of fifty per cent of the amount of taxes so assessed and unpaid, together with reasonable attorney's fees for the prosecution of such action, which action may be prosecuted in any county into, through, over or across which the line or route of any such association, co-partnership, company or corporation shall extend, or in any county where such association, company, co-partnership or corporation shall have an office or agent for the transaction of business. In case such association, company, co-partnership or corporation shall have refused to pay the whole of the taxes assessed against the same by said state board of tax commissioners, or in case such association, company, co-partnership or corporation shall have refused to pay the taxes, or any portion thereof, assessed to it in any particular county or counties, township or townships, town or towns, city or cities, such action may include the whole or any portion of the taxes so unpaid in any county or counties, township or townships, but the attorney-general may, at his option, unite in one action the entire amount of the tax due, or may bring separate actions in each separate county or township, town or city, or join counties, townships, towns and cities as he may prefer.

All collections of taxes for or on account of any particular county made in any such suit or suits shall be, by said auditor of state, accounted for as a credit to the respective counties

for or on account of which such collections were made by said auditor of state at the next ensuing settlement with such county, but the penalty so collected shall be credited to the general fund of the state; and upon such settlement being made the treasurers of the several counties shall, at their next settlements enter credits upon the proper duplicates in their offices, and at the next settlement with such county report the amount so received by him in his settlement with the state, and proper entries shall be made with reference thereto: Provided, however, That in any such action the amount of the assessment fixed by said state board of tax commissioners and apportioned to such county, or apportioned by county auditor to any particular township, town or city shall not be controverted. (§10230 Burns R. S. 1914.)

1. *Constitutional.*—This section is constitutional. Western U. Tel. Co. v. State, 146 Ind. 54; 44 N. E. Rep. 793.

2. *Suit by Attorney-General.*—The attorney-general of the state may bring an action under this section to collect the taxes and penalty due thereunder. Western U. Tel. Co. v. State, 146 Ind. 54; 44 N. E. Rep. 793.

3. *Injunction.*—An injunction restraining county auditors and county treasurers from collecting taxes assessed against a telegraph company, does not prevent an action to recover the same in the name of the state, under the above section. Western U. Tel. Co. v. State, 146 Ind. 54; 44 N. E. Rep. 793.

4. *Penalty.*—The penalty recoverable is fifty per cent of the amount of the taxes due. Western U. Tel. Co. v. State, 147 Ind. 274; 45 N. E. Rep. 473.

5. *Attorney's Fees.*—After suit brought the right of the state can not be defeated by a tender of the amount of taxes due, with fifty per cent penalty and costs of suit. Western U. Tel. Co. v. State, 147 Ind. 274; 45 N. E. Rep. 473.

Bridge and Ferry Companies.

104. Every bridge company and ferry company not organized under the laws of this state and doing business therein, shall between the first day of March and the first day of April of each year, report to the proper assessor of the county in which any part of the business of such company is carried on, under the oath of the agent or superintendent of such company doing business in said county, the gross amount of all moneys received by such agent or superintendent on account of such company, and for the year then next preceding the first day of March of the current year, and failing or refusing to do so, such company shall forfeit and pay one hundred dollars for each additional day such report is delayed beyond the first

day of April, to be sued for and recovered as in the case of express, telegraph, and telephone companies: Provided, Such report shall also contain a list of the tangible property of such company or corporation within the county, and the true cash value thereof. The amount of such gross receipts shall be reported by such assessor to the county auditor and shall be by such auditor entered, together with the true cash value of such tangible property, upon the tax duplicate of the proper county, and the taxes so assessed shall be a lien upon the property of such companies until the same are paid. (§10232 Burns R. S. 1914.)

1. *Bridge Company Operating Railroad.*—Bridge companies operating railroads in connection with and as a part of a bridge are to be assessed by the state tax board as railroads. *City of Jeffersonville v. Louisville Bridge Co.*, 169 Ind. 645.

2. *Foreign Corporations.*—This section only applies to foreign corporations operating ferries. Ferries operated by individuals are not to be assessed under this section. *Lesh*, 1921.

Railroad, Telegraph, Telephone and Other Companies—Reports of.

105. From and after January 1, 1919, every railroad company, telegraph company, telephone company, express company, sleeping car company, pipe line company, public utility, bank, banking association or trust company, or mortgage guarantee company, building loan association, and any other company taxed in the State of Indiana, as any one of any of the above companies enumerated or taxed, shall make out and deliver to the state board of tax commissioners the statement required by law of such company with reference to the first day of March, and such statement shall be filed annually between the first day of March and the first day of April. (§10218 Burns R. S. 1914.)

Penalty for Failure to Make Report.

106. In case of the failure or refusal of the proper officer of the companies or corporations named in the foregoing sections, which companies or corporations are assessed by the state board of tax commissioners, to make the statements or returns therein required, then the state board of tax commissioners shall make out such returns, statements and valuations from the best information it can obtain, and for that purpose it shall have power to summon and examine under oath any

person whom it may believe to have knowledge thereof, and it shall add to such valuation found twenty-five per centum as a penalty. (§10235 Burns R. S. 1914.)

Domestic Corporations—Sworn Statement.

107. Every manufacturing, mining, gravel road, plank road, savings bank, insurance and other associations incorporated under the laws of this state (other than railroad companies and those heretofore specifically designated) shall, by its president or other proper accounting officer, between the first day of March and the fifteenth day of May of the current year, in addition to the other property required by this act to be listed, make out and deliver to the county assessor a sworn statement in duplicate of the amount of its capital stock, setting forth particularly:

First. The name and location of the company or association.

Second. The amount of capital stock authorized, and the number of shares in which such capital stock is divided.

Third. The amount of capital stock paid up.

Fourth. The market value, or if no market value, then the true cash value of the shares of stock.

Fifth. The total amount of indebtedness, except the indebtedness for current expenses, excluding from such expenses the amount paid for the purchase or improvement of property.

Sixth. The value of all tangible property.

Seventh. The difference in value between all tangible property and the capital stock.

Eighth. The name and value of each franchise or privilege owned or enjoyed by such corporation.

Ninth. The amount of the surplus or reserve fund of said corporation and any other information that the state board of tax commissioners may require to aid in determining valuation and the state board of tax commissioners shall have the power to add to or change the form of the statement from time to time as it may deem necessary.

Such schedule shall be made in conformity to such instructions and forms as may be prescribed by the state board of tax commissioners. In case of the failure or refusal to make report, such corporations shall forfeit and pay one hundred dollars for each additional day such report is delayed beyond

the fifteenth day of May, to be sued and recovered in any proper form of action in the name of the State of Indiana, on the relation of the prosecuting attorney, such penalty, when collected, to be paid into the county treasury. And such prosecuting attorney in every case of conviction shall be allowed a docket fee of ten dollars to be taxed as costs in such action.

As amended, Acts 1921, p. 656.

1. *Failure of County Board to Assess.—County Assessor.*—When a private corporation had, in good faith, made out and delivered to the proper township assessor a verified schedule of its property, as provided by the above section, the failure thereafter of the county board of review to make an assessment for taxes against the property, it was held did not preclude the county assessor from listing for taxation the property of of such corporation. *Hunter Stone Co. v. Woodward*, 152 Ind. 475; 53 N. E. Rep. 947.

2. *Value of Share Stock as Evidence.*—The value placed by a corporation upon its shares of stock in statements rendered for taxation is some evidence of the value of the stock. *Ohlwine v. Pfaffman*, 52 App. 357.

3. *Surplus of Savings Bank Taxable to Bank.*—The surplus fund of a savings bank is taxable to the bank unless invested in non-taxable securities. *Beard v. People's Savings Bank*, 53 App. 185.

4. *Money Deposited Taxable to Depositor.*—Money deposited in a savings bank is taxable to the depositor. *Beard v. People's, etc.*, supra.

5. *What Tangible Property of Domestic Corporations is to be Included in the Statement.*—Only the tangible property of a domestic corporation which is located within this state should be included in the statement required to be made by this section, since the assessing authority of this state has no jurisdiction of property located in another state. The tangible property of such corporation without this state should not be assessed by the assessing officers of this state. *Honan*, 1912.

6. *Surplus of Mutual Insurance Companies.*—The surplus of a mutual insurance company obtained after deducting from the assets of the company the assessed value of the real estate and debts and liabilities of the company, including the liability of the company to its policyholders upon its policies in force, usually termed reserve, is taxable to the company. The condition of the company on March 1 of each year is the basis. *Milburn*, 1915.

Schedule and Statement in Duplicate.

108. Such statements shall be scheduled in duplicate by the county assessor, and such schedule and duplicate with the statement and duplicate so scheduled, shall be returned by the county assessor to the county auditor. The auditor shall annually, on the meeting of the county board of review lay before said board the schedule and statements herein required to be returned to him, and the said auditor shall immediately forward to the state board of tax commissioners the duplicate statements and duplicate schedules. The county board of review shall value and assess the capital stock and all fran-

chises and privileges of such companies or associations in the manner provided in this act, and the said auditor shall compute and extend the taxes for all purposes on the respective amounts so assessed, the same as may be levied on other property in such towns, cities or other localities in which such companies or associations are located. In all cases where the capital stock of any such corporation exceeds in value that of the tangible property listed for taxation, as reviewed by the county board of review, then such capital stock shall be subject to taxation upon such excess of value; where no tangible property is returned or found, and the capital stock has a value, it shall be assessed for its true cash value. But where the capital stock or any part thereof is invested in tangible property, returned for taxation, such capital stock shall not be assessed to the extent that it is so invested. That for the purpose of determining the actual value of said shares of stock the said county board of review may take into consideration the market value of said shares of stock, the dividends paid by and the earning capacity of said corporation or association and all other facts and circumstances in relation to the actual value of said shares of stock. Every franchise or privilege of any such corporation shall likewise be assessed at its true cash value. Where the full value of any franchise is represented by the capital stock listed for taxation then such franchise shall not itself be taxed; but in all cases where the franchise is of greater value than the capital stock, then the franchise shall be assessed at its full cash value, and the capital stock in such case shall not be assessed: Provided, however, That the state board of tax commissioners making a review for re-assessment, as hereinafter provided, shall have the power to value and assess the capital stock and all franchises and privileges of such companies or associations the same as county boards of review. (§10234 Burns R. S. 1914.)

Special attention of boards of review is called to this section. The board of review not only has the power to assess the capital stock of a corporation where the value exceeds the value of the tangible property, but it is its duty to do so. Each corporation is required to make a return of the market value of its capital, if such stock has any market value, and, if not, to return its true cash value.

The board of review is not bound by such return, but may take into consideration any competent evidence that it may secure as to the value of the capital stock. Where the returns show the value of the capital stock to be in excess of the tangible property of the corporation, the capital stock should be assessed at its true cash value, whatever that may be. From such assessment should be deducted the assessment of the

tangible property, and the difference between the assessment of the tangible property and the capital stock is called a corporate excess.

Where a corporation owns a franchise and the capital stock is not assessed by the board of review, then the franchise owned by the corporation should be assessed separately, as well as the tangible property.

Where the capital stock is assessed, if the capital stock represents in whole, or in part, the value of the franchise, then the franchise should not be assessed.

This section applies to all corporations which are assessed by boards of review, and does not apply to telephone, telegraph or other corporations which come within the jurisdiction of the state board of tax commissioners. *Hyland, Auditor, v. Central Steel Co.*, 129 Ind. 68; *Jones, Treasurer, v. The Rushville Natural Gas Co.*, 135 Ind. 595.

1. *Assessing Tangible Property.*—When the tangible property of a corporation exceeds in value the capital stock thereof, the latter is not taxable, but if the capital stock exceeds in value the tangible property, the excess in value of such stock is taxable. *Hyland v. Brazil Co.*, 128 Ind. 385; 26 N. E. Rep. 672; *Hyland v. Central Co.*, 129 Ind. 68; 28 N. E. Rep. 308; 13 L. R. A. 515.

2. *Notice.*—No special notice need be given of the time and place of meetings of tax boards to assess the property of corporations when the law fixes the time and place of meeting. *Hyland v. Brazil Co.*, 128 Ind. 385; 26 N. E. Rep. 672; *Hyland v. Central Co.*, 129 Ind. 68; 28 N. E. Rep. 308; 13 L. R. A. 515; *Smith v. Rude*, 131 Ind. 150; 30 N. E. Rep. 947.

3. *When Stock Assessed.*—A county board of review is required to assess the capital stock of domestic corporations for taxation when such stock exceeds the value of the tangible property of the corporation and the determination of such value is a question for such board, and if it makes a mistake, the assessment is not thereby rendered void and subject to a collateral attack. *Jones v. Rushville Nat. Gas Co.*, 135 Ind. 595; 35 N. E. Rep. 890.

4. *Notice.*—This section provides that "the auditor shall annually, on the meeting of the county board of review, lay before said board the schedule and statement" required to be made and delivered to the assessor by corporations, and that the "board shall value and assess the capital stock." Held, that this is sufficient notice to the corporation that its capital stock will be valued. The act of March 9, 1889, does not apply to such a case. *Kuntz v. Sumption*, 117 Ind. 1; 19 N. E. Rep. 474; 2 L. R. A. 655; distinguished, *Smith v. Rude Bros., etc., Co.*, 131 Ind. 150, 153; 30 N. E. Rep. 947.

5. *Failure of County Board to Assess.*—*County Assessor.*—When a private corporation has, in good faith, made and delivered to the proper township assessor a verified schedule of its property, as provided by section 107 of the general tax law, the failure thereafter of the county board of review to make an assessment for taxes against the property, does not preclude the county assessor from listing for taxation the property of such corporation.

So careful is the state to guard against loss to its revenues from the remission of those officers that four different officers are each commanded to look after the state's continuing claims for taxes from property omitted from assessment in any year or number of years from any cause. Nothing will discharge the state's claim but actual payment, and the general law must be liberally construed in aid of the taxing power. *Hunter Stone Co. v. Woodard*, 152 Ind. 474; 53 N. E. Rep. 947.

6. *Assessment of Franchise.*—While the capital stock of a corporation and the value of every franchise must be included in the statement furnished the assessor, and every franchise must be assessed, a franchise so reported is not to be taxed separately if its value be represented by the capital stock listed; but if the value of the franchise be not repre-

mented by the capital stock listed, and be not greater than the capital stock, it is to be assessed separately from the capital stock. *Parkinson v. Jasper County Tel. Co.*, 31 Ind. App. 135, 140; 67 N. E. Rep. 471.

7. *Manufacturing and Mining Property.—How to Ascertain Value of.*—It is the duty of the state board of tax commissioners in an appeal from the board of review of the county relative to the taxation of a corporation organized under the manufacturing and mining laws of the state to ascertain the value of the intangible property of the company and of the capital stock in excess of the value of the tangible property, and thereupon assess to such company, when so ascertained, of the tangible property only in the event that it shall exceed the value of the capital stock, and of the capital stock in addition in the event that it shall appear that it has no value in excess of the value of the tangible property, and certify such assessment to the auditor of state, to be by him certified to the county auditor. *Ketcham*, 1897, p. 132.

8. *Ascertain Cash Value of Stock.*—In the assessment of domestic corporations, the paramount purpose is to ascertain the cash value of the stock, which does not necessarily depend upon the tangible property of the corporation. The correct rule is that if the capital stock exceeds in value that of the tangible property, the stock is taxable on the excess, but if the tangible property exceeds the value of the capital stock, the latter is not taxable. *Smith v. Stephens*, Treasurer, 173 Ind. 564, 570; 91 N. E. 167.

9. *Section Does not Apply to Bank Assessment.*—The provisions of this section do not apply to the assessment of banks for taxation. *Smith v. Stephens*, 173 Ind. 564.

10. In determining the valuation of corporations any property outside of the state should be deducted. *Schlosser Bros. v. Huff*, 128 N. E. 854 (Ind. App.).

11. Taxable property in another state is included in the total valuation of the capital stock and should be deducted to get proper valuation in this state. *Schlosser Bros. v. Huff*, 128 N. E. 854 (Ind. App.). See *Hawley v. Malden*, 232 U. S. 1.

Failure to Make Report—County Auditor, Duty of.

109. In case of the failure or refusal of the person or persons, joint stock associations, companies or corporations, their officers, agents or employes specified in the preceding section to make and return the statements and reports therein provided for, the county auditor shall make out such returns, statements and valuations from the best information he can obtain, and for that purpose he shall have power to summon and examine under oath any person whom he may believe to have knowledge thereof. And he shall add to such valuation twenty-five per centum thereon as a penalty. (§10235 Burns R. S. 1914.)

Shares—Stock Foreign Corporations—How Taxed.

110. The shares of the capital stock, owned by residents of the State of Indiana, of any corporation organized under the laws of a state other than Indiana, and all or a part of whose

manufacturing business shall be carried on within this state, shall be assessed for taxation at a value which shall be determined and fixed by deducting from the value of all of the shares of stock of such corporation that may have been issued and be outstanding at the time of their assessment, such a per centum thereof as the value, for taxable purposes, of its tangible property within this state may be of the value, for taxable purposes, of all of its tangible property wherever situated, and such shares shall be taxable to the owners thereof in the township, town or city where they may reside.

To aid in and facilitate the valuation and taxation of such shares the principal officer employed by any such corporation within the State of Indiana shall, upon blanks furnished by the state board of tax commissioners, prepare and deliver to said board of tax commissioners, when required by said board, a report, verified by the oath of said principal officer, wherein the following facts shall be made to appear:

First. The true name of the corporation.

Second. The state, under the laws of which it may have been incorporated.

Third. The location of its principal office, and the location of its principal office and place of business within this state.

Fourth. The number of shares of its capital stock issued and outstanding on the date of the report, and the par or face value of each share.

Fifth. The value of such shares on the day of the report. If such shares shall be listed on any stock exchange within the United States, the average selling price thereof for thirty days prior to the time of making the report, shall be taken, prima facie, as the value thereof. If said shares shall not be listed on any stock exchange, or if there shall have been no sale thereof within thirty days prior to the time of making such report, the value thereof as stated in the verified report shall be taken, prima facie, as the actual value of such share.

Sixth. The value, as assessed for local taxation, of all of the real estate, structures, machinery, fixtures, appliances, goods and chattels of the corporation, wherever situated outside of the State of Indiana, with the particular locality, as the township, town or city where located, with a general but comprehensive description of the property.

Seventh. The value, as assessed for local taxation, of all of

its real estate; structures, machinery, fixtures, appliances, goods and chattels, wherever situated within the State of Indiana, with the particular locality, as the township, town or city where located, with a general but comprehensive description of the property.

Eighth. The total indebtedness of the corporation and the character thereof.

The county assessor of the county in which the principal office and place of business of the corporation, within the State of Indiana, may be located shall determine and fix the value of the shares of stock of such corporation for taxable purposes, held and owned by residents of this state as of the first day of March of each year following the passage of this act. The county assessor shall certify the value of said shares as fixed by him to the state board of tax commissioners on or before the 15th day of March of each year. The state board of tax commissioners on receiving such valuation made by the county assessor, shall approve, review or re-assess the same as the board may deem necessary to secure a just valuation. The valuation as finally determined by said board shall be certified to the county assessor, who in turn shall report such final assessments to the township assessor who shall list same to owners of same in the taxing unit where said owners reside.

In case of the failure of any township assessor to enter such shares of stock upon the schedule against the owner thereof, the county board of review, or any other taxing officer authorized to list omitted property, shall enter them and give them the value as may have been determined under this section.

Any owners of such shares of stock who may fail to list the same with the assessors shall not be entitled to the benefits of the provisions of this section, but the shares shall be taxed to him at their actual value.

In case of the failure or refusal to make such statement such corporation shall forfeit and pay one hundred dollars for each additional day such report is delayed beyond the said first day of March, to be sued for and recovered in any proper form of action in the name of the State of Indiana on the relation of the attorney-general, such penalty, when collected, to be paid into the general fund of the State of Indiana. And the attorney-general, in every case of recovery, shall be enti-

bled to ten per centum on the amount of such judgment so recovered when the same shall be paid to the State of Indiana.

Time of Listing.

111. Every person, company, or corporation owning, managing, operating or constructing a railroad in this state shall cause all taxable property, not including property specifically taxed, to be listed, with reference to its amount, kind and value, on the first day of March of the year in which it is listed. (§10236 Burns R. S. 1914.)

1. *Railroads in Two or More States.*—When a railroad runs into or through two or more states, its value for taxation purposes in each is fairly estimated by taking that part of the value of the entire road which is measured by the proportion of the length of the particular part in that state to that of the whole road. *Pittsburgh, Cincinnati, Chicago & St. Louis Ry. v. Backus*, 154 U. S. Rep. 421; affirming same case, 133 Ind. 625; 83 N. E. Rep. 432; *Cleveland, etc., Ry. Co. v. Backus*, 133 Ind. 513; 83 N. E. Rep. 421; 18 L. R. A. 729; affirmed, 154 U. S. 439; 14 Sup. Ct. Rep. 1122.

2. *Decision Affirmed.*—The decision of the supreme court of the state, upholding the act of 1891, regarding the assessment of property, and especially that part relating to the assessment of railroad property, was sustained by the Supreme Court of the U. S. under date of May 26, 1894. *Pittsburgh, Cincinnati, Chicago & St. Louis Ry. v. Backus*, 154 U. S. 421; 14 Sup. Ct. Rep. 1114; affirming same case, 133 Ind. 625; 83 N. E. Rep. 432.

3. *Railroad Bridge.*—A bridge corporation owning a railroad bridge spanning the Ohio river, and having terminal facilities and rolling stock, is assessable by the state board of tax commissioners under this section as a corporation owning a railroad, and not by a township assessor under section 8428 as a bridge company. *City of Jeffersonville v. Louisville & Jeffersonville Bridge Co.*, 169 Ind. 645, 657; 83 N. E. Rep. 337.

A corporation owning an interstate railroad bridge with very valuable terminal property in an adjoining state, which is out of all proportion to the terminal facilities in this state, is liable to assessment in this state for the value of its property within Indiana, determined by considering the entire property as an organic unit. In such a case, the mileage rule as an ultimate or controlling test of value is wholly inadmissible. *City of Jeffersonville v. Louisville & Jeffersonville Bridge Co.*, 169 Ind. 645, 660, 661; 83 N. E. Rep. 337.

Sworn Statement.

112. Between the first day of March and the fifteenth day of May of the year nineteen hundred nineteen, and at the same time in each year thereafter when required by the county auditor, any person, company or corporation, so owning, managing, operating or constructing a railroad shall make and file with the county auditor of the respective counties in which the railroad may be located, a statement or schedule, verified by the oath of such person, or the president and secretary of such corporation, showing the property held for right

of way, and the length of the main and all side and second tracks and turnouts, in such county, and in each city or town in the county through, or into which the road may run, and describing each tract of land, other than a city or town lot, through which the road may run in accordance with the United States, or other surveys, giving the width and length of the strip of land held in each tract and the number of acres thereof. They shall also state the value of improvements and stations located on the right of way. New companies shall make such statements in March next after the location of their roads. When such statement shall have been once made, it shall not be necessary to report the description as hereinbefore required, unless directed so to do by the county auditor; but the company shall, during the month of March, annually, report the value of such property, by the description set forth in the next section of this act, and note all additions or changes in such right of way as shall have occurred. (§10237 Burns R. S. 1914.)

Railroad Track—What Includes.

113. Such right of way including the superstructures, main, side or second track and turnouts, turntable, telegraph poles, wires, instruments and other appliances, and the stations and improvements of the railroad company on such right of way (excepting machinery, stationary engines and other fixtures, which shall be considered personal property) shall be held to be real estate for the purpose of taxation, and denominated "railroad track," and shall be so listed and valued, and shall be described in the assessment thereof as a strip of land extending on each side of such railroad track and embracing the same together with all the stations and improvements thereon, commencing at a point where such railroad track crosses a boundary line in entering the county, township, city or town, tending to the point where such track crosses the boundary line leaving such county, township, city or town, to the point of termination in the same, as the case may be, containing _____ acres, more or less (inserting name of county, township, city or town, or boundary line of same, and number of acres and length in feet), and when advertised or sold for taxes, no other description shall be necessary to convey a good title to the purchaser. (§10238 Burns R. S. 1914.)

1. *Who Values and Assesses.*—Under the laws of this state, the state board of equalization (state board of tax commissioners) has exclusive authority to value and assess the railroad property denominated "railroad track" and "rolling stock." *Pfaff v. Terre Haute, etc., R. R. Co.*, 108 Ind. 144, 147; 9 N. E. Rep. 93.

2. *Railroad Track.*—The right of way, with the improvements upon it, is to be valued and assessed as "railroad track." *Pfaff v. Terre Haute, etc., R. R. Co.*, 108 Ind. 144, 147; 9 N. E. Rep. 93.

3. *"Right of Way" Defined.*—The phrase "right of way" is not limited to a strip of land of any definite width at all points on the line of a railroad, but includes lands and lots acquired for necessary side tracks and turnouts, and the improvements thereon in the way of coal sheds, freight houses, water tanks, repair shops, roundhouses and the like. *Pfaff v. Terre Haute, etc., R. R. Co.*, 108 Ind. 144, 147; 9 N. E. Rep. 93; *Chicago, etc., R. R. Co. v. People*, 98 Ill. 350.

4. *Act Constitutional.*—The provisions of this act are constitutional. *Cleveland Co. v. Backus*, 133 Ind. 513; *Indianapolis Co. v. Backus*, 133 Ind. 609; *Pittsburgh Co. v. Backus*, 133 Ind. 625, 154 U. S. 421.

5. *Bridge Company Operating Railroad.*—If a bridge company operates a railroad in connection with and as a part of a bridge, such property is to be assessed by the state tax board as a railroad. *City of Jeffersonville v. Louisville Bridge Co.*, 169 Ind. 645.

6. *Money of Railroad Companies.*—Money of railroad companies is not to be assessed separately, but is to be considered in assessing the other property of such company. *Clark v. Vandalia R. R. Co.*, 172 Ind. 409.

Value—How Apportioned.

114. The value of "railroad track" shall be listed and taxed in the several counties, townships, cities, or towns in the proportion that the length of the main track in such county, township, city or town bears to the whole length of the road in this state, except the value of the side or second track, and all the turnouts and all station houses, depots, machine shops or other buildings belonging to the road, which shall be taxed in the county, township, city or town in which the same are located. (§10239 Burns R. S. 1914.)

1. *Local Benefits.*—"Thus, the county, township, city or town gets its proportion of the taxes assessed upon the main line, and the whole of the taxes assessed upon the side tracks and turnouts, and the land upon which they and other improvements are located, to the extent that such side tracks, etc., are located in the county, township, city or town." *Pfaff v. Terre Haute, etc., R. R. Co.*, 108 Ind. 144, 150; 9 N. E. Rep. 93; *Chicago, etc., R. R. Co. v. People*, 98 Ill. 350.

Rolling Stock.

115. The movable property belonging to a railroad company shall be held to be personal property, and denominated for the purpose of taxation, "rolling stock." Such rolling stock shall be listed and taxed in the several counties, townships, cities and towns in the proportion that the main track

used or operated in such county, township, city or town bears to the length of the main track used or operated by such person, company or corporation, whether owned, operated or leased by him or them in whole or in part. (§10240 Burns R. S. 1914.)

1. *Part of Real Estate.*—The legislature may provide that rolling stock shall be regarded as real estate for the purpose of taxation. Louisville, etc., R. R. Co. v. State, 25 Ind. 177; 87 Am. Dec. 358; Indianapolis, etc., R. R. Co. v. Kilner, 69 Ind. 71.

2. *Definitions and Duties of State Board.*—The statute contemplates that the taxable value of railroad property shall be divided into two classes, real and personal property, under the respective heads of "railway track" and "rolling stock," except the local real estate outside that denominated "railroad track" and excepting from the personal property that which has a fixed location. With these exceptions, the state board of tax commissioners divide the two classes of property among the various counties of the state in proportion to the trackage therein. Clark, Auditor, v. Vandalia Railroad Co., 172 Ind. 409, 418; 86 N. E. 851.

This statute provided that the movable property belonging to a railroad company shall be denominated for the purpose of taxation "rolling stock" and shall be distributed and taxed in the several counties in the same way as property denominated "railroad track," except that fixed personal property, not specifically taxed, including tools, raw material, machinery, etc., shall be listed and taxed where located. Clark, Auditor, v. Vandalia R. R. Co., 172 Ind. 409, 414; 86 N. E. 851.

Other Personalty.

116. All personal property of any railroad, except that specifically taxed and including the tools and material for repairs, machinery, fixtures and stationary engines, shall be listed and assessed in the county, township, city or towns, wherever the same may be, on the first day of March of each year. (§10241 Burns R. S. 1914.)

Other Realty.

117. All real estate of any railroad company other than that denominated "railroad track" with all the improvements thereon, shall be listed as lands and lots, as the case may be, in the county, township, town or city where the same are located. In describing such real estate wherever a railroad company shall have made or makes and records a plat of any contiguous lots or parcels of land belonging to it, the same may be described as designated on such plat. (§10242 Burns R. S. 1914.)

Inventory by Company.

118. Between the first day of March and the fifteenth day of May of each year, every person, company or corporation, owning, constructing or operating a railroad in this state, shall

return to the county auditor a list or schedule verified by the oath of such person so owning, constructing or operating if an individual, or, if a company or corporation, by the oath of the superintendent or secretary of such company or corporation, which shall state the mileage of railroad track, giving the length of the main and side or second track and turnouts, and showing the proportion of such mileage located in each municipal subdivision of said county, together with the total in the county. Said list or schedule shall also contain a full and correct inventory of all the other personal property of such railroad company in said county not specifically taxed, including the tools and material for repairs, the machinery, fixtures and stationary engines, and such property shall be classified and separated into the particular county, township, city, and town wherein the same may be on the first day of March, with the true cash value thereof, on the first day of March, of the current year. Such list shall also contain an inventory of all the real estate other than that denominated railroad track, owned by said railroad company on the first day of March of the current year. Such property shall also be listed with reference to the amount, kind and value on the first day of March of the year in which it is listed. (§10243 Burns R. S. 1914.)

Auditor's Return to Assessor.

119. The county auditor, as soon as he receives such list, shall return to the proper assessor a copy of so much of said list as relates to assessable property therein contained, and such property shall be listed and assessed by such assessor. Such property shall be treated in all respects, in regard to assessment and equalization, the same as other similar property belonging to individuals, except that it shall be treated as property belonging to railroads, under the term "lands," "lots" and "personal property." (§10244 Burns R. S. 1914.)

1. *Notice Not Necessary.*—Where a railroad company returns a schedule and valuation of its personal property to the county auditor, and such auditor submits the same to the assessor to be assessed, the railroad company is not entitled to notice before the assessor can make the assessment at a greater valuation than that returned by the company. *Chicago, etc., R. R. Co. v. John*, 150 Ind. 113; 48 N. E. Rep. 640.

Sworn Statement.

120. At the same time that the lists or schedules as hereinbefore required to be returned to the county auditor the

person, company or corporation running, operating or constructing any railroad in this state shall under the oath of such person, or the secretary or superintendent of such company or corporation, return to the state board of tax commissioners sworn statements or schedules, as follows:

First. Of the property denominated "railroad track," giving the length of the main and side or second tracks and turnout, and showing the proportions in each county and township, and the total in the state.

Second. The rolling stock, whether owned or hired, giving the length of the main track in each county, and the entire length of the road in this state.

Third. Showing the number of ties in track per mile, the weight of iron or steel per yard used in the main and side tracks, what joints or chairs are used in track, the ballasting of road, whether graveled, stone or dirt, the number and quality of buildings or other structures on "railroad tracks," the length of time iron or steel in track has been used, and the length of time the road has been built.

Fourth. A statement or schedule showing:

1st. The amount of capital stock authorized and the number of shares into which such capital stock is divided.

2d. The amount of capital stock paid up.

3d. The market value, or if no market value, then the actual value of the shares of stock.

4th. The total amounts of all indebtedness except for current expenses for operating the road.

5th. The total listed valuation of all its tangible property in this state.

6th. Any other information that the state board of tax commissioners may require to aid in determining valuation. Such schedule shall be made in conformity to such instructions and forms as may reasonably be prescribed by the state board of tax commissioners. (§10245 Burns R. S. 1914.)

1. *Duty to Report to State Board.*—This section makes it the duty of each railroad to report to the state board of tax commissioners the length of its main track and side tracks in each county and township. Baltimore, etc., R. Co. v. Oregon Township, 170 Ind. 300, 301; 84 N. E. Rep. 529.

2. *State Tax Board Investigate Correctness of Return.*—The state tax board may inquire into the correctness of returns made by railroad companies for the purpose of taxation. Baltimore R. R. Co., etc., supra.

3. *Mistakes in Fixing Number of Miles.*—County auditor cannot correct mistakes made by the state tax board in fixing the number of miles

of railroad track situate in a township, nor can taxes paid on such erroneous assessment of railroad track be recovered. *Baltimore R. R. Co., etc., supra.*

Penalty for Neglect.

121. If any person, company or corporation owning, operating, or constructing any railroad, shall neglect or refuse to return to the county auditor the statements or schedules required to be returned to them, the property so to be returned to them and assessed by the assessors as above specified shall be listed and assessed as other property. In case of failure to make returns to the state board of tax commissioners as hereinbefore provided, said board, with the assistance of the county auditors and assessors when it shall require such assistance, shall ascertain the necessary facts. In case of failure to make such statement, either to the county auditor or state board of tax commissioners, such corporation, company or person shall forfeit, as a penalty, not less than one hundred dollars nor more than five thousand dollars for each day's omission after the first day of April of each year, to be recovered in any proper form of action in the name of the State of Indiana on the relation of the attorney-general, and paid into the state treasury. Such attorney-general shall conduct such prosecution and be entitled to ten per centum on the amount of judgment so recovered and paid in. (§10246 Burns R. S. 1914.)

State Board Shall Assess Railroad Property.

122. The state board of tax commissioners shall assess the railroad property mentioned in the statements and schedules herein required to be returned to it, in the manner herein provided. (§10247 Burns R. S. 1914.)

1. *Constitutional.*—The provisions of the act of March 6, 1891, providing for the assessment of railroads for taxation, and the provisions of such statute defining the powers and duties of the state board of tax commissioners in connection with such assessment is a valid and constitutional enactment. *Cleveland, etc., Ry. Co. v. Backus*, 133 Ind. 513; 33 N. E. Rep. 421; 18 L. R. A. 729; affirmed, 154 U. S. 439; 14 Sup. Ct. Rep. 1122; *Pittsburgh, etc., Ry. Co. v. Backus*, 133 Ind. 625; 33 N. E. Rep. 432; *Pittsburgh, etc., Ry. Co. v. Backus*, 154 U. S. 421; 14 Sup. Ct. 1114.

Valuations Entered.

123. The county auditor shall enter the railroad property of all kinds as listed for taxation upon the proper tax dupli-

cate, and shall enter the valuation as assessed, corrected and equalized in the manner provided in this act and against such assessed, corrected or equalized valuation as the case may require, the county auditor shall compute and extend all taxes for which said property is liable. And the county treasurer shall collect the taxes charged against said railroad property, and pay over and account therefor in the same manner as other taxes are collected and accounted for. (§10248 Burns R. S. 1914.)

Street Railroads Included.

124. The word "railroad" wherever it occurs in this act, shall be considered, for all purposes of taxation, as including every kind of street railroad, suburban railroad or interurban railroad, association, company or corporation, whether its lines of railroad be maintained either at the surface, or above or below the surface of the earth, and by whatever power its vehicles are transported. (§10249 Burns R. S. 1914.) (Part of old section omitted.)

1. *Method of Assessing Interurban Railroads.*—Street railroads must make to the state board of tax commissioners the same character of return exactly as is made by steam railroads. They must return to the county auditor for classification and separation by him to the township assessor, to be assessed by the township assessor, the classes of property defined by sections 116 and 117. Such list must set out all the personal property not covered under the general designation "rolling stock;" also all tools, material for repairs, machinery, fixtures, stationary engines and real estate not used for railroad purposes. With electric roads this will cover dynamos and machinery in power stations. It will not cover any of the poles, wires or superstructures along the railroad tracks, all of which shall be assessed by the state board of tax commissioners. All power houses, as well as all stations, depots, car barns, machine shops or other buildings upon any right of way or property used for railroad purposes, must be assessed by the state board, the same as in case of steam railroads. No materials should be assessed by the local assessors when such materials are scattered along the right of way, such as rails, ties, etc., to be used in taking the place of other rails and ties. Taylor, 1902, p. 118.

Reports Confidential—For Use of Taxing Officers Only.

125. In all cases where by law any taxpayer is required in returns for taxation to show the earnings of any business, then and in all such cases any information so furnished by such taxpayer, and embraced in such return, shall be deemed confidential and for the use of the taxing officers only, and shall not be disclosed save on the call of the state or some of its officers, or in due course in some judicial proceeding

where the regularity of such assessment has been questioned or is being questioned.

Navigation Company Tax on Tonnage.

126. Navigation companies shall pay into the state treasury annually, on or before the first day of July, a sum equal to three cents per net ton of the registered tonnage of all vessels owned by such companies; such payment to be received in lieu of all other taxes, except as hereinafter provided, and no further assessment shall be made by any officer upon any vessel, barge, boat or other water craft belonging to such companies. (§5622 Burns R. S. 1914.)

Taxing Property.

127. The method of taxation upon the net tonnage of vessels being in lieu of other taxation, the capital stock of such companies shall not be assessed or taxed, but such companies shall return for taxation at their home offices all personal property of every kind and description owned by said companies, excepting vessels and other actual tangible property outside the State of Indiana; which property shall be assessed to such companies as other personal property taxed. (§5623 Burns R. S. 1914.)

Tonnage Tax.

128. All ships and other vessels engaged in commerce and owned or registered under the navigation laws of the United States at any port in the State of Indiana, shall be taxed as hereinbefore provided, at the rate of three cents per net ton of the registered tonnage of the vessel, and all owners of such ships shall make returns as in this act provided. (§5624 Burns R. S. 1914.)

Return for Taxation.

129. Every navigation company incorporated under the laws of this state, and all owners of ships and other vessels registered in Indiana under the laws of the United States shall annually, on or before the first day of July, file with the auditor of state, a verified statement in writing containing the name, port of hail, and the tonnage of every barge, boat or other water craft owned by such company, individual or partnership on the first day of May immediately preceding, and

shall thereupon pay into the state treasury a sum equal to three cents per net ton of the registered tonnage of such vessel, and the treasurer shall thereupon issue his receipt therefor; which receipt shall show that such payment is in full for all taxes assessed against such vessel or vessels, and no other returns for taxation shall be required from navigation companies organized under this act than as are hereinbefore provided for. (§5625 Burns R. S. 1914.)

Registration Certificate.

130. Every navigation company shall file with the auditor of state, when it makes its first return for taxation, a certified copy of the most recent registration certificate of every vessel owned by said company and registered in the State of Indiana, and annually thereafter shall file certified copies of all registration certificates issued to such navigation company during the previous year. (§5626 Burns R. S. 1914.)

Certificate of Registration.

131. Other owners of vessels shall file similar certified copies of registration certificates in order to avail themselves of the benefit of this act. (§5627 Burns R. S. 1914.)

Failure to Return—Penalty.

132. In case any navigation company organized under the law of this state shall fail, for thirty days after the first day of July in any year, to make a return as hereinbefore provided, and to pay the tax hereinbefore provided for, such fact shall be reported by the auditor of state to the attorney-general who shall immediately proceed to institute proceedings against such company for the sequestration of its property and the forfeiture of its charter and its final dissolution. In any such action a penalty of five hundred dollars may be recovered against such company in addition to whatever taxes may be found delinquent. (§5628 Burns R. S. 1914.)

False Return.

133. In case any navigation company shall make a false or fraudulent return of its net tonnage, it shall be subject to a penalty of one thousand dollars, to be recovered by the attorney-general, in the name of the state, in any court of justice. (§5629 Burns R. S. 1914.)

Township Assessor—Election—Oath—Bond—Vacancies.

134. For the purpose of listing and assessing all property for taxation there shall be elected at the general election on the first Tuesday after the first Monday in November in the year one thousand nine hundred twenty-two, and at the general election on the first Tuesday after the first Monday in November every fourth year thereafter, in each township of the several counties in this state, an assessor for such township, who shall hold his office for the term of four years from the first day of January following, and until his successor is elected and qualified. Within ten days after the beginning of his term he shall give bond, with at least two good and sufficient sureties, to the acceptance of the county auditor, in the sum of three thousand dollars, payable to the State of Indiana, and conditioned for the faithful and impartial discharge of his duties according to law, and shall take and subscribe an oath or affirmation, to be endorsed on his bond, that he will faithfully, honestly and impartially discharge the duties of his office to the best of his skill and ability; and the bond so endorsed shall be deposited with the county auditor, and the said auditor is hereby authorized to administer the oath of office as aforesaid. If such bond and oath are not given and filed in the county auditor's office within said ten days, the office shall be vacant and the county assessor, after being notified of such vacancy by the county auditor, shall at once fill such vacancy by appointment, the same to be approved by the state board of tax commissioners, such appointee shall be a resident of the township in which such vacancy occurs, shall possess the qualifications required by law and shall be of the same political affiliation as the assessor failing to qualify or remove as the case may be, and such appointee shall give the bond and take the oath as above required. And if from any other cause a vacancy should occur in said office in any township at any time, the county assessor, with the approval of the state board of tax commissioners, shall fill such vacancy by appointment, and the person so appointed shall qualify as herein required. In the event that the state board of tax commissioners finds that any township assessor or any deputy township assessor has not discharged any of his duties faithfully or in full accordance or compliance with law such township assessor or deputy township assessor may be removed from office by the state board

of tax commissioners for incompetency, neglect of duty or misconduct in office, after five days' notice and a hearing by said board and a vacancy thus created shall be filled as provided for in this section. Any township assessor or any deputy township assessor, against whom the state board of tax commissioners has entered an order of removal from office, shall have the right to an appeal from the decision of said board to the circuit court of the county in which the township of which he is the assessor or deputy assessor, is located, within ten days from the time of the receipt of notice of the order of removal by filing with said board of tax commissioners a written request praying an appeal to such circuit court and upon the filing of such request said state board of tax commissioners shall within ten days file with the clerk of such court a certified copy of the original charges and the order of said board thereon, and said clerk shall immediately docket said cause and the same shall be tried by the judge of said court de novo: Provided, That during the pendency of said appeal and until said circuit court shall have reversed the action of said board of tax commissioners, the said township assessor shall not perform the duties of his office, but such duty shall be performed by the persons selected as provided in this act to perform such duty. All township assessors last elected or appointed shall continue in office until the next general election, and until their successors are elected and qualified under this act, at the same rate and limit of compensation as herein provided. The oath of office to be taken by said assessor and endorsed upon his bond shall be in the words following:

State of Indiana, County of, ss:

I,, do solemnly swear that I will support the constitution of the United States, and the constitution of the State of Indiana; that I will faithfully, impartially, and honestly discharge the duties of my office as township assessor, particularly that I will assess all property assessed by me at its true cash value, as such value is defined by law, according to my best knowledge and judgment, so help me God.

.....
 Township Assessor

Subscribed and sworn to before me this day of
....., 19.....

.....
County Auditor

All deputy assessors shall be sworn in like manner.
(§10251 Burns R. S. 1914. Amended Acts 1921, p. 651.)

1. *Administering Oath.*—A duly qualified and acting assessor has power to administer all necessary oaths in connection with tax lists. State v. Reynolds, 108 Ind. 353; 9 N. E. Rep. 287.

Deputies.

185. Whenever a township assessor shall be unable to complete the duties required of him he is hereby authorized to employ such assistance as may be necessary to carry out the provisions of this act: Provided, however, That the total number of deputies shall not exceed the number for which appropriation was made for that year by the county council at its annual or special meeting. (§10252 Burns 1914.) As amended, Acts 1921, p. 538.

1. *Administering Oath.*—A deputy assessor, duly appointed, has power to administer all necessary oaths in connection with tax lists. State v. Reynolds, 108 Ind. 353; 9 N. E. Rep. 287.

Compensation of Assessors.

186. For their services the township assessors shall receive as compensation four dollars per day for the time actually employed in the duties of their office, not exceeding such limit as may be fixed by law in any one year, to be paid out of the county treasury, upon the warrant of the county auditor, and they shall receive no extra allowance for their services. Their deputies shall receive three dollars per day for each day they are actually employed, to be paid them in like manner: Provided, however, That in townships having a city of the first or second class located therein, the deputies including those engaged in the office work of such office shall receive a compensation for such work of four dollars per day for each day that they are actually employed by the township assessor, to be paid as provided in this section: Provided, further, That in townships having a population of five thousand or more, the salary of the assessor shall be three hundred dollars per year with thirty dollars additional for each thousand or fraction thereof of population above five thousand and not more than twenty thousand as shown by the

last preceding United States census; and that for such compensation, the township assessor shall be required throughout the year to attend to all duties that may come before him: and Provided, further, That in townships having a population of over nineteen thousand and not more than seventy-five thousand as shown by the last preceding United States census, such assessor shall receive not less than one thousand dollars nor more than seventeen hundred dollars per annum, which amount is to be determined by the board of county commissioners of the county in which said township is situated and which sum shall be deemed to be payment in full for all services of whatever kind he may perform as such assessor, he being required to keep his office open each working day in the year: and Provided, further, That in townships containing a population of over seventy-five thousand and not more than one hundred thousand as shown by the last preceding United States census, each assessor shall receive the sum of two thousand dollars per annum and such sum shall be deemed payment in full for all services of whatever kind he may perform as such assessor, he being required to keep his office open every working day in the year: and Provided, further, That each assessor in any township in this state containing a population of over one hundred thousand and not over two hundred thousand as shown by the last preceding United States census or in any township where the assessed valuation as shown by the last preceding assessment amounts to thirty million dollars of taxables or more, shall receive for the time he is necessarily engaged in the discharge of his official duties, the annual salary of three thousand dollars and such payment shall be deemed payment in full for all services of whatever kind he shall perform as such assessor, he being required to keep his office open every working day in the year. (§10253a Burns 1914.)

1. *Per Diem.—Sundays Not Included.*—In figuring the salary on the per diem basis, Sundays can not be included. *Stellhorn v. Board*, 60 App. 14, 110 N. E. 89.

Salaries of Assessors in Townships of 18,000.

137. That in all townships having a population of less than eighteen thousand as shown by the last preceding United States census and an assessed valuation as shown by the last preceding assessment of twenty million dollars of taxables or

more, the annual salary of the township assessor of such township shall not be less than one thousand dollars nor more than seventeen hundred dollars in the discretion and to be fixed by the order of the board of county commissioners in which said township is situated. Such salary to be in full payment of all services performed by him. (§10253b Burns R. S. 1914.)

Salaries of Assessors in Townships of 200,000.

138. The township assessor in townships having a population of two hundred thousand or more according to the last preceding United States census shall receive an annual salary of thirty-seven hundred fifty dollars (\$3,750). Such township assessor and the township assessor of any township having a population of less than two hundred thousand as shown by the last preceding United States census and an assessed valuation as shown by the last preceding assessment of one hundred twenty-five million dollars of taxables or more is hereby authorized to employ one chief deputy, who shall receive compensation at the rate of six dollars and fifty cents (\$6.50) per day; one outside deputy, who shall receive compensation at the rate of six dollars (\$6) per day; and such number of record and transcript clerks as may be necessary in carrying on the work of the township assessor's office, and who shall receive compensation at the rate of six dollars (\$6) per day. In townships having a population of two hundred thousand or more according to the last preceding United States census and in any township having a population of less than two hundred thousand as shown by the last preceding United States census, and an assessed valuation as shown by the last preceding assessment of ninety million dollars of taxables or more, the deputies employed in listing and assessing real estate for taxation in the year in which real estate is assessed shall receive a compensation for such services of not more than five dollars (\$5) per day for each day that they are actually engaged in the performance of their duties.

As amended S. S. 1920, p. 193.

County Auditors—Lists of Real Estate Made by Assessors— Number of Deputies.

139. The county auditor of each county shall, on or before the first day of March in each year in which realty is assessed, make out and deliver to the assessors, by civil townships, list

of all lands, towns and city lots entered on the duplicate of the preceding and present year, noting thereon all transfers which may have been made subsequent to the making out of such duplicate, and shall also enter thereon all new entries and other lands and city, town and village lots lying within his county which may come in his knowledge and not previously entered for taxation and in so doing when a whole section, half section, quarter section or half-quarter section appears to belong to one owner it shall be described in one description and shall be listed as one tract; and when all the lots in one block appear to belong to one owner they shall be described in one description and listed as one block; when several lots in the same block shall belong to the same owner, they shall, as far as possible be included in one description, and in making up the tax duplicate it shall be the duty of county auditors, as far as practicable, to preserve and perpetuate such consolidated description, and it shall be the duty of said auditor to furnish the assessor with all blanks necessary to the discharge of his official duties, and he shall also where the same have not already been prepared, prepare plats of each civil township of his county divided into sections and quarter sections, and grant and other governmental subdivisions, and deliver the same to him with said blanks, and it shall be the duty of said assessor to designate in pencil the lands of each owner on such plats. When such plats have been once prepared, they shall carefully be preserved by the county auditor to be used whenever practicable in future assessments: Provided, That in all civil townships having a population of thirty-five thousand as shown by the last preceding United States census, and in all civil townships wherein is situated a city of the second class, the board of county commissioners in such county shall furnish all necessary room or rooms for assessors in such civil townships for the transaction of his township business, and the assessors of each township shall make all lists of land that are now made by the county auditors, and all plats of land for the use of such assessors in making assessments for taxation; that such assessors shall furnish the auditors of their respective counties with such lists, in bound book form, for the use of such auditors in making the tax duplicates; that such county auditors shall upon completing the tax duplicates return such lists to such assessors for the continuance of such

lists by such assessors; that in such townships, all plots of lands, and additions, subdivisions, lots and parcels thereof shall be filed for listing for taxation with such assessors and remain in the custody of such assessors: Provided, That the county assessor of each county affected by this section shall fix the number of deputies to be employed by the township assessors in the different townships in carrying out the provisions of this act and that no more deputies shall be employed by the respective township assessors than the number fixed by the said county assessor in each of such counties. (§10254 Burns R. S. 1914.)

1. *Duties of County Auditor to Furnish Plats.*—Under the above section it is the duty of the county auditors to furnish plats of each civil township of his county divided into sections and quarter sections and grant and other governmental subdivisions, and to deliver the same to the assessors with the blanks necessary for the assessor to discharge his official duties, and from the information given in the lists which said auditor is required to give to the assessors, said assessors must designate on the plats in pencil the land of each owner. It then becomes the duty of the auditor to preserve such plats for future assessments. The latter part of the section is a proviso requiring the assessors in townships having a population of more than 50,000 to make the list of lands, otherwise required to be made by county auditors, and such assessors must furnish the auditors of their respective counties with such lists in bound book form. Milburn, 1915.

Legal Advice.

140. That when such assessors may have need of legal advice or service they shall make use of the services of the attorneys appointed by the trustees of their respective townships. (§10254b Burns R. S. 1914.)

Lists to Owners—Notice.

141. The assessor shall call upon each and every person residing in his township for a list of all lands, city, village and town in-lots and out-lots, owned by such person or persons, lying within his township, which may be subject to taxation, which list shall particularly set forth the names of the owners, the number of acres of land in each tract, lot, section or subdivision thereof, the range, township, section, quarter section, tract or lot, or part thereof, or the number of the entry, location or survey, as the nature of the general or particular survey may require. And if the same can not be described by the congressional survey, then it shall be described by metes and bounds, so as to designate and identify the same or by reference to a sufficient and correct description contained in some

public record of the county, or by the number and designation as contained in some partition proceeding, identifying by book and page of record whenever practicable. When he makes such call he must notify the person, company or corporation, of their duty to make out and return such list within five days. If he deems it necessary to obtain an accurate description of any separate lot or tract in his township, he may require the owner or occupant to exhibit all the title papers he may have in his possession, and whenever the person called upon fails or refuses to furnish such list to such assessor at his office or place of business within five days after being called upon, the assessor shall make the list according to the best information he can obtain and for that purpose, he may examine under oath any person or persons whom he may suppose to have a knowledge thereof, and the county auditor shall add to such valuation, when returned, twenty-five per centum on the value so returned. To enable the county auditor to make such addition, the assessor shall enter in his return, in a column provided for that purpose, opposite the name of every person, company or corporation, required to list real estate, who has, after notice, failed or refused to furnish the list required, these words, "Failed or refused after notice." (§10255. Burns R. S. 1914.)

1. *In Wrong Name.*—Assessing real estate in the name of a person not the owner does not render the assessment invalid. *Fell v. West* (Ind. App.), 719; 3 Burns R. S. 1908, §10390.

2. *No Notice of Hearing to Mortgagee.*—The law makes provision for notice to the owner of the real estate, and gives him the right to a hearing as to the valuation of his property for taxation, but makes no provision for notice to the mortgagee, or for giving him a hearing. *Baldwin v. Moroney, Treasurer*, 173 Ind. 574, 580; 91 N. E. Rep. 3.

3. *Where Mortgagee Deemed Owner.*—If the mortgagee has taken possession of the premises under the provisions of the mortgage, he is deemed the owner, and the law then provides for the notice to him and the hearing for him as such owner. *Baldwin v. Moroney, Treasurer*, 173 Ind. 574, 580; 91 N. E. Rep. 3.

Realty, How Valued.

142. Real property shall be valued by the assessor as follows: Lands and the improvements and buildings thereon, or affixed thereto shall be valued at their full, true cash value, estimated at the price they would bring at a fair, voluntary private sale, not a forced or sheriff's sale, taking into consideration the fertility of the soil, the vicinity of the same to railroads, macadamized roads, clay roads, gravel roads and

turnpike roads, state or county roads, cities, towns, villages, navigable rivers, water privileges on the same, or in the vicinity of the same, the location of the route of any canal or canals, with any other local advantages of situation. In-lots and out-lots in all towns, cities or villages, with the improvements thereon or affixed thereto, shall be valued at their full cash value, as aforesaid, taking into consideration all the local advantages upon actual view of the premises. All lands and lots shall also be listed at such valuation, without taking into consideration any improvements, and this valuation, as well as the valuation with the improvements shall be set down in a proper column to be left for that purpose. Where mineral rights, underlying any land or lots, have separate ownership from that of the lands or lots, said mineral rights shall be assessed separately to the owner or owners thereof. (§10255 Burns R. S. 1914.)

1. *Enjoining*.—It is presumed that the officer, in fixing a value on real estate, did his duty, and any one claiming that he exceeded it has the burden to show that fact. If the valuation has been increased or raised by the officer, the collection of the tax will not be enjoined unless such valuation exceeds the true value. *Fell v. West*, 35 Ind. App. 20; 73 N. E. Rep. 719; *People's Gas, etc., Co. v. Harrell*, 36 Ind. App. 588; 76 N. E. Rep. 318.

2. *Definition*.—This section requires that real estate shall be assessed at its "full, true cash value," that being the price it would bring "at a fair, voluntary private sale, not a forced or sheriff's sale." *Smith v. Stephens, Treasurer*, 173 Ind. 564, 568; 91 N. E. Rep. 167.

3. *At "Full Cash Value"*.—The fact that a tract of land is assessed upon an equal valuation with other lands is no justification for assessing it at less than its cash value, for the statute commands that that shall be the assessed value. *Smith v. Stephens, Treasurer*, 173 Ind. 564, 568; 91 N. E. Rep. 167.

4. *Cost Value*.—In the absence of some showing to the contrary, land is presumed to be equal in value to the amount invested in it. *Smith v. Stephens, Treasurer*, 173 Ind. 564, 570; 91 N. E. Rep. 167.

5. *Valuation Fixed Stands*.—The valuation placed upon real estate by the sworn officers of the law will be presumed to be the fair cash value thereof, and this valuation will stand until it is changed in some manner expressly authorized by law. *Gray v. Foster*, 46 Ind. App. 149, 159; 92 N. E. Rep. 7.

6. *Unmined Coal*.—Coal that is unmined in land may be assessed against the owner for taxation, when such coal and the surface of the land belong to different persons. *Board v. Lattas Creek Coal Co.*, 179 Ind. 212.

7. *Duty of Auditor*.—On the transfer of the mineral rights in a tract of land from the owner to another, it is the duty of the county auditor to diminish the valuation of such land by the amount of the valuation which he fixes on the part transferred. *Riggs v. Board*, 181 Ind. 172.

Lands Occupied by Highways and Railroads.

143. All officers engaged in the assessment of property for taxation are prohibited from assessing for taxation,

against any adjacent property holder, the real estate occupied by any railroad, interurban or street railway, or by any public highway, and no part of the land so belonging to such property holder shall be assessed against him for taxation except the portion beyond the lines of the right of way of the railroad, interurban or street car company or the right of way used and occupied as such public highway: Provided, That if the assessor and the land owner shall fail to agree on the amount of land contained in such railroad, interurban or street car right of way or such public highway, then such land owner, to receive the benefit of such exemption, shall determine the amount of land in dispute by actual survey and shall bear all expenses of the same: Provided, further, however, That where the right of way of railroads or the lands occupied by highways, have not been transferred by deed, the full acreage of said land shall be assessed to the owner of such adjacent land, and a pro rata deduction given to the owner of the land in land assessment value for so much thereof as may be occupied as aforesaid. (§10257 Burns R. S. 1914.)

1. This section expressly provides that the real estate occupied by any railroad or public highway shall not be assessed for taxation. *Clen-denning v. Stahley*, 173 Ind. 674, 680; 91 N. E. Rep. 234.

Buildings on Right of Way.

144. When a building or structure is located on the right of way of any canal, railroad or other company, leased or granted for a term of years to any other, the same shall be valued at such price as such building or structure and lease or grant would sell at a private, voluntary sale for cash. (§10258 Burns R. S. 1914.)

Mines and Quarries.

145. In valuing any real property on which there is a coal or other mine, or stone or other quarry, the same, if the land and the mine or quarry are owned by the same person, shall be valued at such price as such property, including the mine or quarry, would sell at a private, voluntary sale for cash. Where the mine or the quarry is owned or leased by a person other than the owner of the land, such land shall be valued, exclusive of the mine or quarry, as other lands are valued, and the mine or quarry and all improvements and leasehold and appurtenances shall be valued separately from the land, according to the true cash value thereof.

1. *Unmined Coal.*—If the surface of land and the unmined coal in the land belong to different persons, the coal may be assessed separately for taxation. *Board v. Lattas Creek Coal Co.*, 179 Ind. 212.

Assessor's Powers.

146. For the purpose of enabling the assessor to determine the value of buildings and other improvements, he is hereby required to enter, after first making known his intention to the owner or occupant thereof, and fully examine all buildings and structures of whatever kind, which are not by the laws of the state especially exempt from taxation. (§10260 Burns R. S. 1914.)

Land—Rule as to Quantity.

147. The assessor, in ascertaining or determining the quantity of land in the several tracts within his township, shall be governed by the following rules: Whenever the owner or person in whose name it is listed shall hold, by virtue of a deed from another party, or from the State of Indiana, or by patent from the United States for Congress land, such deed or patent, if the quantity be therein stated, shall be taken and received as evidence of the quantity in the tract described; but if such lands shall have been surveyed subsequent to the survey made by the United States, and it shall be proven to the satisfaction of the assessor that any such tracts of land contain a greater or less quantity than is described in the patent or deed under which said lands are held, then the assessor shall charge the owner with the true quantity as ascertained by such subsequent survey; if the owner or person in whose name any lands are listed within the French or Clark's grant, shall hold, under an original entry or survey, with or without patents thereon, it shall be the duty of the assessor to require the said owners or holders to cause the same to be surveyed by the county surveyor and to return the quantity under the certificate of said surveyor, attested by oath or affirmation, within ten days after said owners or holders shall have been called upon to list their lands for taxation, and if any such owner or holder shall refuse or neglect to survey and list his lands as herein provided, or if he, she or they be nonresidents of the township, then it shall be the duty of the assessor to cause such lands to be surveyed and returned to himself, the expense of which survey shall be paid from the county treasury, and be by the auditor of the county assessed

against such lands in the succeeding year, and collected in the same manner as taxes are collected thereon: Provided, That if any owner or holder of lands has had the same previously surveyed and shall produce to the assessor a certificate of the survey, other than that under the original entry of said lands, such survey shall be taken by the assessor, or if the assessor shall be satisfied from other competent evidence adduced to him under oath or affirmation that the quantity returned is correct, and that no surplus exists in the original survey, he shall enter and return the same without further survey. (§10261 Burns R. S. 1914.)

Values, How Fixed and Listed.

148. In making out this list the assessor shall place opposite to each tract of land or lot listed the value without improvements, and in another column opposite the value of the improvements erected thereon and affixed thereto. (§10262 Burns R. S. 1914.)

Assessor's Return Book.

149. Each assessor shall, in a book to be furnished by the county auditor, on or before the first Monday in June in each year, make out and deliver to such auditor, a return of the real estate listed for taxation in his township, which return shall contain:

First. The names, arranged in alphabetical order, of the persons in whose names the real estate of the township (except such as lies within the limits of any city, town or village), has been listed, and in appropriate columns opposite each name the description of each parcel of real estate listed in such name, and the value of such separate parcel as determined by the assessor from actual view.

Second. The names, arranged in alphabetical order, of the persons in whose name the real estate in each city, town or village, respectively, in such township, has been listed, and in appropriate columns opposite each name, the description of each parcel of real estate listed in such name, and the value of each separate parcel as determined by the assessor from actual view. In cases where the name of the owner of any parcel of real estate is unknown it shall be so returned. Each parcel of real estate shall be described according to the congressional or other survey, division or subdivision, or according to the

recorded plat or subdivision thereof and also in cases of parts of town lots by the number of feet along the principal street or streets upon which it abuts; and any description may be supplemented by reference to any public record of the county. (§10268 Burns R. S. 1914.)

Assessor's Oath.

150. Each assessor or deputy assessor shall take and subscribe an oath which shall be certified by the county auditor, or other officer administering the same, and attached to the return which he is required to make to the county auditor, in the following form:

I,, assessor for the township of in County, in the State of Indiana, do solemnly swear that the return to which this is attached contains a correct description of each parcel of real property within said township, as far as I have been able to ascertain the same; that the value attached to each parcel in said return is, as I verily believe, the full and true cash value thereof, estimated agreeably to the rules prescribed by law; that in no case have I knowingly omitted to demand a statement of the description and value of all the real estate which I am required by law to list, or in any way connived at any violation or evasion of any of the requirements of the law in relation to the listing and valuing of real estate, subject to all the penalties prescribed by law.

.....
Assessor.

Subscribed and sworn to before me this day of, 19.....

.....
County Auditor.

This return shall be kept at the office of the county auditor for the inspection of any owner of property contained in such return. (§10264 Burns R. S. 1914.)

Memorandum to Owner.

151. Before or at the time of making such return, the assessor shall leave with the owner or owners, or his, her, or their agent, if residing in the county, at his, her or their place of residence, a memorandum containing a description and

value of each tract, lot or parcel of land, containing the amount of which his, her or their real estate has been assessed, respectively, and of the time when the board of review for the county will meet for the purpose of hearing and determining grievances and to equalize taxes within the same. (§10265 Burns R. S. 1914.)

1. *Notice of Assessment of Improvements.*—When only improvements are assessed, the owner should receive notice of such assessment the same as in the case of assessment of real estate. *Zeigler v. Board*, 33 Ind. App. 375; 71 N. E. Rep. 527.

Real Assessments—When Made—Revaluation—How Made.

152. The first assessment of the real estate made in pursuance with the provisions of this act, shall be made in the year 1919, and a like assessment shall be made in 1922 and every four years thereafter, at the time personal property is assessed, and by the same person or persons, and each assessor may, when taking the lists of personal property, correct all errors of assessment of real estate which he may discover on the books, either in the name of the person to whom the property is assessed by change of ownership or otherwise, or in the description of property. The assessor shall annually thereafter also assess any real estate or improvement, found omitted and also note and list all changes found in improvements on real estate, and make return thereof to the county auditor as in the year in which real estate is to be assessed: Provided, however, That if in the discretion of the state board of tax commissioners it shall be deemed necessary, in order to maintain an equitable and just valuation, that real estate be assessed oftener than every four years, then the state board of tax commissioners shall have the power and authority to order a re-assessment of real estate in any taxing unit or units or of any individual owning real estate, but before making an order for such re-assessment the state board of tax commissioners in case of a taxing unit or units shall give not less than ten days' notice by publication in two leading newspapers representing opposite political parties, published in such taxing unit or units, if any there be, or by posting in three public places in such unit or units or in case of the re-assessment of real estate belonging to an individual be considered as aforesaid notice in writing shall be given such individual, such notice to be served by a proper officer and return be made thereon, such

notice requiring taxpayers from such unit or units or individual to appear before the state board of tax commissioners at its office in Indianapolis or elsewhere at the time specified in such notice, to show cause, if any, why such re-assessment of real estate shall not be made, and if any such person or persons so notified do not appear, or if any appear and fail to show any good and sufficient cause why such re-assessment should not be made, such re-assessment shall be ordered, and all expenses of such re-assessment shall be borne by the unit or units so re-assessed. The expenses of each re-assessment in the case of any unit or units shall be borne by same and paid by the proper officer of said unit or units, and warrants drawn covering same on any funds not otherwise appropriated, without any appropriation having been made therefor; and in case of an individual re-assessment the expense shall be borne by the unit in which such individual resides. The action of the state board of tax commissioners in making such order as aforesaid, shall be final and conclusive. The word "unit" as used in this section shall be held to include and mean "state," "county," "township," "city" or "town." (§10266 Burns R. S. 1914 amended.)

Tabular List to Auditor—Contents.

153. Each assessor shall, on or before the eighteenth day of May, annually, make out and deliver to the auditor of his county, in tabular form and alphabetical order, a list or lists of the names of the several persons, companies or corporations in whose names any personal property, moneys, credits or other taxables shall have been listed on which list or lists he shall enter separately, in appropriate columns opposite each name, the aggregate value of the several species of personal property and taxables required to be listed as attested by the person required to list the same or as determined by the assessor, making separate lists of persons residing out of any incorporated city or town, and of any persons who are residents of an incorporated city or town. The columns shall be accurately added up. To such return shall be attached the following oath or affirmation, to be made by himself or his deputy, and certified by the county auditor or other officer administering the same:

I,, assessor for Township,
County in the State of Indiana, do solemnly swear (or affirm)

that the value of all personal property, moneys, credits and other assessables, of which a statement has been made and attested by oath or affirmation of the person required by law to list the same, is truly returned as set forth in such statement; that in every case where by law I have been required to ascertain the amount and value of personal property and assessables of any person, company or corporation, I have diligently, and by the best means in my power, endeavored to ascertain the true amount and value of such personal property and assessables, and that, as I verily believe the full value thereof so ascertained by me and estimated by the rule prescribed by law, is set forth in the annexed return; that in no case have I knowingly omitted to demand a statement of the description and value of personal property or of the amount of moneys and credits, or of the amount and value of other stocks or bonds or other assessables, which any person is required by law to list; nor have I in any way connived at any violation or evasion of any of the requirements of law in relation to listing or valuing the personal property, moneys, credits, stocks, or other assessables for taxation.

.....

Assessor.

Subscribed and sworn to before me this day of
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 County Auditor.

(§10267 Burns R. S. 1914.)

1. *Limitation of Power of Auditor.*—County auditors cannot increase the assessment of property as returned by assessors, although the property is purposely undervalued. *Williams v. Segur*, 106 Ind. 368; *Board v. Senn*, 117 Ind. 410.

Correction of Errors.

154. When the returns of the assessors are received, the county auditor, if satisfied that such assessor has omitted any personal property, moneys, rights, credits, effects, stocks or real estate in his township which it was his duty to return, may, if he deems it expedient, authorize and require such assessor to proceed to correct any error or omission which may have occurred as aforesaid, and in such case such assessor shall within ten days, after being so required and authorized, proceed to correct such errors and omissions and make returns

thereof to such county auditor; but nothing herein contained shall authorize any assessor to reduce the amount assessed against any person in his former return; or the auditor may himself ascertain the value and add the same to the assessment, and such county auditor shall charge such person with the additional amount, if any, returned by such assessor. §10268 Burns R. S. 1914.)

1. *Increasing Valuation.*—County auditors can not increase the value of the assessment of property as returned by assessors, although the property is purposely undervalued. *Williams v. Segur*, 106 Ind. 368; 1 N. E. Rep. 307; *Florer v. Sherwood*, 128 Ind. 495; 28 N. E. Rep. 71; *Board v. Senn*, 117 Ind. 410; 20 N. E. Rep. 276; *Wall v. Thomas*, 1 Ind. App. 232; 27 N. E. Rep. 578; *Donch v. Board*, 4 Ind. App. 374; 30 N. E. Rep. 204; *Reynolds v. Bowen*, 138 Ind. 434, 442; 36 N. E. Rep. 756; 37 N. E. Rep. 962; *Saint v. Welsh*, 141 Ind. 382; 40 N. E. Rep. 903; *Parkinson v. Thompson*, 164 Ind. 609; 73 N. E. Rep. 109.

2. *Omitted Notes.*—But if a taxpayer, for instance, has one note of \$500 and another of \$400 on March 1, and he returns for taxation "note" \$500, that will not prevent the assessor or county auditor listing the other note of \$400, or increasing his assessment on "notes" to \$900. *Reynolds v. Bowen*, 138 Ind. 434, 442; 36 N. E. Rep. 756; 37 N. E. Rep. 962; *Parkinson v. Thompson*, 164 Ind. 609; 73 N. E. Rep. 109.

City and Town Plats.

155. Before any addition is made to any city or town, the person making the same, before such plat is recorded, shall present the same to the county auditor, who shall assess and apportion the true valuation of each lot or parcel of land described in such plat, in the same manner as other lots are valued, and thereupon such lots or parcels shall be entered on the tax list in lieu of the land included therein; but in making such valuation, regard shall be had to the next preceding valuation of the real estate, so that the said lots shall, as near as practicable, be equalized with adjacent lands and lots according to such valuation. (§10269 Burns R. S. 1914.)

1. *Assessing Lots.*—On presentation of a plat under this section to a county auditor, he has the power to assess each lot as such for taxation, without regard to the former appraisement of the land. *Eschenberg v. Board*, 129 Ind. 398; 28 N. E. Rep. 865.

Omitted Property—Assessor's Duty.

156. Whenever the township assessor, prior to the filing of his return with the county auditor, shall discover or receive credible information, or have reason to believe that any real or personal property has been omitted in the assessment of any year or number of years from the listing and assessing, or from the tax duplicate, or that any person, company, or cor-

poration has for any cause omitted to list any part of his, her, or their property, or has not returned the full value thereof, or that the tax for which such property was liable from any cause has not been paid, or that any real estate, by reason of defective description thereof, has failed to pay taxes for any year, or number of years, he shall proceed to correct his list and add such property to the assessment, so that such property and the owner thereof may be charged with the proper amount of taxes thereon; but, before making such correction or addition, if the person claiming to own such property or occupying it, or in possession thereof, resides in the county he shall give the person claiming to own or occupying or having in possession such property, notice in writing of his intention to list such property, describing it in general terms, and requiring such person to appear before him at his office or place of business, at a specified time within ten days after giving such notice, to show cause, if any, why such property should not be listed and placed on the assessment book; and if the party so notified does not appear, or if he appear and fail to show any good and sufficient cause why such assessment should not be made, such listing shall be made and the particular years for which such property should be listed shall be noted. Such assessor shall also file with the county auditor a statement in writing of his reasons for making such correction or assessment, and the facts or evidence upon which such reasons were based; the arrearages of tax which might have been assessed shall be charged against such person and property by the county auditor. The county assessor shall also at any time during any year have the power to exercise the duties in this section prescribed for township assessors. (§10270 Burns R. S. 1914.)

1. *County Assessor.*—For power of, to assess omitted property, see §162.

2. *County Auditor.*—For power of the county auditor to assess omitted property, see §204.

3. *County Board of Review.*—For power of the county board of review to assess omitted property, see §164.

4. *County Treasurer.*—For power of the county treasurer to assess omitted property, see §255.

5. *Examination of Books.*—See §32 for the right to examine books and papers to discover sequestered property.

6. *Failure of County Board to Assess.*—Where a private corporation has, in good faith, made out and delivered to the proper township assessor a verified schedule of its property, as provided by the above section, the failure thereafter of the county board of review to make any assess-

ment, for taxes against the property, does not preclude the county assessor from listing for taxation the property of such corporation. *Hunter Stone Co. v. Woodard*, 152 Ind. 474; 53 N. E. Rep. 947.

7. *Application of Section.*—This section applies to corrections and not to the making of original assessments. *Chicago, etc., R. R. Co. v. John*, 150 Ind. 118; 48 N. E. Rep. 640.

2. *Valuing Railroad Property.—Notice.*—Where under sections 112 and 116 a railroad company returns a schedule and valuation of its personal property to the county auditor, and such auditor submits the same to the township assessor to be assessed, the railroad company is not entitled to notice before the assessor can make the assessment at a greater valuation than that returned by the company. *Chicago, etc., R. R. Co. v. John*, 150 Ind. 118; 48 N. E. Rep. 640.

9. *Concealed Property.—Duty of Assessors.*—It is the duty of each township and county assessor to make out and report all cases where an effort to conceal property from taxation has been made and transmit a copy thereof to the county auditor for use by the county board of review, and also to the auditor of state for use of the state board of tax commissioners. *Smith*, 1892, p. 70.

Irregularities Not to Vitate.

157. A failure to complete or return an assessment of property, real or personal, by the township assessor within the time required by this act, or any informality or irregularity in making the assessment, or in the tax list, or errors of any kind therein, shall not vitiate the same, but the same shall be as legal and valid as if completed and returned in the time required by law, and such informalities or irregularities may be corrected at any time after such return is made, and if any property is listed or assessed on or after the fifteenth day of May, and before the return of the assessor's books, the same shall be as legal and binding as if listed and assessed before that time, but nothing in this section shall be so construed as to release such assessor from any penalty imposed upon him by law for his neglect or failure to make his return within the period prescribed by this act. (§10272 Burns R. S. 1914.)

Assessor to Return Statements.

158. Each assessor shall, at the time he makes returns of taxable property to the county auditor, also deliver to him all the statements of property which he shall have received from persons required to list the same, arranged in alphabetical order, corresponding with his list or lists, and also all the plats used in assessing real estate; and the auditor shall carefully preserve the same in his office. (§10273 Burns R. S. 1914.)

Assessor Failing to Swear Parties.

159. If any assessor or deputy assessor shall fail or neglect to administer to any person by him assessed any oath required by this act to be administered, he shall be deemed guilty of a misdemeanor, and on conviction, shall be fined in any sum not exceeding twenty dollars for each case of such omission and neglect. (§10274 Burns R. S. 1914.)

County Assessor—Election—Qualification—Bond—Compensation.

160. There shall be elected on the first Tuesday after the first Monday in November, 1922, and every four years thereafter in each county in this state, one county assessor, who shall possess the powers and perform the duties hereinafter specified. Such county assessor shall be a continuous resident freeholder of the county for not less than four years before the date of such election. Within ten days after his election, he shall give bonds with two or more good and sufficient freehold sureties, to be approved by the county auditor, in the sum of five thousand dollars, payable to the State of Indiana, and conditioned for the faithful and impartial discharge of his duties, and shall take and subscribe to an oath or affirmation, to be endorsed on his bond, that he will faithfully and impartially and honestly discharge the duties of his office, which oath shall be in the form, as near as may be, of the oath of the township assessor, as set out in this act. Said bond shall be deposited with the county auditor, who shall administer the oath endorsed thereon. Said county assessor shall be subject to the orders and directions of the state board of tax commissioners of this state and execute the laws of this state in relation to the tax and revenue laws of the state as such laws may relate to the duties of his office. In the event the state board of tax commissioners find that any county assessor has not discharged any of his duties faithfully or in full accordance or compliance with law, such county assessor may be removed from office by the state board of tax commissioners for incompetency, neglect of duty, or misconduct in office, after five days' notice and a hearing by said board. Any county assessor against whom the state board of tax commissioners has entered an order of removal from office shall have the right to an appeal from the decision of said

board to the circuit court of the county of which he has been county assessor, and from which office he has been removed within ten days from the time of the receipt of notice of the order of removal by filing with the said board of state tax commissioners a written request praying an appeal to such circuit court and upon the filing of such request said state board of tax commissioners shall within ten days file with the clerk of such court a certified copy of the original charges and the order of said board thereon, and said clerk shall immediately docket said cause and the same shall be tried by the judge of said court, de novo: Provided, That during the pendency of said appeal and until said circuit court shall have reversed the action of the said state board of tax commissioners the said county assessor shall not perform the duties of his office but such duties shall be performed by the persons selected in this act to perform such duties. If any vacancy shall occur in said office, the board of county commissioners shall fill the same at any regular or special session. In counties having a population of less than two hundred thousand according to the last preceding United States census, the judge of each court having probate jurisdiction may appoint the county assessor of his county appraiser of estates provided for in law for the appraisement and collection of taxes in the State of Indiana on gifts, inheritances, bequests, legacies, devises and successions, and if so appointed and acting said county assessor shall receive such compensation for said service in addition to his salary as may be fixed by the court to be paid him as now provided by law; or the court may determine the amount of said inheritance tax without reference thereof to the county assessor for appraisement: Provided, however, That if said county assessor be a beneficiary of any estate to be appraised as provided by the last said named act, or related by affinity or consanguinity to any beneficiary of such estate then said county assessor shall not be the appraiser of said estate: Provided, further, That in all counties in this state containing a population of more than two hundred thousand according to the last preceding United States census, the governor of the State of Indiana shall appoint a competent person to be known as the inheritance tax appraiser of such county, whose duties shall be to appraise each and every estate that may be subject to tax imposed by the last above entitled

act, and to perform each and every duty required by the inheritance tax appraiser in such act provided for who shall receive a salary of twenty-four hundred dollars per annum, payable monthly, out of the county treasury, which shall be a part of the expense of collecting such tax and who shall hold office during the term of four years. Such appraiser last mentioned shall appoint a competent stenographic clerk to assist him at a salary of nine hundred dollars per annum, to be paid monthly out of the county treasury, as a part of the expenses of collecting such inheritance tax. Such county shall furnish such inheritance tax appraiser with an office, and he shall be allowed his actual and necessary expenses for office furniture, fixtures, files, records, maps, plat-books, and other articles necessary for the proper conduct of the business, to be paid out of the county treasury as a part of the expense of collecting the tax. Whenever any county assessor shall have information that leads him to believe that any resident of his county has omitted or sequestered any of his property and not properly returned the same for taxation, and to enable him to fully investigate the same by examination of records and otherwise in other counties of this state and adjoining states, it shall be his duty to communicate his information to the board of commissioners of his county, who, if satisfied that the information of said assessor will warrant the expense, may make an order directing him to visit such county, counties or states to make such examination of records and otherwise, and when so ordered he shall make such visit and examination and said board of commissioners shall allow and pay to such assessor the actual expenses incurred by said assessor, to be shown by his itemized and verified statement, accompanied by a voucher for each item of expense. (§10275 Burns R. S. 1914.)

As amended Acts 1921, p. 653.

1. *Not Necessarily a Freeholder.*—The fact that the successful candidate for county assessor had not been a freeholder of the county for four years before the date of the election, as required by this section, will not prevent his holding the office, unless it is shown that the electors who voted for him knew, at the time, of his ineligibility. State, ex rel., Heston v. Ross, 170 Ind. 704, 706; 84 N. E. Rep. 1123.

Although the statute requires a county assessor to be a freeholder, a candidate for such office who did not receive a majority or plurality of the votes cast can not recover such office from the successful candidate who was not a freeholder without alleging and proving that the voters had actual or constructive notice of such ineligibility. State, ex rel., Davis v. Johnson, 173 Ind. 14, 16; 89 N. E. Rep. 393.

2. *Contest for Office.*—Ineligibility of person who receives the largest number of votes for county assessor, when a person who receives a minority of such votes may demand such office. *State v. Bell*, 169 Ind. 61.

3. *Contracts With Tax Ferrets.*—County boards cannot contract with persons to search for and discover property not assessed for taxation, when such duty is imposed by law upon the county assessor. *State v. Goldthait*, 172 Ind. 210.

4. *Overcompensation, Recovery of.*—If a county assessor is paid more than he by law is entitled to receive, the excess may be recovered. *Caldwell v. Board*, 41 App. 40.

5. *Qualification of Candidates for County Assessor.*—A county assessor shall be a resident freeholder of the county not less than four years before the date of such election. *Honan*, 1914.

6. *Additional Compensation of County Assessors as Inheritance Tax Appraisers.*—Under the above act the county assessor is entitled to receive compensation provided for inheritance tax appraisers in addition to the salary authorized for him as county assessor at the time of the passage of the 1915 act. *Milburn*, 1915.

7. *Vacancy.—Elected at Next Election of Assessor.*—A vacancy occurring shall be filled by the board of county commissioners to serve until a successor is elected and qualified at the general election in 1922. *Stansbury*, February, 1920.

Salaries of County Assessors and Deputies.

161. The county assessors of the various counties of the state shall be entitled to receive for their services, the compensation specified in this act; which compensation is graded in proportion to the population and the necessary services required in each of said several counties, to-wit: In all counties having a population of less than ten thousand inhabitants according to the last preceding United States census, the salary of the county assessor shall be eight hundred dollars per annum. In all counties having a population of ten thousand and less than fifteen thousand inhabitants according to the last preceding United States census, the salary of the county assessor shall be nine hundred fifty dollars per annum. In all counties having a population of fifteen thousand and less than twenty thousand inhabitants according to the last preceding United States census, the salary of the county assessor shall be eleven hundred dollars per annum. In all counties having a population of twenty thousand and less than thirty thousand inhabitants according to the last preceding United States census, the salary of the county assessor shall be thirteen hundred fifty dollars per annum. In all counties having a population of thirty thousand and less than fifty thousand inhabitants according to the last preceding United States census, the salary of the county assessor shall be sixteen hundred dollars per annum. In all counties having a population of

fifty thousand and less than one hundred thousand inhabitants according to the last preceding United States census, the salary of the county assessor shall be eighteen hundred dollars per annum. In all counties having a population of one hundred thousand and less than two hundred thousand inhabitants according to the last preceding United States census, the salary of the county assessor shall be twenty-two hundred dollars per annum. In all counties having a population of more than two hundred thousand inhabitants according to the last preceding United States census, the salary of the county assessor shall be twenty-nine hundred fifty dollars per annum, and he shall be authorized to appoint two deputies who shall receive six dollars per day. In all counties having a population of less than two hundred thousand inhabitants according to the last preceding United States census and an assessed valuation as shown by the last preceding assessment of three hundred and fifty million dollars of taxables or more, the county assessor shall be authorized to appoint one deputy who shall receive four dollars per day.

As amended Acts S. S. 1920, p. 191.

Duties of County Assessors—Deputies.

162. As soon as such county assessor has qualified, he shall receive from the county auditor all returns of real and personal property made by the assessors of the several townships of the county, together with all assessment lists, schedules, statements, maps, and other books and papers filed with the auditor by said township assessors. It shall be the duty of such county assessor to make a careful examination of the tax duplicate of the county, and also of all other records and papers in the offices of the county auditor, treasurer, recorder, clerk, sheriff and surveyor, and to list and assess according to the rules provided by this act for the assessment of property, upon the proper township assessor's books and to the proper persons, all omitted assessable property, of every kind and nature whatsoever, including tax certificates, mortgages, debts, judgments, claims and allowances of courts and legacies and property in the hand of administrators, executors, guardians, assignees, receivers, trustees, and other fiduciaries. The valuation made on any omitted property by the county assessor shall be entered in a sep-

arate column under the head of "valuation by county assessor" immediately after the column containing the valuation by the township assessor in the several lists and returns of said township assessors. The county assessor shall have all the rights and powers given by law to township assessors for the examination of persons and property, and the discovery and assessment of property, and making lists and returns of the same. He shall, on or before the first Monday after the 4th day of July in each year, make returns to the county auditor of all township assessors' books, returns, lists, schedules, maps, and other papers received by him from the auditor, together with such additional lists, assessments, books and papers as he has made thereto; and all assessments so made by the county assessor shall have the same force and effect as if made in the first instance by the township assessor. It shall also be the duty of the county assessor, at any time during the year, to list and assess upon the proper assessor's books in the office of the county auditor any omitted property that he may discover and which should be assessed; and the same shall be placed upon the duplicate by the auditor, and the taxes thereon extended and collected as in other cases. The county assessor is hereby authorized and required to advise and instruct all township assessors of his county as to their duties under the law, and for this purpose he shall visit each township assessor during the months of March and April in each year. It shall also be the duty of the county assessor to report to the state board of tax commissioners the incompetency or neglect of duty on the part of any township assessor or any deputy assessor in order that said state board of tax commissioners may take action for the removal of such assessor or deputy assessor as provided in this act. The county assessor is also given all the powers hereinafter given to county auditors and treasurers as to assessment of omitted property after the meeting and adjournment of the board of county review in each year, and all provisions of this act, as to notice or otherwise, so far as applicable, shall apply to such assessment by the county assessor as if the same were made by the county auditor or the county treasurer. On order of the county commissioners, duly entered of record at any regular or special meeting of the board, except in counties having a population of more,

than two hundred thousand inhabitants, according to the last preceding United States census, the county assessor may appoint one or more deputies to serve such time, not exceeding thirty days in any one year, as the commissioners shall direct, who shall have the same qualifications, possess the same powers and perform the same duties as the assessor, subject to his control and direction. Such deputies shall receive as compensation four dollars per day. (§10277 Burns R. S. 1914.)

1. *Examination of Books.*—See §32 for the right to examine books and papers to discover sequestered property.

2. *County Auditor.*—For power of the county auditor to assess omitted property, see section 204.

3. *County Board of Review.*—For power of the county board of review to assess omitted property, see section 164.

4. *County Treasurer.*—For power of the county treasurer to assess omitted property, see section 255.

5. *Township Assessor.*—For power of a township assessor to assess omitted property, see section 156.

6. *Power to Examine Persons.*—County assessors have the same power to examine persons as to property for taxation as township assessors, and persons who refuse to answer are subject to the penalty provided by section 68. *Burns v. State*, 5 Ind. App. 385; 41 N. E. Rep. 143.

7. *Notice.—Appearance Without Notice.*—Before the assessment of omitted property by the county assessor the property owner should have notice, but an appearance by such owner to resist the assessment will be sufficient to confer jurisdiction over him. *Deniston v. Terry*, 141 Ind. 677; 41 N. E. Rep. 143.

8. *Powers of County Assessors.*—The tax laws of the state make it the duty of county assessors to assess all property which has been omitted from taxation, and for that purpose he not only has the power expressly given him by statute, but also the power given to township assessors, county auditors and treasurers. *State v. Real Estate, etc., Assn.*, 151 Ind. 503; 51 N. E. Rep. 1061.

9. *Assessor's Statement.*—The failure of the county assessor, on listing omitted property for taxation, to file in the county auditor's office a statement of his reasons for listing the property, will not render the assessment invalid, where there is no other assessment against the owner of such omitted property. *Hunter Stone Co. v. Woodard*, 152 Ind. 474; 53 N. E. Rep. 947.

10. *Duty and Powers.*—It is not only the duty of the county assessor and other taxing officers to search for, discover, list, and assess all omitted property subject to taxation for the current year, but for previous years, and in the performance of this duty such officers are authorized to use all the means and instrumentalities the law provides. *State v. Real Estate, etc., Assn.*, 151 Ind. 504; 51 N. E. Rep. 1061; *Crowder v. Riggs*, 153 Ind. 158; 53 N. E. Rep. 1019.

11. *Assessing Property Omitted Prior to 1891.*—County assessors are authorized to assess property for taxation that was omitted from assessment for years prior to the taking effect of the acts of 1891, by which the office of county assessor was created. *Saint v. Welsh*, 141 Ind. 382; 40 N. E. Rep. 903.

12. *Injunction.—Notice.*—The courts will not enjoin the assessment of property for taxation, or the collection of taxes, on the ground of insuf-

fiency of notice, or other information or irregularities, where the property is taxable. Nor will the court restrain the taxing officer from placing upon the tax duplicate property alleged to have been omitted from taxation for certain years if taxable property belonging to the plaintiff was omitted from the tax duplicate in any of the years mentioned. *Crowder v. Riggs*, 153 Ind. 158; 53 N. E. Rep. 1019; *Hunter Stone Co. v. Woodard*, 152 Ind. 474; 53 N. E. Rep. 947; *Miller v. Vollmer*, 158 Ind. 26; 53 N. E. Rep. 949; *Reynolds v. Bowen*, 138 Ind. 434; 36 N. E. Rep. 756; 37 N. E. Rep. 962; *Jones v. Summer*, 27 Ind. 510; *Fell v. West*, 36 Ind. App. 20; 73 N. E. Rep. 719; *People's Gas, etc., Co. v. Harrell*, 86 Ind. App. 588; 76 N. E. Rep. 318.

13. *Lack of Notice.—Injunction.*—If property is taxable, the want of notice in assessing it as omitted property will not entitle the owner to an injunction to restrain the collection of the taxes thereon if it in fact was taxable. *Crowder v. Riggs*, 153 Ind. 158; 53 N. E. Rep. 1019; *Hunter Stone Co. v. Woodard*, 152 Ind. 474; 53 N. E. Rep. 947; *Miller v. Vollmer*, 158 Ind. 26; 53 N. E. Rep. 949; *Reynolds v. Bowen*, 138 Ind. 434; 36 N. E. Rep. 756; 37 N. E. Rep. 962; *Fell v. West*, 36 Ind. App. 20; 73 N. E. Rep. 719.

14. *Notice Outside of County.*—The assessment officer is not required to go outside of his own county to give notice to any one of his intention to assess omitted property. *Buck v. Miller*, 147 Ind. 586; 45 N. E. Rep. 647; 47 N. E. Rep. 8.

15. *Constitutional.—Notice.—Non-Resident.*—The above section is constitutional, and can not be assailed for failure to provide notice to non-residents, since such assessment is not final and the resident is not deprived of his day in court. *Gallup v. Schmidt*, 154 Ind. 196; 56 N. E. Rep. 443; affirmed 183 U. S. 300; 22 Sup. Ct. Rep.

16. *Penalty and Interest.*—Under the tax statute penalties and interest can only be imposed for the non-payment of taxes after the property has been placed upon the tax duplicate, and there is no authority for adding the penalty and interest to omitted property placed upon the tax duplicate by the county auditor which would have accrued if the property had been placed on the tax duplicates at the proper time and the taxes not paid. *Gallup v. Schmidt*, 154 Ind. 196; 56 N. E. Rep. 443; affirmed, 183 U. S. 300; 22 Sup. Ct. Rep.

17. *Former Years.—Present Statute.*—Under former statutes there was no power to assess omitted property for any except the current year. *State v. Howard*, 80 Ind. 466; *Stockmer v. Robbins*, 80 Ind. 108; *Scott v. Knightstown*, 84 Ind. 108; *Helliar v. Knightstown*, 84 Ind. 356; *Board v. Murphy*, 100 Ind. 570; *Hamilton v. Amsden*, 88 Ind. 304; *Vogel v. Vogler*, 78 Ind. 353; *Lang v. Clapp*, 103 Ind. 17; 2 N. E. Rep. 197; *McKeen v. Haskell*, 108 Ind. 97; 8 N. E. Rep. 901; *Board v. Armstrong*, 91 Ind. 528; *Donch v. Board*, 4 Ind. App. 374, 379; 30 N. E. Rep. 204; *Hennel v. Board*, 132 Ind. 32; 31 N. E. Rep. 462. But under the present statute taxes on omitted property for any past year or number of years or the current year can be assessed. *State v. Real Estate, etc., Assn.*, 151 Ind. 502; 51 N. E. Rep. 1061; *State v. Halter*, 149 Ind. 292; 47 N. E. Rep. 665; *Crowder v. Riggs*, 153 Ind. 158; 53 N. E. Rep. 1019; *Saint v. Welsh*, 141 Ind. 382; 40 N. E. Rep. 741; *Gallup v. Schmidt*, 154 Ind. 196; 56 N. E. Rep. 443.

18. *Presumption of Regularity.*—All presumptions are to be indulged in favor of the correctness of the proceedings of the county assessor in assessing omitted property, and the error, if any, must be pointed out by the party complaining of it. *Buck v. Miller*, 147 Ind. 586; 45 N. E. Rep. 647; 47 N. E. Rep. 8; 37 L. R. A. 384; 62 Am. St. Rep. 436; *Fell v. West*, 35 Ind. App. 20; 73 N. E. Rep. 719.

19. *Notice to Non-Resident Executor.*—The official residence of an executor, so far as the taxation and administration of the assets of the

estate are concerned, is in the county of his appointment, and notice to appear before the county assessing officers and show cause why property of the estate should not be added to the tax duplicate is not void for the reason that such executor resides in another state. Such an executor can not assail the constitutionality of the above section on the ground that it attempts to provide for the assessment of omitted property owned by non-residents of the state, without affording such non-resident notice or a day in court. *Gallup v. Schmidt*, 154 Ind. 196; 56 N. E. Rep. 443; affirmed 183 U. S. 300; 22 Sup. Ct. Rep.

20. *Oath May Administer.*—The assessor and his deputies have authority under the statute to administer all necessary oaths in connection with tax lists. *State v. Reynolds*, 108 Ind. 353; 9 N. E. Rep. 287.

21. *Mandamus.*—Previous to the amendment of section 40 in 1901, it was held that the officers of a building association could be compelled by mandamus to permit the county assessor to examine its books, in order to see if any person named in the application owned building association stock. *State v. Real Estate, etc., Assn.*, 151 Ind. 502; 51 N. E. Rep. 1061. See *State v. Workmen's, etc., Assn.*, 152 Ind. 278; 53 N. E. Rep. 168.

22. *Increasing Value.*—A county assessor can not increase the valuation of property listed and assessed in previous years. *McConnell v. Hampton* (Ind. Sup.); 73 N. E. Rep. 1092; *Parkison v. Thompson*, 164 Ind. 609; 73 Ind. 109; *Florer v. Sherwood*, 128 Ind. 495; 28 N. E. Rep. 71; *Douch v. Board*, 4 Ind. App. 374; 30 N. E. Rep. 204.

23. *Enjoining Assessor.*—A county assessor can not be enjoined on the mere supposition that he may exceed his authority in making an assessment. *McConnel v. Hampton*, 164 Ind. 547; 73 N. E. Rep. 1092.

24. *Duty as to Omitted Property.*—It is the duty of county assessors to search for and assess all property not returned and assessed for taxation for previous years. *State v. Goldthait*, 172 Ind. 210.

Annual Meetings—Other Meetings.

163. The state board of tax commissioners shall annually call a meeting of the county assessors of the state, to be held at such time and place as the said board may select, and to continue not longer than three days in any one year; that each assessor attending such meeting shall be allowed three cents per mile for the distance actually traveled by the most expeditious railroad route in going to and returning from such meeting, and four dollars per day for expenses while attending said meeting, not to exceed three days in any one year. The county assessor at any other time, when answering the call of the state board of tax commissioners on official business, shall be entitled to the same per diem and railroad fare as aforesaid, the said board to certify the number of days and mileage for such special call. All of said payments shall be made by the county treasurer on a warrant issued by the county auditor, and said county auditor before issuing any such warrant shall require said county assessor to make a verified statement of the number of days he attended and the distance he traveled. (§10278 Burns R. S. 1914.)

Board of Review — How Organized — Meetings — Powers — Quorum.

164. There shall be an annual board for the review of assessments and the equalization of the valuation of real and personal property in each county. Such board shall be composed of the county assessor, county auditor and county treasurer, and two freeholders of opposite political parties to be appointed by the judge of the circuit court, who, excepting the county assessor, shall each be paid out of the county treasury, the sum of five dollars for each and every day while they are actually serving as members of said board. The county assessor shall be president and the county auditor secretary of said board, which shall be known as the "county Board of Review." Such secretary shall keep full and accurate minutes of the proceedings of said board. The board shall meet for assessment, review and equalization of taxes at the room of the county commissioners, in the courthouse of each county, or in some other room provided by said board of commissioners, on the first Monday in June annually. Two weeks' previous notice of the time, place and purpose of such meeting shall be given by the county auditor in two newspapers of general circulation, printed and published in the county, representing different political parties; or if no such newspaper be published in the county, then by posting up notices in three public places in each township in the county. Such board shall have the power to hear complaints of any owner of personal property, except such property as is assessed originally by the state board of tax commissioners, to equalize the valuation of property and taxables made subsequent to the preceding first day of March, and to correct any list of valuation as they may deem proper. It shall also have the power to equalize the valuation made by the assessors, either by adding to or deducting therefrom such sums as are necessary to fix the assessment at the true cash value. In all cases where the county board deems it necessary to add omitted property, or to increase the valuation thereof by the assessor, the county auditor shall cause the names of the persons to whose list property is to be added or the valuation of whose property is to be increased, to be inserted in the notice hereinbefore provided for; or such board may, at its option, cause to be served upon the person to whose list property is to be added, or the valuation of whose property is to

be increased, a written notice that it is proposed to revise or correct his list but such notice need not specify the particulars in which it is proposed to revise or correct the list or returns, nor shall it be necessary to specify particularly in the published notice, but it shall be sufficient in any or all such notices to state generally that it is proposed to correct or revise the returns, list, statement or schedule of the person or persons named; when such notice or notices are ordered by said board to issue, they shall be served by such county assessor. In case such county assessor neglects to serve the written notices herein provided for, they shall be issued by the auditor to the sheriff of the county, who shall serve the same at least three days before the matter comes up for hearing. In case the board adjudged that the returns, statement or schedule list shall be revised or corrected by adding property thereto, or by increasing the valuation of any property therein described, the taxpayer whose list, return, statement or schedule it adjudged, shall be revised or corrected as aforesaid, shall be liable for all costs occasioned by such revision or correction. The board shall correct all errors in the names of persons in the description of property upon said list, and in the assessment and valuation of property thereon, and shall cause to be done whatever else may be necessary to make said list and returns of assessments comply with the provisions of this act. It shall pass upon each valuation, and may, on sufficient cause being shown, or on its own motion, correct the assessment or valuation of any property in such manner as will, in its judgment, make the valuation thereof just and equal, and enter the valuation, when so changed by it in a separate column. A majority of said board shall constitute a quorum for the transaction of business, and may decide any question. Before entering upon their duties, the members of the board of review shall each take and subscribe an oath for the faithful and impartial discharge of their duties as members of said board, which oath shall be administered by the auditor to the assessor, treasurer and freeholders, and by the assessor to the auditor, and shall be filed with the auditor, and shall be in the form following:

State of Indiana, County, ss:

I,, do solemnly swear that I will support the constitution of the United States, and the constitution of

the State of Indiana, and that I will faithfully and impartially discharge my duty under the law as a member of the board of review for said county; that I will, according to my best knowledge and judgment, assess, review and equalize the assessment of all the property of said county, and I will in no case assess any property at more or less than its true cash value, as such value is defined by law, so help me God.

.....Member of Board.

Subscribed and sworn to this.....day of....., 19....

At such meeting the county auditor shall submit to the board of review the assessment list of the county as returned by the township assessors and added to and returned by the county assessor for the current year, and the board shall proceed to examine and review the same. In addition to his other duties, it shall be the duty of the county assessor to report to the board of review for the action of the board all corrections and changes in the returns and assessments of the township assessor, which in the judgment of the county assessor, ought to be made. The board of review shall consider and act upon all recommendations made by the county assessor, and shall also, of its own motion or on sufficient cause being shown by any person, add to the assessment list the names of persons, the value of personal property and the description and value of real estate liable to assessment and omitted on said lists. The board shall correct all errors in the names of persons, in the description of property upon said lists, in the assessment and valuation of property thereon, and shall cause to be done whatever else may be necessary to make said lists and returns of assessments comply with the provisions of this act. The board shall pass upon each valuation, and enter the valuation as fixed by it, in a separate column. The list, as prepared by the assessors, shall stand as approved and adopted as the act of the board of review, except as changed by a vote as herein provided. The board may, on sufficient cause being shown or on its own action, correct the assessment of valuation of any property in such manner as will in its judgment make the valuation thereof just and equal. To that end the board may examine, on oath, any person touching the matter. Any member of said board may administer

such oath. Said board is hereby given full power to send for persons and papers and to compel witnesses to answer under oath, touching any question concerning the assessment and valuation of property. The sheriff of the county shall serve all process not served by the county assessor, and obey all orders of said board. Nothing, however, in this section shall be taken or construed to authorize the board to assess any property at more or less than its true cash value as the same is defined in this act: Provided, That the auditor and treasurer of every county shall each be entitled to and shall be paid out of the county treasury the sum of five dollars (\$5) per day for each and every day during which such auditor or treasurer shall have served as a member of the county board of review during the year 1919 and the year 1920: Provided, further, That the payment of a per diem to the auditor and treasurer of any county for serving as members of the county board of review during the year 1919 and the year 1920 as not to exceed five dollars (\$5) per day for each and every day so served, is hereby fully legalized and validated in all respects whatsoever. (§10279 Burns R. S. 1914.)

As amended S. S. 1920, p. 101.

1. *Omitted Property, County Assessor.*—For power of county assessor concerning omitted property, see section 162.

2. *Omitted Property, County Auditor.*—For power of county auditor concerning omitted property, see section 204.

3. *Omitted Property, County Treasurer.*—For power of county treasurer concerning omitted property, see section 255.

3a. *Township Assessors.*—For powers of township assessors to list omitted property, see section 156.

4. *Board Must Organize.*—A board of review must meet and organize as the law requires, or its acts will be void. *Hyland v. Brazil, etc., Co.*, 128 Ind. 335; 26 N. E. Rep. 672; *Eaton v. Union, etc., Bank*, 141 Ind. 159; 40 N. E. Rep. 668.

5. *Notice to Property Owner.*—County boards of review have no power to change the valuation of property for taxation without notice to the property owner. *Kuntz v. Sumption*, 117 Ind. 1; 19 N. E. Rep. 474; 2 L. R. A. 655. But if it does so, and the valuation does not exceed the actual value of the property assessed, the tax for that reason can not be enjoined. *Fell v. West* (Ind. App.), 73 N. E. Rep. 719; *Crowder v. Riggs*, 153 Ind. 158; 53 N. E. Rep. 1019; *Miller v. Vollmer*, 153 Ind. 26; 53 N. E. Rep. 949; *Hunter Stone Co. v. Woodard*, 152 Ind. 474; 53 N. E. Rep. 947.

6. *Publication Not Sufficient.*—A general notice to the public, by publication or posting, of the time, place and purpose of the meeting of the board of review, is not such notice to an individual taxpayer as is required to authorize a change in the valuation of his property as returned by the assessor. *Kuntz v. Sumption*, 117 Ind. 1; 19 N. E. Rep. 474; 2 L. R. A. 655.

7. *Actual Notice Not Sufficient.*—The fact that the taxpayer actually has notice of the proceeding is not sufficient to authorize a disposition of his individual property rights, as notice must be given to him under the statute providing for it, or it will be unavailing. *Kuntz v. Sumption*, 117 Ind. 1; 19 N. E. Rep. 474; 2 L. R. A. 655.

9. *Oaths.—Examination of Witnesses.*—A county board of review has the power, and it is one of its duties, to add and assess omitted property, and to investigate and determine whether a citizen is the owner of property, subject to taxation, which he has omitted from his tax list. To that end, it may examine witnesses; each member having power to administer all necessary oaths in the discharge of the duties of the board, and a prosecution for perjury may be predicated upon testimony given in such cases. *State v. Wood*, 110 Ind. 82, 85; *Burns v. State*, 5 Ind. App. 385; 31 N. E. Rep. 547.

10. *Description of Property in Notices.*—The notice of intention to assess omitted property need describe the property only in general terms. *Reynolds v. Bowen*, 138 Ind. 434, 440; 36 N. E. Rep. 756; 37 N. E. Rep. 962; *Delphi v. Bowen*, 138 Ind. 235; 36 N. E. Rep. 761.

11. *Notice to Administrator.*—Where property of a decedent has been omitted from taxation, the administrator is the person to be notified before adding and assessing such omitted property. *Reynolds v. Bowen*, 138 Ind. 434, 440; 36 N. E. Rep. 756; 37 N. E. Rep. 962; *Buck v. Miller*, 147 Ind. 586; 45 N. E. Rep. 647; *Gallup v. Schmidt*, 154 Ind. 196; 56 N. E. Rep. 443.

12. *Errors.—Collateral Attack.*—The powers conferred upon county boards of review are of a quasi judicial character, and their judgments are not open to collateral attack. If errors or irregularities are committed, they must be corrected in the mode pointed out by statute, and if not so corrected, they are conclusive, as the courts have no power to control the discretion of such boards. *Biggs v. Board*, 7 Ind. App. 142; 34 N. E. Rep. 500; *Jones v. Rushville Nat. Gas Co.*, 135 Ind. 595; 35 N. E. Rep. 390; *Senour v. Matchett*, 140 Ind. 636; 40 N. E. Rep. 122.

13. *Stock.—Collateral Attack.*—A county board of review has original exclusive jurisdiction of the assessment of the capital stock of ordinary domestic corporations where the value of such stock exceeds the value of the tangible property of such corporation, and whether the value of such stock exceeds the value of the tangible property is a question for such board to decide, and such decision is not subject to be questioned collaterally. *Jones v. Rushville Nat. Gas Co.*, 135 Ind. 595; 35 N. E. Rep. 390; *Parkinson v. Jasper County Tel. Co.*, 31 Ind. App. 135; 67 N. E. Rep. 471; *Fell v. West*, 35 Ind. App. 20; 73 N. E. Rep. 719.

14. *Review.—Appeal.—Collateral Attack.*—A county board of review has power to determine whether a taxpayer has temporarily converted his taxable money into such legal tender notes for the express purpose of evading the payment of taxes thereon, and the action of such board could only be reviewed by an appeal or some other direct proceeding. *Senour v. Matchett*, 140 Ind. 636; 40 N. E. Rep. 122.

15. *Notice.—Appearance of Cashier of Bank.*—A county board of review has no authority to raise the assessment of property as fixed and returned by the assessor, without giving the notice required by statute to the taxpayer whose assessment is increased, unless such board obtains jurisdiction over such taxpayer by an appearance before it, and the appearance of a cashier of a bank before it for the purpose of testifying at its instance, is not such an appearance by such bank as will authorize it to increase the assessment against such bank without giving the notice required by the statute. *Eaton v. Union, etc., Nat. Bank*, 141 Ind. 159; 40 N. E. Rep. 668.

16. *Appeal.—Rights.*—The law grants an appeal from a county board of review as a matter of right, and if the taxpayer fails to exercise it in

any way, the neglect of the state tax board to provide regulations and furnish blanks is not an available excuse for his failure to demand an appeal. *Senour v. Matchett*, 140 Ind. 636; 40 N. E. Rep. 122.

17. *Examination of Books.*—Before the amendment of section 40 it was held that a county board of equalization had power to inspect and examine the books and papers of banks and other corporations, and might require witnesses to testify, for the purpose of learning whether property had been omitted from assessment before giving any notice to any taxpayer that such board was about to assess property omitted by him; and on the appearance of a witness before such board who refused to answer proper questions, such board might obtain a mandate from the circuit court requiring him to answer such questions, and on his refusal to obey such mandate, he might be punished as for a contempt. *Satterwhite v. State*, 142 Ind. 1; 40 N. E. Rep. 654.

19. *Appearance Waives Notice.*—The voluntary appearance of the person to be assessed with omitted property before the county board of review will be a waiver of the right to notice. *International, etc., Assn. v. Board*, 30 Ind. App. 12; 65 N. E. Rep. 297; but where a bank cashier was called before the board, not for the purpose of acquiring jurisdiction over the bank, but for the purpose of testifying as a witness in relation to the affairs of such bank, and it appeared that the cashier did not submit to the jurisdiction of the board, or voluntarily acquiesce in the assumed right of the board to raise the valuation of the bank's list, such presence, it was held, before the board did not amount to a waiver of the notice required by statute, and that the board did not acquire jurisdiction over the bank. *Eaton v. Union, etc., Bank*, 141 Ind. 159; 40 N. E. Rep. 668. Yet where the secretary of a building association voluntarily appeared before the board of review, submitted to an examination upon the question of increasing the assessment of the association, protested against the increase, and afterward notified the president and directors of the action of the tax board, who discussed the same and did not take an appeal to the state board of tax commissioners, as they had the right to do, it was held that such action amounted to a waiver of notice and a submission to the jurisdiction of the board, and the association was bound by its action. *International, etc., Assn. v. Board*, 30 Ind. App. 12; 65 N. E. Rep. 297.

20. *Presumption Concerning Publication of Notice and Organization of Board.*—Unless otherwise appearing, it will be presumed that notice was given according to law; and where it appears that the board of review was in session it will be presumed that it was organized and convened according to law. *Smith v. Rude*, 131 Ind. 150; 30 N. E. Rep. 947; *Brunson v. Starbuck*, 32 Ind. App. 457; 70 N. E. Rep. 163; *Fell v. West*, 35 Ind. App. 20; 73 N. E. Rep. 719.

21. *Notice of Insane Person.—Guardian.*—If an insane person has no guardian, notice may be given to him and the assessment will be prima facie valid; if he has had a guardian appointed, notice should be given to such guardian. *Hennel v. Board*, 132 Ind. 82; 31 N. E. Rep. 462.

22. *Notice.—Equalization of Township.—Constitutional.*—The valuation of each taxpayer's property within a township or division of a township may be increased by the county board of review without notice other than that given by the law itself; and the statute for that reason can not be held invalid. *Hubbard v. Goss*, 157 Ind. 485; 62 N. E. Rep. 36.

23. *Part of Assessment Illegal.—Injunction.*—Where part of an increased assessment is legal and part illegal, and there are no means of ascertaining the amount of the legal portion, the whole increase is invalid. *Hart v. Smith*, 159 Ind. 182; 64 N. E. Rep. 661.

24. *Listing in Wrong Township.—Appeal.—Injunction.*—The county board of review has no power to list without notice notes and mortgages to the owner in a township of which he is not a resident; and if it does, the county auditor may be enjoined from placing them on the tax dupli-

cate. He need not appeal to the state board of tax commissioners to have the error corrected. The listing is void. *Stephen v. Smith*, 30 Ind. App. 120; 65 N. E. Rep. 546.

25. *Jurisdiction.—Collateral Attack.—Injunction.*—"A county board of review is a tribunal which possesses quasi judicial powers, and to it, by law, is given exclusive original jurisdiction over the subject-matter of correcting and revising tax assessments. If it once obtains jurisdiction over the person whose assessment is in controversy, its action in the matter, whether right or wrong, is binding until set aside or vacated by some direct attack." *Stephens v. Smith*, 30 Ind. 120; 65 N. E. Rep. 546; *Senour v. Matchett*, 140 Ind. 636; 40 N. E. Rep. 122; *Jones v. Rushville, etc., Gas Co.*, 135 Ind. 595; 35 N. E. Rep. 390. "A county board of review and the state board of tax commissioners are created and clothed with judicial powers, and especially charged with the duty of bringing about uniformity and equality of taxation. The action of these boards is judicial in its character, and their judgments are not open to collateral attack. If errors or irregularities are committed, they must be corrected by the mode pointed out by statutes. If not so corrected they are conclusive whatever errors may have been committed in the assessment. Courts have no power to control their discretion to take upon themselves the functions of a revising and qualifying board." *Jones v. Rushville, etc., Co.*, supra.

26. *Increasing Valuation for Past Years.*—Under the assertion of the power to list and value for taxation omitted property, the county board of review can not reassess property assessed in previous years because of undervaluation in such previous years, nor make an original assessment of property for previous years as property omitted from taxation in such years, nor increase the assessment of property for the current year because of omission of previous years. *Parkinson v. Jasper County Tel. Co.*, 31 Ind. App. 135; 67 N. E. Rep. 471.

27. *Omitted Property in Past Years.*—The statute "prescribing the powers and duties of the county board of review, provides for the addition by that board of property omitted from the list of that year, but does not provide for adding property omitted in other years." *Parkinson v. Jasper County Tel. Co.*, 31 Ind. App. 135, 143; 67 N. E. Rep. 471. "The county board of review has power to add omitted property, but only property omitted from the lists of current year." *Parkinson v. Jasper County Tel. Co.*, supra. See *Brunson v. Starbuck*, 32 Ind. App. 467; 70 N. E. Rep. 165.

28. *County Auditor's Per Diem.*—A county auditor is entitled to \$3.00 per day for each day he serves as a member of the county board of review. *Seiler v. State*, 160 Ind. 605; 65 N. E. Rep. 922; 66 N. E. Rep. 946; 67 N. E. Rep. 448. (\$3.00 now increased to \$5.00.)

29. *Notice of Change in Township Assessment.*—Aside from the general notice provided by law for the meeting of county boards of review, no notice is required for such boards to make a general change in the assessment for a given township. *Smith*, 1892, p. 77.

30. *Raising Valuations of Part of Township.*—The board of review has the power to raise or lower the valuation of a particular division of a township. *Hubbard v. Goss*, 157 Ind. 485; 62 N. E. Rep. 36.

31. *Presumption.*—The presumption is that the board of review properly performed their duty; and one claiming that a raise in the valuation of his property was illegal has the burden to show its illegality. *Fell v. West*, 35 Ind. App. 20; 73 N. E. Rep. 719.

32. *County Assessor's Pay.*—The county assessor, while serving as a member of the board of review, was entitled, prior to 1905, to his per diem, but not pay both as county assessor and as a member of the board of review, or \$6 per day. *Daily v. Board*, 165 Ind. 99; 74 N. E. Rep. 977. He is now on an annual salary. Sections 161 and 162.

33. *No Notice to Mortgagee.*—The law makes provision for notice to the owner of the real estate, and gives him the right to a hearing as to the valuation of the property for taxation, but makes no provision for notice to the mortgagee, or for giving him a hearing. *Baldwin v. Moroney, Treasurer, 173 Ind. 574, 580; 91 N. E. 3.*

34. *Who Is Owner.*—If the mortgagee has taken possession of the mortgaged premises under the provisions of the mortgage, he is deemed the owner, and the law then provides for the notice to him and a hearing for him as such owner. *Baldwin v. Moroney, Treasurer, 173 Ind. 574, 580; 91 N. E. 3.*

Board of Review—Marion County.

165. In counties having a population of more than two hundred thousand inhabitants, as shown by the last preceding census of the United States, it shall be the duty of the judge of the circuit court on or before the first day of March of each year, to appoint two resident freeholders of opposite political parties, to act as members of the board of review of said county, and said appointees shall, on the said first day of March, after taking the oath prescribed for assessing officers, enter upon their duties under the advice and direction of the county auditor, county treasurer and county assessor of said county and the state board of tax commissioners, and prior to the annual meeting of said board, shall proceed to list the domestic corporations of said county, and fully investigate their financial condition, and for this purpose may require statements from such corporations, or summon the officers of such corporations, or any other person before said members of the board by a subpoena to be issued by the auditor of said county, to testify in relation to the property and financial condition of said corporations, and all the information obtained by such members of such board shall be laid before said board of review at its next annual meeting and no other member of said board shall be appointed by said judge, except that in case a vacancy in such appointive members, such vacancy shall be filled by such judge: Provided, That where required time may be extended by such judge for such contemplated work not exceeding twenty days. (§10279a Burns R. S. 1914.)

Per Diem of Appointive Members Marion County.

166. The said members of said board so appointed by the judge of the circuit court, as provided in the preceding section, shall receive a compensation of six dollars for each day so served as members of said board of review, to be paid

out of the county treasury of said county, beginning on the first day of March and ending on the day of the final adjournment of said board. (§10279b Burns R. S. 1914.)

Per Diem—Appointive Members—Time.

167. The members of the board of review, who under this act are to receive a per diem of five dollars per day, shall be entitled to such per diem only for days actually served. The county assessor shall keep an attendance record of the meeting of the members of the board of review and at the close of the session shall certify to the board of commissioners the number of days actually served by such members. Claims on account of services on the board of review shall not be allowed by said board of commissioners for any days not certified to by such county assessor.

Duties and Powers of Board of Review.

168. It shall be the duty of such board of review at such meeting to inquire as to the valuation of the various classes of property in the respective townships and divisions of the county, and to make such changes, whether by way of increase or decrease, in such valuation as may be necessary to equalize the same in or between the townships or divisions of townships, or any taxing unit, and to determine the rate per cent to be added or deducted in order to make a just and equitable equalization in the respective townships and divisions, so as to conform throughout the county to a just and equitable standard, reference being had to the natural and artificial characteristics and surroundings, and other elements of value. Such board shall also have power, in proper cases, to reduce or increase the valuation of any particular tract or lot. Such board may consider lands, town lots and city lots as separate classes, if necessary, for the purpose of equalization, and determine a per cent of addition or reduction for such or any of said classes within the respective townships, as between the several townships or other divisions. The board shall have no power to reduce the aggregate valuation of all the townships below the true cash value, nor increase the same beyond the amount actually necessary for a proper and just equalization. If the board shall find the aggregate assessment is too high or too low, or is generally so unequal as to render it impracticable to equal-

ize the same, it may set aside the assessment of the whole county, or of such township or townships or taxing unit therein, and order a new assessment, with instructions to the assessors to increase or diminish the aggregate assessment of their respective townships or taxing unit in such amount as the board may deem right and just and consistent with law. The duration of the session of the board of review shall not exceed twenty-eight days in counties having a population of less than twenty thousand according to the last preceding United States census; and in counties having a population of more than twenty thousand according to the last preceding United States census, the duration of the session of said board shall not exceed thirty days, except in the years for the assessment of real estate except as otherwise provided in section 165 of this act. In years for the assessment of real estate the session of the board of review, in counties having a population of less than twenty thousand according to the last preceding United States census, shall not exceed thirty-eight days, and in counties having a population of more than twenty thousand and less than fifty thousand according to the last preceding United States census, the duration of the session of said board shall not exceed forty days. In counties having a population of more than fifty thousand according to the last preceding United States census, the duration of the session of said board shall not exceed forty-five days. (§10280 Burns R. S. 1914.)

1. *Length of Session.—Sundays.*—In computing the time in which a county board of review may continue in session, intervening Sundays are to be included, and any action taken by such board after the time fixed by law for the termination of its session is void. *Yocum v. First Natl. Bank*, 144 Ind. 272; 43 N. E. Rep. 231; *State v. McGinnis*, 34 Ind. 452.

2. *Court Altering Assessments.*—Courts can not alter the assessments as fixed by boards of review in the absence of fraud or mistake. *Rhoads v. Cushman*, 45 Ind. 85.

3. *Collateral Attack.*—The powers conferred upon county boards of review are of a quasi judicial character, and their judgments are not open to collateral attack. If errors or irregularities are committed, they must be corrected in the mode provided by the statute, and if not so corrected, the action of such board becomes conclusive, as the courts have no power to control the discretion of such board. *Jones v. Rushville Nat. Gas Co.*, 135 Ind. 595; 35 N. E. Rep. 390; *Senour v. Matchett*, 140 Ind. 636; 40 N. E. Rep. 122; *Biggs v. Board*, 7 Ind. App. 142; 34 N. E. Rep. 500; *Fell v. West*, 35 Ind. App. 20; 73 N. E. Rep. 719.

4. *Adjournment.*—A county board of review should remain in session, and not finally adjourn, until the time fixed by law for the termination of its session has expired. (State board of tax commissioner.)

5. *Equalization of Assessments, Right of County Board.*—The county board has the right to equalize the real and personal property of a township by classes without giving notice. Taylor, 1900, p. 135.

6. *Equalization, Assessment Made by Assessor to Be Set Aside.*—Where inequalities are so general and flagrant in a township as to render the correction impracticable, it should be set aside and the county assessor should be required to do the work over as provided by law. Smith, 1892, p. 77.

7. *Equalization, Power of Township Assessor.*—The township assessor can not raise the assessment of real estate for the equalization of taxes without notice to the taxpayer whose assessment is raised. Taylor, 1900, p. 60.

8. *Equalization, Power of State Board of Tax Commissioners.*—Power to equalize, correct and add to assessment lists is fully conferred upon local boards of review. The state board of tax commissioners possess all the duties and powers of local boards, and additional powers. Smith, 1892, p. 110.

10. *Action After Time for Session Has Expired.*—The board of review can not act after the time for holding its sessions has expired; and if it attempts to perform any act after that time its action will be void. *Yocum v. First National Bank*, 144 Ind. 272; 43 N. E. Rep. 231; *State v. McGinnis*, 34 Ind. 452; *Shoemaker v. Board*, 36 Ind. 175; *Jeffersonville, etc., R. R. Co., v. McQuenn*, 49 Ind. 64; *Newsom v. Board*, 92 Ind. 229.

That a county board of review was without authority to increase a property owner's personal property assessment because notice to the property owner had not been given did not alone entitle the property owner to enjoin the collection of the taxes in that portion of such assessment represented by the increased valuation made by the board of review, but to obtain such relief, since the property was taxable and the taxes in question had not been paid the property owner was obliged to prove that the assessments as increased by the board of review were larger than they should have been. *Schlusser Bros. v. Huff*, 128 N. E. 452 (Ind. App.).

Tax Commissioners—Terms—Bonds.

169. Three tax commissioners to be appointed by the governor, each for a term of four years, not more than two of whom shall belong to the same political party, shall constitute and be a board to be denominated the "State Board of Tax Commissioners," who shall have and perform the duties and have the powers specified by law. The governor shall commission the commissioners so appointed as aforesaid, and before entering upon the discharge of their official duties they shall each execute a bond, payable to the State of Indiana, in the penal sum of ten thousand dollars, with sureties to the approval of the governor, for the faithful discharge of their official duties, and they shall each take and subscribe an oath of office, which oath shall be endorsed upon their official bond, which bond and oath when so executed shall be filed in the office of the secretary of state: Provided, That the three tax commissioners now commissioned and serving

under appointment by the governor shall continue to serve for and during the terms for which they were appointed, and until their successors are appointed and qualified. (§10282 Burns R. S. 1914.)

Salary and Expenses.

170. The members of said board shall each receive as compensation for his services the sum of four thousand five hundred dollars per year, payable monthly out of the appropriations to be made for that purpose. They shall also receive traveling and other expenses actually paid and necessary to the performance of the duties of their office, which expenses shall be itemized by the person incurring the same, and when the account of the same is approved by the auditor of state, it shall be paid. The members of the state board of tax commissioners shall be on continuous duty throughout the year for the purpose of considering any matters relating to the subject of taxation that come within the purview of their duties as set out in this act. Sessions of the full board shall be held for the performance of special duties at specific times as set out in succeeding sections.

Meetings—Assessments—Powers.

171. Said state board of tax commissioners shall annually convene in the state house in a room to be provided therefor, on the first Monday in April of each year, for the purpose of assessing the property of all persons, co-partnerships, associations, joint stock associations or corporations required by law to be assessed by the state board of tax commissioners, and shall devote such time as shall be necessary to make such assessments not exceeding, however, fifty days. It shall reconvene on the first Tuesday after the first Monday of July following, for rehearing and applications for revisions; for the purpose of hearing complaints or applications for change, in the assessments made, by the owners of railroad property and all other persons, partnerships, associations or corporations whose assessments have been fixed at the first session in this section provided for, but such session shall not exceed twelve days. It shall reconvene on the Monday next succeeding said second session for the purpose of hearing appeals and for reviewing and reassessing all property certified by county auditors as hereinafter provided, and for the purpose

of equalizing the assessment of all property, real or personal, the assessment or equalization of which, by said board, is provided for by law. It shall remain in session such length of time as the business may require but not later than the third Monday in August at which time said session shall adjourn. It shall reconvene on the third Monday of September of each year for the purpose of reviewing and finally determining the tax levies of all the taxing units as the same have been certified to said board by the several county auditors of the state provided for in this act, and also determine the changes necessary in the state levies for all purposes necessary to be made in order to raise sufficient revenue for all appropriations made by law and to review and reassess or assess originally any property, real or personal or both in any taxing unit of the state and shall remain in session until the Saturday following the first Monday of December. Before adjourning said first session said board shall designate in what manner parties desiring to be reheard as to the assessments made, shall apply for relief, and such persons may be heard either upon printed or written petitions with accompanying affidavits and exhibits, or upon oral testimony, as the board at its first session may order, or the board may, at its discretion, at its second session, permit the hearing of oral or written testimony in case it shall appear to the board that such course will be more satisfactory. Said board shall also designate in what manner parties desiring to be heard on appeals from boards of review and how taxpayers whose assessments have been, by order of said board, certified by the county auditor for review and reassessment, may be heard by said board at its third session and how taxpayers of taxing units may be heard at the fourth session when said board is considering the final determining of tax levies. The assessment made at the first session of the board shall stand as the assessment by the board unless application is filed with the state board of tax commissioners for reassessment, or for relief from the original assessment, at least ten days before said second session, and the assessment when finally determined by said board at its second session on cases of rehearing and on appeals and reassessments at its third session, shall stand as the final assessment of such persons and be certified to the proper official by the state board of tax com-

missioners. The tax levies for the state and all the political divisions thereof as finally determined by said board at its fourth session shall stand as the final levies and be immediately certified to the proper official by the state board of tax commissioners. Before making a correction or addition to any assessment or the making of an original assessment at its fourth session, the said board shall give written or other notice to such person or persons, requiring such person or persons to appear before said state board of tax commissioners at its office in Indianapolis or elsewhere as the board may designate at the time specified in such notice, which time shall not be less than ten days from the date of the serving of such notice, to show cause, if any, why such correction, addition or original assessment, as the case may be, shall not be made, and if such person or persons so notified do not appear, or if any appear and fail to show any good and sufficient cause why such correction, addition or original assessment should not be made, the same shall be made and shall stand, as the final assessment of such persons and be certified, together with the order of said board, to the proper official by the state board of tax commissioners and be entered on the tax duplicate as omitted property.

Said board shall organize on the first day of the first session of the board after the taking effect of this act by selecting one of its members as chairman who shall serve in such capacity during the term of his appointment as member of said board, and shall also select, outside of its own membership, a secretary who shall receive compensation for his services at the rate of thirty hundred dollars per annum, payable monthly, and who shall act as secretary of the board. The said state board of tax commissioners is hereby given the powers given to county boards of review. It shall not be bound by any reports or estimates of railroads, real estate or other property as returned to the county auditors, or to its own office, or certified to its office in connection with any appeals or applications for revision, review or reassessment or in connection with the review or reassessments made of assessments certified by county auditors by order of the state board of tax commissioners and in connection with reviews, reassessment or original assessments made by the state board of tax commissioners, but shall appraise and assess all prop-

erty coming before it for assessment, directly or indirectly, at its true cash value as defined by this act, according to its best knowledge and judgment. It shall have power to send for persons, books and papers, to examine records, hear and question witnesses. The state board of tax commissioners shall have power to issue subpoenas duces tecum, and to compel the attendance of witnesses, and the production of such books, papers and records as, in the judgment of the board, is necessary to a full and complete exercise of the powers vested in said board, and to use the same in evidence. It shall have power to subpoena, swear and examine witnesses relative to any matter in controversy before said board, and any member of the board may administer an oath to such witness or witnesses. It shall have the power and is hereby authorized, with the advice and consent of the governor, to employ such counsel, engineers, examiners, experts, clerks, accountants and other assistants as it may deem necessary, at such rates of compensation as it may determine upon and to secure such information as may be necessary to carry out the provisions of this act. The sheriff of any county shall serve any order, subpoena or process of the board and receive such compensation therefor as is now provided by law. The sheriffs of the several counties of the state shall serve all process and execute all orders of the board. Any member of the board or any special representative thereof may administer an oath touching all matters under investigation. All necessary costs and expenses of said board in connection with its duties shall be paid out of the state treasury upon warrants drawn by the auditor of state when the same shall have been allowed by the board, except the salaries, traveling and other personal expenses of the members of the board. (§10285 Burns R. S. 1914.)

1. *Certified Assessments.*—The state board at its fourth session may review and reassess property certified before adjournment at its third session. *State Board v. Belt Ry.*, 130 N. E. 641.

2. *Actions Void.*—Attempt of the state board to review or reassess property assessed at its first or second session is void. *State Board v. Belt Ry.*, 130 N. E. 641.

3. *Same.*—Where a tax statute requires a levy or other action to be taken on or before a certain day or during a certain session, an attempt to act afterward is a nullity, although the state board might at a subsequent session correct a clerical mistake or remove doubt or uncertainty as to prior action. *State Board v. Belt Ry.*, 130 N. E. 641.

4. *Punishing Contempts.*—The legislature can not confer upon the state board of tax commissioners the power to punish persons for con-

tempt who fail to appear before such board in obedience to its process and answer such questions as may be propounded by such board or under its direction. *Langenberg v. Decker*, 131 Ind. 471; 31 N. E. Rep. 90; 16 L. R. A. 108.

5. *Original Jurisdiction.*—The clause in the above section reading: "The said state board of tax commissioners is hereby given all the powers given to county boards of review," does not confer on said state board of tax commissioners original jurisdiction over all the property, real and personal, in the state. *Jones v. Rushville Natl. Bank*, 138 Ind. 87; 35 N. E. Rep. 390.

6. *Collateral Attack.—Irregularities.*—The powers conferred upon the state board of tax commissioners are of a quasi judicial character, and the acts of such board are not open to collateral attack. Errors or irregularities committed by such board must be corrected in the mode pointed out by the statute. Courts have no power to control the discretion of such board. *Biggs v. Board, etc., of Lake County*, 7 Ind. App. 142; 34 N. E. Rep. 500; *First National Bank v. Isaacs*, 161 Ind. 278; 68 N. E. Rep. 288.

7. *Decisions of Board Final.*—The court can not inquire into the proceedings of the state board of tax commissioners in the absence of statutory authority, and determine whether such board arrived at just valuations or not, and grant relief against erroneous assessments of such board; and the court having no such power in this state, the decision of the state board is final. *Cleveland, etc., Ry. Co. v. Backus*, 133 Ind. 513; 33 N. E. Rep. 421; 18 L. R. A. 729; affirmed, 154 U. S. 439; 14 Sup. Ct. Rep. 1122; *Pittsburgh, etc., Ry. Co. v. Backus*, 133 Ind. 625; 33 N. E. Rep. 432; affirmed, 154 U. S. 421; 14 Sup. Ct. Rep. 1114; *Hart v. Smith*, 159 Ind. 182; 64 N. E. Rep. 661; *First National Bank v. Isaacs*, 161 Ind. 278; 68 N. E. Rep. 288.

8. *Setting Aside Valuations.*—When the state board of tax commissioners has fixed the valuation of property falling within its jurisdiction, and has assessed such property, its action in that behalf is final, and can not be voided or set aside, except for fraud on the part of such board, which would render the assessment void. *Cleveland, etc., Ry. Co. v. Backus*, 133 Ind. 513; 33 N. E. Rep. 421; 18 L. R. A. 729; affirmed, 154 U. S. 439; 14 Sup. Ct. Rep. 1122; *Pittsburgh, etc., Ry. Co. v. Backus*, 133 Ind. 625; 33 N. E. Rep. 432; affirmed, 154 U. S. 421; 14 Sup. Ct. Rep. 1114.

9. *Evidence of Value.*—The state board of tax commissioners, in fixing the value of corporate property for taxation, is not confined for information to the statements furnished by such corporations as required by statute, but may resort to other means to obtain information. *State v. Adams Ex. Co.*, 144 Ind. 549; 42 N. E. Rep. 483.

10. *Method of Assessing Railroads is Constitutional.*—The method provided in the above section for the assessment of railroads is a constitutional exercise of legislative power. *Cleveland, etc., R. R. Co. v. Backus*, 133 Ind. 513; 33 N. E. Rep. 421; 18 L. R. A. 729; affirmed, 154 U. S. 439; 14 Sup. Ct. Rep. 1122; *Pittsburgh, etc., R. R. Co. v. Backus*, 133 Ind. 625; 33 N. E. Rep. 432; affirmed, 154 U. S. 421; 14 Sup. Ct. Rep. 1114; *Indianapolis, etc., R. R. Co. v. Backus*, 133 Ind. 609; 33 N. E. Rep. 443; *Evansville, etc., R. R. Co. v. West*, 139 Ind. 254; 37 N. E. Rep. 1009.

11. *Valuation of Stock.—Review by Courts.*—When the state board of tax commissioners has determined that the shares of stock held by a company have a certain taxable value, such action, in the absence of fraud, is not reviewable by the courts. *Hart v. Smith*, 159 Ind. 182; 64 N. E. Rep. 661.

12. *Injunction.—No Jurisdiction.*—When the state board of tax commissioners acts without jurisdiction, the courts have the power to arrest

the consequence of its acts. *Hart v. Smith*, 159 Ind. 182; 64 N. E. Rep. 661; *State Board v. Holliday*, 150 Ind. 216; 49 N. E. Rep. 14; 42 L. R. A. 826.

13. *Injunction.—Collateral Attack.—Good Will.*—The proceedings to enjoin the state board of tax commissioners from taxing the good will of a business being informal, the rule that obtains requiring the infirmity to appear on the face of the record in a collateral attack does not apply. *Hart v. Smith*, 159 Ind. 182; 64 N. E. Rep. 661.

14. *Increase of Assessment.—Injunction.—Only Part Illegal.*—Where part of an increased assessment is illegal, and there is no means of ascertaining the amount of the legal portion, the whole increase may be held to be invalid. *Hart v. Smith*, 159 Ind. 182; 64 N. E. Rep. 661.

15. *Legalizing Sessions.*—The legislature has the power to legalize the sessions of the state board of tax commissioners and all its proceedings thereat. *First National Bank v. Isaacs*, 161 Ind. 278; 68 N. E. Rep. 288.

16. *Increasing Valuation for Past Years.*—The state board of tax commissioners can not reassess property assessed in previous years because of undervaluation in such previous years, nor make an original assessment of property for previous years, or property omitted from taxation in such years, nor increase the assessment of property for the current year because of omissions of previous years. *Parkinson v. Jasper County Tel. Co.*, 31 Ind. App. 135; 67 N. E. Rep. 471.

17. *Powers of County Boards of Review.*—“The provision of the statute conferring upon the state board the powers possessed by the county boards of review was intended to confer such powers in cases where the state board had jurisdiction, either original or appellate, and not to confer original jurisdiction over all the property of the state.” *Parkinson v. Jasper County Tel. Co.*, 31 Ind. App. 135; 67 N. E. Rep. 471.

18. *Expenses of State Board.*—The necessary costs and expenses of the state board of tax commissioners should be paid out of the state treasury on warrants of the auditor of state. The expenses of the state board, carefully scheduled and certified to by the state board, form a sufficient authority to the auditor of state to issue his warrant in favor of the persons entitled to the several sums due as therein set forth, which should be paid out of and charged against the general fund. *Smith*, 1892, p. 131.

19. *Statutory Limitations.*—The state board of tax commissioners is a statutory board, limited in its power and authority to that conferred by the statute. *Gray v. Foster*, 46 Ind. App. 149, 155; 92 N. E. Rep. 7. *Fesler v. Bosson* (Ind. Sup.), 128 N. E. 145.

Where the statute prescribes the manner in which it may act, the manner prescribed is the measure of the power given. *Gray v. Foster*, 46 Ind. App. 149, 153; 92 N. E. Rep. 7.

The state board of tax commissioners is a creature of statute. The only authority it has relating to the assessments is derived from the statute. The classification of property for the purpose of equalizing assessments made by the statute is conclusive upon the board. It is immaterial that a different classification would bring about equally as good or perhaps better results. The statute marks the limit of the board's power, and if it goes beyond the statute, its acts are void. *Bell, Auditor, v. Meeker*, 39 Ind. App. 224, 233; 78 N. E. Rep. 641.

20. *State Board Not Final.*—The decision of the state board of tax commissioners as to what property is taxable is not conclusive so as to preclude an examination of the question by the courts. *Board of Commissioners of Johnson County v. Johnson*, 173 Ind. 76, 80; 89 N. E. Rep. 590.

The true rule is, where the question is one of valuation or of determining the extent of the property in relation to other property of which it may form a part, in fixing a valuation, the action of the state board of tax commissioners is final, in the absence of fraud; but where there is an arbitrary selection of the property to be taxed in valuation of the Constitution or the statute, the act is beyond the jurisdiction of the board, and is subject to review by the courts. *Board of Commissioners of Johnson County v. Johnson*, 173 Ind. 76, 83; 89 N. E. Rep. 590.

21. *Reports, Courts Take Judicial Notice of.*—Courts take judicial notice of the published reports of the state tax commissioners. *City of Jeffersonville v. Louisville Bridge Co.*, 169 Ind. 645.

22. *Bridge Part of Railroad.*—If a bridge constitutes a part of a railroad the bridge is to be assessed for taxation by the state tax commissioners as a part of the railroad. *City of Jeffersonville v. Louisville, etc.*, *supra*.

23. *Tax Board a Statutory Board with Limited Powers.*—The state board of tax commissioners is a statutory board, and its powers are limited by statute, and the manner prescribed for the exercise of the powers must be pursued. *Scott v. Barr*, — App. —; 106 N. E. 891. *Fesler v. Bosson*, — Ind. —; 128 N. E. 145.

24. *Limitation of Court Remedy.*—So long as tax authorities keep within their jurisdiction in valuing property within the state, the courts can not relieve from the consequences of an overvaluation. *City of Jeffersonville v. Louisville & Jeffersonville Bridge Co.*, 169 Ind. 645, 662; 88 N. E. Rep. 337.

Quorum—Special Meetings.

172. Any two members of the state board of tax commissioners shall constitute a quorum for the transaction of business, and the board may adjourn from time to time until the business before it is finally disposed of, but the duration of their sessions for the purpose of originally assessing railroad property and all other persons, co-partnerships, companies, associations or corporations which said state board of tax commissioners is by law required to assess originally shall not exceed fifty days. The state board of tax commissioners may also meet in special session at any time upon the call of the chairman, or any two members of said board, and any business may be transacted by said board at such special meeting which is not expressly required by law to be transacted at a regular meeting held at the time prescribed in the law. (§10286 Burns R. S. 1914.)

Vacancies—How Filled.

173. In case a vacancy shall occur by reason of the death, resignation or removal of any member of the state board of tax commissioners the governor shall appoint a successor to fill out the unexpired term of such member whose office is thus made vacant. And in such appointment the gov-

ernor shall appoint a person from the same political party as the member whose office is thus made vacant. (§10287 Burns R. S. 1914.)

Room for Meetings.

174. It shall be the duty of the custodian of public buildings to furnish suitable rooms in the Capitol building, and the state shall provide all such supplies, printing and stationery, as may be necessary for the transaction of the business of said board. (§10288 Burns R. S. 1914.)

Form of Oath.

175. The several persons constituting the board, as herein provided, before entering upon the discharge of their duties as members of said board, shall each take and subscribe an oath for the faithful and impartial discharge of his duties as a member of such board, which oath, together with the oath of secretary, shall be filed and preserved with the proceedings of the board. The oath of the members shall be in the form following to-wit:

State of Indiana,

Marion County, ss:

I,, do solemnly swear that I will support the constitution of the United States and the constitution of the State of Indiana; that I will faithfully and impartially discharge my duties under the law as a member of the state board of tax commissioners, that I will, according to my best knowledge and judgment, assess and equalize the property of the several counties of this state, and that I will in no case assess any property at more or less than its true cash value, as the same is defined in the act concerning taxation, so help me God.

.....
Subscribed and sworn to this; day of
19.....

.....
(§10289 Burns R. S. 1914.)

Oath and Duties of Secretary.

176. The secretary shall take and subscribe an oath for the faithful performance of his duties as said secretary, and shall keep a record of the proceedings of the board, which shall

be certified by the chairman and secretary and filed in the office of the state board of tax commissioners. (§10290 Burns R. S. 1914.)

1. *Quorum*.—Any two members of the board constitute a quorum. Section 172.

2. *Record Conclusive*.—The record required to be kept by the state board of tax commissioners is final and conclusive, and the courts can not inquire into the assessments made by such board, unless it be attacked for fraud. Indianapolis, etc., Ry. Co. v. Backus, 133 Ind. 609; 33 N. E. Rep. 443.

3. *Certified Copy as Evidence*.—A copy of the assessments made for taxation by the state board of tax commissioners, certified to by the auditor of state, is competent evidence in a proper case, to collect taxes; and if it differ from the abstract certified by that officer down to the county auditor, it may be adopted instead of the abstract if there be a mistake in the latter. Midland, etc., Ry. Co. v. State, 11 Ind. 433; 38 N. E. Rep. 57.

4. *Correcting Record*.—If omissions and errors are discovered in the records of the state board, the board not only has the legal right to supply the omission and to correct the error at any subsequent meeting, but it is its duty to do so. First National Bank v. Isaacs, 161 Ind. 278; 68 N. E. Rep. 288.

Duties and Powers of State Board.

177. In addition to all other powers conferred upon the state board of tax commissioners, by the provisions of this act, it shall also have the power and it shall be its duty:

First. To prescribe and promulgate all forms of books, schedules, blanks, notices and all other papers required to be used in fully carrying out the purposes of this act, and to change such form from time to time as said board shall deem to be necessary to meet the requirements of this act.

Second. To construe the tax and revenue laws of the state and instruct taxing officers in relation to their duties with reference to taxation and assessment, whenever requested so to do by any officer acting under any such laws, or by any other person interested therein, or whenever the board deems it necessary to be done.

Third. To see that all assessments of property in this state are made according to law.

Fourth. To see that all taxes due the state are collected.

Fifth. To enforce penalties prescribed by any revenue law of the state for disobedience of its provisions.

Sixth. To determine and fix, with the approval of the governor and auditor, any and all tax rates and levies for raising the state revenue fund, state tuition fund, state benevolent fund, state highway fund and all other state funds for which appropriations have been or may be made by general or spe-

cific appropriation laws and for the raising of which no levies have been made by law: Provided, however, That all levies made by law prior to March 11, 1919, are hereby repealed. Provided, further, That such repeal shall not release or cancel any taxes accrued under such levies and such levies shall remain in force for computation of taxes on property omitted from assessments heretofore made.

Seventh. To examine all books, papers and accounts, and to interrogate under oath, or otherwise, all persons necessary to enable the board to acquire and obtain all information that could in any manner aid it in securing a compliance with the tax and revenue laws of the state by all persons or corporations liable to taxation, or liable to pay any license fee under any law in force in this state.

Eighth. To make such rules and regulations as the board shall deem proper effectually to carry out the purposes for which the board is constituted, and to make all necessary rules and regulations not inconsistent with law, as the board may deem necessary with respect to its own meetings and procedure.

Ninth. To report to the General Assembly at each session, through the Indiana Year Book, the proceedings of the board and such other matters of information concerning the public revenues, as it may deem of public interest.

Tenth. To make diligent investigation and inquiry concerning the revenue laws and systems of other states and countries, so far as the same are made known by published reports, or statistics, or can be ascertained by correspondence with officers thereof, and with the aid of information thus obtained, together with experience and observation of our own laws, to recommend to the General Assembly at each session thereof, such amendments, changes or modifications of our revenue laws as seem proper or necessary to remedy injustice or irregularity in taxation, or to facilitate the assessment and collection of public revenues.

Eleventh. To see that each county in the state is visited by at least one member of the board, or a representative thereof, as often as once each year, to the end that complaints concerning the law may be heard, and that information concerning its workings may be collected; that all taxing officers comply with the law, and all violations thereof be punished.

Twelfth. The state board of tax commissioners shall keep

a record of its proceedings and orders in a book it shall provide for that purpose, and such record shall be a public record. A copy of such record or any part thereof, when duly certified by the chairman of said board and attested by its secretary under the seal of the board, shall be sufficient evidence thereof in all courts or proceedings wherein it may be necessary or desirable to prove or show the action, rule or order of said board in any matter. (§10291 Burns R. S. 1914.)

As amended Acts 1921, p. 644.

1. *Calling Meetings of Assessors.*—Annually the state board of tax commissioners call meetings of the county assessors. See section 163.

2. *Unauthorized Taxation.*—The state board of tax commissioners can not authorize the taxation of property not authorized by law to be taxed. *State Board v. Holliday*, 150 Ind. 216; 49 N. E. Rep. 14; 42 L. R. A. 826.

3. *Punishing Contempts.*—The state board of tax commissioners can not be empowered to punish persons for contempt. *Langenberg v. Decker*, 131 Ind. 471; 31 N. E. Rep. 90; 16 L. R. A. 108.

5. *Control of Discretion.—Errors.*—Courts can not control the discretion of the state board of tax commissioners, and errors and irregularities must be corrected in the manner provided by statute. *Cleveland, etc., R. R. Co. v. Backus*, 133 Ind. 513; 33 N. E. Rep. 421; 18 L. R. A. 729; affirmed, 154 U. S. 439; 14 Sup. Ct. Rep. 1122; *Biggs v. Board*, 7 Ind. App. 142; 34 N. E. Rep. 500.

6. *Money Belonging to Railroad.*—It is not the duty of the state board of tax commissioners to assess the money belonging to railroad companies separate and apart from the other property of such companies. *Clark v. Vandalia R. R. Co.*, 172 Ind. 409.

7. Under clause 1 it is clear that the state board has the power to prescribe all forms of books and blanks in the assessment and collection of taxes and also to change any forms when the forms have been prescribed by law and it deems such change necessary to aid the assessing officers in getting the taxable property upon the duplicate. *Stansbury*, 1917.

8. Under clause 7 the board has the right to interrogate all persons, including corporations, under oath, or otherwise. *Stansbury*, 1917.

9. The obligations placed on the state by the terms of the teachers' retirement fund law is sufficient appropriation to justify the making of the levy to take care of the state's part of annuities under the state board's authority under clause 6. *Leah*, 1921.

Seal.

178. The state board of tax commissioners shall provide for itself a seal, which seal shall consist of a circle bearing around the periphery thereof the words "State Board of Tax Commissioners of Indiana," and across the face thereof the word "Seal."

Witnesses—Oaths.

179. The said board or any member thereof or any special representative thereof, shall have power to subpoena and ex-

amine witnesses, to administer oaths, and shall have access to and the power to order the production of any books or papers in the hands of any person, company or corporation whenever necessary in the prosecution of any inquiries necessary or proper in their official capacity. (§10293 Burns R. S. 1914.)

1. Power can not be conferred upon the state tax board to punish persons for contempt. *Langenberg v. Decker*, 131 Ind. 471.

Disobeying Process—Penalty.

180. Any person who shall disobey any subpoena, or subpoena duces tecum of said board or any member thereof, or any special representative thereof, or refuse to testify, when requested so to do by said board or any member thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than fifty dollars, nor more than one thousand dollars for each offense. (§10294 Burns R. S. 1914.)

1. *Punishing for Contempt.*—The board can not be empowered to punish persons for contempt. *Langenberg v. Decker*, 131 Ind. 471; 31 N. E. Rep. 90; 16 L. R. A. 108.

Equalization of Counties.

181. It shall be the duty of the state board of tax commissioners, during the first five days of its second session each year, to consider the assessments of the personal property of the various counties of the state, and also the assessment of the real estate of such counties in the years when it is required to equalize the same, determine the counties in which the assessment of the real estate or personal property, or both, appear to be improperly assessed, fix a day or days in their next succeeding session in the same year, not earlier than fifteen days from the expiration of said five days, when it will consider the matter of the modification of such assessments, and make an order directing the manner in which a hearing may be had with reference thereto, but said board shall not at said second session make any order for the purpose of equalizing such assessments. Within said first five days of said second session the said board shall certify to the auditor of each of such counties the fact of the determination of said board to consider the matter of the modification of such assessments, stating whether the modification to be considered appertains to real or personal property or both and naming the day on

which a hearing may be had. Such certificate shall be accompanied by a copy of the order directing the manner in which such hearing may be had: Provided, however, That after such hearings have been had, if it shall appear to the state board of tax commissioners that the assessments in any county are not uniform or equal, either as to local units or as to classes of property, then before any orders of equalization shall be made affecting any county, the state board of tax commissioners shall certify to the county auditor of each county wherein it appears to the state board of tax commissioners that the assessments are not uniform or equal either as to local units or as to classes of property, and are not in harmony with assessments in other counties, as the same shall be considered for equalization purposes, it shall so state in its certified notice to the auditor of such county with such information as it may have regarding the inequality or lack of uniformity of assessments in such county, and on the receipt of such certified notice the county auditor shall immediately inform each member of the county board of review of the character of such notice and said county auditor shall reconvene the board of review in special session to meet on Tuesday after the first Monday in August to consider such certified report and all the information therewith. At such special meeting said county board of review shall have power and it shall be its duty to make and issue such further orders of equalization as it may find just and proper in order to accomplish a just and fair equalization of the assessments as between the different classes of property and the different taxing units within said county and so that the same may be in harmony with the assessments in other counties as the same shall be considered for equalization purposes. Said meeting shall not extend beyond five days and immediately upon the adjournment thereof, and not later than the second Monday in August, the county auditor shall certify to the state board of tax commissioners such further orders of equalization as said county board of review may have made, and which orders shall be final as to equalizations within the county, except as hereinafter provided, and which the state board of tax commissioners shall take into consideration in determining its equalization by counties: Provided, That the state board of tax commissioners shall not issue any orders of equalization

as to any county unless it shall first have certified to the county auditor what shall appear to it as inequalities or lack of uniformity as herein above provided and that such certification thereof shall be a condition precedent to the exercise of the power of equalization by said state board with respect to any county. (§10295 Burns R. S. 1914.)

As amended Acts 1921, p. 638.

Notice to Taxpayers in Taxing Units.

182. It shall be the duty of the state board of tax commissioners to give notice to the taxpayers of each county in which it is proposed to consider the matter of an increase of the assessments therein, of the time, place and object of a hearing upon such assessments by publication once in two newspapers of general circulation representing different political parties, if there be such published in the county, and, if not, then in one newspaper published in the county, if there be such; or notice may be given by posting a written or printed statement of the time, place and object of said hearing at the door of the courthouse in said county, which said published or posted notice shall be for at least fifteen days before the time fixed for such hearing. (§10296 Burns R. S. 1914.)

Notice to Individual Taxpayers.

183. It shall be the duty of the state board of tax commissioners to give notice to the taxpayers whose assessments on order of said board have been certified by the county auditor to the state board of tax commissioners for review and reassessment, of the time, place and object of a hearing upon such assessments by letter signed by one of said board and enclosed in a sealed envelope with full prepaid postage addressed to said taxpayer at his usual place of residence which said notice shall fix a time for hearing at least eighteen days after the date said letter is mailed.

Hearings—Who May Appear.

184. At the time fixed for such hearing any representative of the board of county commissioners of any county and any taxpayer of any county to be affected by any proposed increase of assessment may appear in person or by attorney and be heard with reference thereto. (§10297 Burns R. S. 1914.)

Increase—When May Be Made.

185. After the hearings hereinbefore provided have been concluded such board shall proceed to equalize the assessments of property in the various counties of the state as by law provided, but no increase of any assessment of either the real or personal property of any county shall be made where notice has not been given as herein provided. In determining what, if any, increase in assessment shall be made such board shall take into account the valuation of similar property in other counties and shall as far as practicable make the valuation uniform. (§10298 Burns R. S. 1914.)

1. *Prohibition Without Notice.*—This section expressly prohibits the state board of tax commissioners from making any increase of any assessment where notice has not been given as provided. The giving of the notice is made a condition precedent to the exercise of the power of the state board, and the absence of such notice defeats the power, regardless of the cause of the failure to give the notice. *Gray v. Foster*, 46 Ind. App. 149, 157; 92 N. E. Rep. 7.

Extension of Sessions.

186. For the purpose of hearing and determining the matter of such proposed increase in assessments the third session of the state board of tax commissioners may be extended such length of time as its business may require, not exceeding ten days. (§10299 Burns R. S. 1914.)

Duty of Prosecuting Attorney.

187. It shall be the duty of, and the prosecuting attorneys of the State of Indiana are hereby charged with the enforcement of all penalties and forfeitures provided in this act where such are not specifically set out as duties of the attorney-general.

Failure of Local Officer to Make Report—State Board Can Have Report Made.

188. In case any officer shall fail or neglect to make any report required in this act, the state board of tax commissioners shall have power to cause such report to be made, and, for that purpose, to send a special representative or representatives to the proper county, and the expenses of making such report and of such special representative or representatives shall be taxed to the taxing unit, the officer of which has neglected or failed so to perform his duty. The state board of tax commissioners shall certify the amount of such

expenses to said taxing unit, and the latter shall pay the same into the state treasury within thirty days thereafter. (§101397 Burns Sup. 1921.)

Appeals from County Board of Review.

189. Any person, partnership, company, association or corporation dissatisfied with the action of the county board of review, upon any original assessment or upon any application to increase or decrease the assessment made by any township or county assessor, or upon any order for the assessment of hidden or omitted property, shall have the right to appeal from the order or assessment of the county board of review to the state board of tax commissioners; and in like manner any township or county assessor, or any member of the county board of review, or any taxpayer or taxpayers of the county shall have the right to appeal to the state board of tax commissioners from any original assessment made by said county board of review, and from any order of the county board of review, increasing or decreasing any assessment, or refusing to increase the same, or to assess hidden or omitted property, upon giving notice of such appeal within five days after the adjournment of the county board of review, to the county auditor of the county from which said appeal is to be taken. The state board of tax commissioners, if it is dissatisfied with the action of the county board of review, upon any original assessment, or with the assessment made by any township or county assessor as passed by the county board of review, shall have the right, at any time before the adjournment of its third session, to require the county auditor to certify for review and reassessment, any assessment or assessments made. Upon receiving notice of such appeal, or notice of the state board of tax commissioners requiring the certification for review or reassessment any assessment or assessments, the auditor of such county shall forthwith make out a statement, in writing, showing concisely the substance of the complaint made, if any, and the action of the board thereon, and shall transmit the same by mail to the state board of tax commissioners for its action, when it shall convene: Provided, That such state board of tax commissioners may make such regulations in regard to the taking of appeals, not inconsistent herewith, as it may deem necessary to protect the rights of the parties

questioning their assessments. Such state board of tax commissioners shall, upon appeal from an assessment by the party aggrieved, assess the property in controversy. Any county auditor who shall refuse or neglect to certify an appeal properly filed or who shall fail to make certification to said board of any assessment asked by the state board of tax commissioners shall be deemed guilty of malfeasance in office. The state board of tax commissioners shall certify to the auditors of the several counties, all such changes made by it, showing in the first column the assessment made by the county or township officials, and in the second column the assessment as made by the said state board of tax commissioners, which latter amounts shall be by said auditor extended on the tax duplicate in lieu of the amounts fixed by said township or county officials, or by the said county board of review: Provided, further, That it shall not be necessary for said state board of tax commissioners to issue separate notices of certificates with reference to each person affected, but it may include all persons affected in any one county in one or more notices of certificates: Provided, further, That the pendency of such appeals shall not operate to stay the collection of any tax, except by special order of the board, and upon such conditions as it may prescribe. (§10300 Burns R. S. 1914.)

1. *Excuse for Not Taking Appeal.*—The law grants an appeal from the county board of review as a matter of right, and if the taxpayer fails to exercise it in any way, the neglect of the state board to provide regulations and furnish blanks is not an available excuse for his failure to demand an appeal. *Senour v. Matchett*, 140 Ind. 636; 40 N. E. Rep. 122.

2. *Transcript on Appeal.*—A county auditor is not authorized to add to a transcript on an appeal from a county board of review to the state board of tax commissioners a certificate showing that the county board of review had overlooked a part of the appellant's property in making an assessment. *First National Bank v. Isaacs*, 161 Ind. 278; 68 N. E. Rep. 288.

3. *Adding to Valuation After Appeal.*—After the state board of tax commissioners have determined on appeal the value of the property of the appellant, neither the county board of review nor the county auditor can add to such valuation. *First National Bank v. Isaacs*, 161 Ind. 278; 68 N. E. Rep. 288.

4. *State Board Assessment Attacked by Injunction.*—An assessment made by the state board of tax commissioners can not be collaterally attacked by injunction unless it is informatively shown that a wrong principle was adopted in the making of the valuation, or that the tax board included property which was not within its jurisdiction. *City of Jeffersonville v. Louisville & Jeffersonville Bridge Co.*, 169 Ind. 645, 660; 83 N. E. Rep. 337; distinguishing, *Hart v. Smith*, 159 Ind. 182; 64 N. E. Rep. 661.

5. *Limitation of Court Remedy.*—So long as tax authorities keep within their jurisdiction in valuing property within the state, the courts

can not relieve from the consequences of an overvaluation. *City of Jeffersonville v. Louisville & Jeffersonville Bridge Co.*, 169 Ind. 645, 662; 83 N. E. Rep. 337.

Duty as to Lands.

. 190. It shall be the duty of the state board of tax commissioners to examine the abstracts of all the real and personal property assessed for taxation in the several counties of this state as returned to it by county auditors, and to equalize the assessments as hereinafter provided: but said board shall not reduce the aggregate assessed valuation below the true cash value, as defined in this act. (§10301 Burns R. S. 1914.)

1. *Object of Equalization.*—The object of equalization is not to increase assessments of the public revenues, but to make out equalities in assessments already made in some authorized way. The end sought is relative equality among the assessments throughout the state. *Bell, Auditor, v. Meeker*, 39 Ind. App. 224, 234; 78 N. E. Rep. 641.

Abstract of Assessment—Duty of County Auditors.

191. For the purpose of properly equalizing the valuations of real and personal property, and railroad property within the state, it shall be the duty of the county auditors on or before the twentieth day of July of each year, upon the receipt of the assessment books, to make out and transmit to the state board of tax commissioners an abstract of the assessment of property, showing the number, value and average value of each class or kind of enumerated property, as shown by the assessment, the value of each item of enumerated property, and total value of personal property, the value of all land in each civil township without improvements, the value of all improvements, thereon, and the value of such land with improvements, and, in like order, all city or town in-lots and out-lots, showing the value of such lots without improvements, the value of improvements, and the value of such lots with improvements, the length of the main track, or tracks, the length of the side track, or tracks, the number or descriptions, the value and average values of each separate item of railroad property. Such abstract shall be arranged in such manner as to show by civil townships the number of acres, value, and average value of improved lands, and in like manner the number of acres, value, and average value of unimproved lands, total number of acres, total value and average value per acre of all lands, the number and value and average value of improved town or city lots, the number, value and

average value of unimproved town or city lots, the total number of lots, total value and average value of all lots, and the total value of all property, real and personal. Said abstract shall be made out on the blanks, which it shall be the duty of the auditor of state to furnish the county auditor for that purpose. The value to be given in said abstract shall be the assessed valuation, except in the case of railroad property, denominated railroad track and rolling stock, the value of which shall be given as returned by the railroad company to the county auditors. The county auditor shall at the same time and accompanying said abstract, furnish a detailed statement of the railroad property, denominated railroad track and rolling stock, reported by each road located in or through their counties. If there are any roads so located for which no reports have been made, as required by this act, the county auditors shall report the facts, giving the name of such railroad. In case of the failure on the part of any county auditor to furnish the proper returns of abstract assessment of his county to the state board of tax commissioners, on or before the third Monday of July of each year said board may, by order, authorize special representative or representatives from its office to make such abstract, the expense of which shall be borne by the county where such auditor has failed to do his duty in making out and forwarding said abstract as required herein. (§10302 Burns R. S. 1914.)

Rules for Equalization.

192. The state board of tax commissioners in equalizing the valuation of property as listed and assessed in the different counties, shall consider the following classes of property separately, viz.: all property originally assessed by the state board of tax commissioners, land and improvements thereon, town and city lots and improvements thereon, and personal property or any subdivisions of any said classes and upon such consideration determine such rates of addition to, or deduction from the listed or assessed valuation of each of said classes of property or subdivisions thereof in each county, or to or from the aggregate assessed value of each of said classes or subdivisions thereof in the state, as may be deemed by the board to be equitable and just; such rates as finally determined by said board shall not be combined: Provided, however, That this section shall not be construed to give the state board of tax

commissioners any power to equalize the assessments excepting by counties and according to the classes or any subdivisions of any of said classes. (§10303 Burns R. S. 1914.)

As amended Acts 1921, p. 640.

Counties, How Equalized.

193. Counties shall be equalized by adding to the aggregate value of the lands, town and city lots and personal property, in every county in which said board may believe the valuation to be too low, such rate per centum as will raise the same to its proper proportionate value, and by deducting from the aggregate assessed value thereof, in every county in which said board may believe the valuation to be too high, such per centum as will reduce the same to its proper value, as defined in this act. (§10304 Burns R. S. 1914.)

1. *Notice.—Constitutional.*—No special notice of the intention of the state board to raise or lower the assessment of a county need be given, although by such action the valuation of individuals' property that has been listed be increased or lowered; and the statute is not invalid on the ground that it has not provided for such special notice to each individual. *Hubbard v. Goss*, 157 Ind. 485; 62 N. E. Rep. 36. See *Cincinnati, etc., R. R. Co. v. Commonwealth*, 115 U. S. 321; 6 Sup. Ct. Rep. 60; *Taylor v. Secor*, 92 U. S. 609; *County of San Mateo v. Southern Pac. R. R. Co.*, 13 Fed. Rep. 722; *Sanford v. Pole*, 69 Fed. Rep. 546; 16 C. C. A. 305; 37 U. S. App. 378.

2. *Railroad Property.*—The state board of tax commissioners has jurisdiction to determine the extent of an assessment on account of the ownership of railroad property in a certain township, and its determination is conclusive upon the courts, in the absence of fraud. *Baltimore, etc., R. Co. v. Oregon Township*, 170 Ind. 300, 304; 84 N. E. Rep. 529.

3. *County Auditor Cannot Correct Mistakes.*—The county auditor has no power to correct mistakes made in assessment by the state board of tax commissioners; such mistakes must be corrected by such board in some manner authorized by law. The board has power upon its own initiative to make inquiry into the correctness of reports made to it, and if possessing jurisdiction and acting without fraud, it makes an error in its conclusions, the taxpayer must ask for a rehearing, or pursue such other remedies as the law affords, and can not successfully appeal to the courts. *Baltimore, etc., R. Co. v. Oregon Tp.*, 170 Ind. 300, 302; 84 N. E. Rep. 529.

Railroad Property—Assessment.

194. The state board of tax commissioners shall also assess the railroad property, denominated in this act as "railroad track" and "rolling stock," at its true cash value, and said board is hereby given the power and authority, by committee or otherwise, to examine persons or papers. The amounts so determined and assessed shall be certified by it to the county

auditors of the proper counties. The county auditor shall, in like manner, distribute the value so certified to him by said board to the several townships, cities and towns in his county, entitled to a proportionate value of such railroad track and rolling stock; and said auditor shall compute and extend taxes against such value the same as against other property in such townships, cities and towns. (§10305 Burns R. S. 1914.)

1. *How Valued.*—When a railroad runs into or through two or more states, its value for taxation purposes, in each, is fairly estimated by taking that part of the value of the entire road which is measured by the proportion of the length of the particular road in that state to that of the whole road. *Pittsburgh, etc., Ry. Co. v. Backus*, 154 U. S. 421; 14 Sup. Ct. Rep. 1114; affirming, 133 Ind. 625; 33 N. E. Rep. 432; *Cleveland, etc., Ry. Co. v. Backus*, 133 Ind. 513; 33 N. E. Rep. 421; 18 L. R. A. 729; affirmed, 154 U. S. 439; 14 Sup. Ct. Rep. 1122; *Indianapolis, etc., R. R. Co. v. Backus*, 133 Ind. 609; 33 N. E. Rep. 443; *Evansville, etc., R. R. Co. v. West*, 139 Ind. 254; 37 N. E. Rep. 1009.

2. *Rolling Stock Defined.*—Under the revenue laws of this state, the state board of tax commissioners has exclusive authority to value and assess the railroad property denominated "railroad track" and "rolling stock." *Pfaff v. Terre Haute, etc., R. R. Co.*, 108 Ind. 144; 9 N. E. Rep. 93.

3. *Railroad Track Defined.*—The right of way, with the improvements upon it, is to be valued and assessed as "railroad track." *Pfaff v. Terre Haute, etc., R. R. Co.*, 108 Ind. 144; 9 N. E. Rep. 93.

4. *Right of Way Defined.*—The phrase "right of way" is not limited to a strip of land of any definite width at all points on the line of a railroad, but includes lands and lots acquired for necessary side tracks and turnouts, and the improvements thereon in the way of coal sheds, freight houses, water tanks, repair shops, roundhouses and the like. *Pfaff v. Terre Haute, etc., R. R. Co.*, 108 Ind. 144; 9 N. E. Rep. 93.

5. *Failure to Apportion to Town.*—An action will not lie to enjoin a town from the collection of taxes against a railroad company because of the failure of the county auditor to apportion to such town its proper share of the taxable valuation of the property.

The fact that a railroad company paid taxes to the township upon its property located within the corporate limits of a town will not entitle it to an injunction to prevent the town from collecting taxes due it. *C., C., & St. L. Ry. Co. v. Town of Waynetown*, 153 Ind. 550; 55 N. E. Rep. 451.

6. *Correction of Error.*—After a railroad company has paid its taxes as assessed by the state board of tax commissioners, it is too late even for said board to correct a mistake made by charging a part of the company's trackage in the wrong municipality. *Cleveland, etc., R. R. Co. v. Ensley, Treasurer*, 44 Ind. App. 538, 543; 89 N. E. Rep. 607.

7. *Money in Hands of Railroad Company.*—In assessing railroad property for taxation, the state tax board may take into consideration the amount of money that a railroad company may have on hand. *Clark v. Vandalia R. R. Co.*, 172 Ind. 409.

Tabulation of Results—Separate Rates for Each Class.

195. When the state board of tax commissioners shall have separately considered the several classes of property as hereinbefore required, the result shall be combined into one table

and the same shall be examined, compared and perfected in such manner as said board shall deem best to accomplish a just equalization of assessment throughout the state, preserving, however, the principle of separate rates for each class of property. (§10806 Burns R. S. 1914.)

Rates Added or Deducted Certified to County Auditors.

196. When the state board of tax commissioners shall have completed its assessments, and its equalization of assessments, for any year, it shall certify to the several county auditors of the state the rates finally determined by said board to be added or deducted from the listed or assessed valuation of each class of property in the several counties, and also the amounts assessed by said board, and it shall be the duty of said board under its seal of office, to report its action to the several county auditors immediately after the adjournment of said board. (§10807 Burns R. S. 1914.)

1. *Injunction.*—If the assessments are illegal and unauthorized by law, the auditor of state may be enjoined from certifying to the county auditors the result of the state board's determination and assessments. *Fargo v. Hart*, 193 U. S. 490.

2. *Evidence to Set Aside Valuation.*—The judgment of a state board empowered to fix a valuation for taxation can not be set aside by the testimony of witnesses that the valuation was other than that fixed by the board, where there is no evidence of fraud or of gross error in the system on which the valuations were made. *Pittsburgh, Cincinnati, Chicago & St. Louis Ry. v. Backus*, 154 U. S. R. 421; 14 Sup. Ct. Rep. 1114; affirming, 133 Ind. 625; 33 N. E. Rep. 432.

County Auditor to Certify Assessments.

197. The county auditor of each county, as soon as the final yearly assessment of the property of such county has been returned to his office, and not later than September first of each year, shall apportion and certify as apportioned the amount of assessment that goes to each taxing unit in the county, under the seal of the board of county commissioners, to the clerk, or corresponding officer, of each municipal corporation in the county, authorized under the law to establish levies for purposes of taxation, such certificate in each case to show the total valuation of all property in such municipal corporation. Each clerk, or corresponding officer of whatever designation, shall lay before the proper legal officers of his municipal corporation the assessment so certified and said municipal corporation, through its legal officers, shall make such tax levies, authorized by law, as it shall deem necessary,

but within the restrictions and limitations imposed in the next succeeding section of this act. Said municipal corporations shall, through their proper officers, in their respective counties, report to the county auditor the levies made within five days after same have been established, and not later than September fifteenth each year, and the county auditors of the several counties shall report same to the state board of tax commissioners not later than September twentieth each year.

Taxes Limited to Preceding Year, Rate of Levy.

198. This section was repealed by the special session 1920, p. 160.

Auditor to Verify and Correct Levies.

199. Before reporting the tax rates established by the several municipal corporations in his county, each county auditor shall schedule said rates, showing in columns the names of the municipal corporations, the total assessment for each in current year, total tax levy for each in current year, total amount of revenue for each in current year; also total assessment for each in next succeeding year, total tax levy for each in next succeeding year, total amount of revenue for each in next succeeding year. Such auditor shall verify the figures and calculations and, if found correct, and wholly within the provisions of the foregoing sections, shall certify same to the state board of tax commissioners. If found not correct, in any particular, he shall at once confer with the municipal corporation in error, and have same corrected. If such municipal corporation shall not promptly make such correction, the auditor shall make same and report his action to the clerk or other proper officer of such municipal corporation, and his action shall be final, and be so certified to the state board of tax commissioners.

Budget—Establishment of Levy—Appeal to State Board.

200. The several tax levies shall be established by the proper legal officers of any municipal corporation after the formulation and publication by them of a budget on forms prescribed by the state board of accounts showing in detail the money proposed to be expended during the succeeding year, the valuation of all taxable property within the jurisdiction and the rate of taxation which it is proposed to establish,

and after a public hearing within the jurisdiction at which any taxpayer shall have a right to be heard thereon. Ten days notice by publication of such budget and of such public hearing in two newspapers of opposite political parties published in such taxing district or in one such paper if only one be there published, and in case no newspaper is there published, then, the same shall be published in any two newspapers representing the two leading political parties, published in the county and having a general circulation in such taxing unit, or if only one such paper be there published then such notice published in such paper shall be sufficient to comply with the requirements herein, and by posting such notice in three public places in such taxing district, shall be required. The several tax levies as established by the proper legal officer of any municipal corporation and as reported by the county auditor to the state board of tax commissioners, as provided for in section 197 and 199 of this act, shall stand as the tax levies of such municipal corporation for the year next succeeding for the purposes set out in the report of the county auditor as certified to the state board of tax commissioners, subject to the right of appeal therefrom to the state board of tax commissioners. Ten or more taxpayers in any such municipal corporation, other than those who pay poll tax only, and who are affected by any such levy and who may feel aggrieved with any such tax levy or any item thereof, may file a petition with the county auditor of the county in which such municipal corporation is located, not later than the fourth Monday of September, setting forth, in such form and detail as the state board of tax commissioners may prescribe and require, their objections to said tax levy or any item thereof, as the case may be. Upon the filing of any such petition such county auditor shall immediately certify a copy of said petition with such other information as may be necessary to present the questions involved, to the state board of tax commissioners, who shall have the power to affirm or decrease said total tax levy or any item thereof of any such municipal corporation after a hearing, as hereinafter required. The state board of tax commissioners shall within a reasonable time fix a date for a hearing on said petition, which shall be held in the county in which such municipal corporation is located, and notice of such hearing shall be given to the executive officer of the tax

unit and to the first ten taxpayers whose names appear upon such petition, by a letter signed by at least one member of said state board of tax commissioners and sent in the United States mail with full prepaid postage, addressed to said officer and to said taxpayers at their usual place of residence at least five days before the date fixed for such hearing. After a hearing upon such petition the state board of tax commissioners shall thereupon certify its action with respect thereto to the auditor of the county, who shall thereupon certify such action to the tax unit or units interested therein, and the action of the state board of tax commissioners with respect to said tax levies and such parts thereof as may have been in question shall be final and conclusive.

As amended Acts 1921, p. 640.

Bond Issues—How to Appeal to State Board.

201. Any municipal corporation, through its proper legal officers, may issue such bonds or other evidences of indebtedness as it may deem necessary. In the event that the proper legal officers of any municipal corporation shall determine to issue any bonds or other evidence of indebtedness, excepting temporary obligation, exceeding five thousand dollars, notice of such determination shall be given by publication for two weeks in two leading newspapers of opposite political parties published in such taxing district, or in one such paper if only one be there published, or in case no newspaper is there published, then, the same shall be published in any two newspapers representing the two leading political parties, published in the county and having a general circulation in such taxing unit, or if only one such paper be there published then such notice published in such paper shall be sufficient to comply with the requirements herein, and by posting such notice in three public places in such taxing district. Ten or more taxpayers in such municipal corporation, other than those who pay poll tax only, and who will be affected by the proposed issuance of such bonds or other evidences of indebtedness and who may be of the opinion that such bonds or other evidences of indebtedness should not be issued, or that the proposed issue is excessive for the proposed purpose thereof, may file a petition in the office of the county auditor of the county in which such municipal corporation is located, within fifteen days after the is-

suance of such bonds or other evidences of indebtedness shall have been determined upon by such municipal corporation, setting forth their objection thereto and facts showing that the proposed issue is unnecessary, unwise or excessive, as the case may be. Upon the filing of any such petition the county auditor shall immediately certify a copy thereof, together with such other data as may be necessary in order to present the questions involved, to the state board of tax commissioners, and upon the receipt of such certified petition and information the state board of tax commissioners shall fix a time and place for the hearing of such matter, which shall be not less than five or more than thirty days thereafter, and said hearing shall be held in the taxing unit or in the county where such taxing unit is located, which proposes to issue such bonds or other evidences of indebtedness. Notice of such hearing shall be given by the state board of tax commissioners to the executive officer of the taxing unit and to the first ten taxpayer petitioners upon such petition, by a letter signed by one member of the state board of tax commissioners and enclosed in a sealed envelope with full prepaid postage addressed to said officer and taxpayers at their usual place of residence at least five days before the date of such hearing. The decision of the state board of tax commissioners upon the issuance of said obligations and the amounts thereof, if any, which may be lawfully issued, shall be final. The hearings by the state board of tax commissioners provided for in this act may be held by one member of the state board of tax commissioners, or, by any special representative thereof, who shall file a written report of the facts submitted at such hearing with the state board of tax commissioners, and said board shall thereupon consider such written report together with the petition, and render its finding thereon, and such written report of the hearing shall be filed with the papers and become a part of the record of the state board in the case so heard. All bonds or other evidences of indebtedness hereafter issued or sold by any municipal corporation of this state may bear interest not to exceed six (6) per cent per annum provided that the state board of tax commissioners shall approve all such issues where rate of interest is in excess of five (5) per cent: Provided, further, That classes of bonds bearing six (6) per cent interest per annum previous to the passage of this act shall not be

affected, and all such bonds and evidence of indebtedness shall be exempt from taxation. That whenever in any case any bank, public utility or other corporation which was assessed originally by the state board of tax commissioners, shall have failed, for any reason, to file a petition with the state board of tax commissioners in the manner and for the purpose and within the time prescribed in section 3 of chapter 45 of the acts of the second special session of 1920, commonly known as the Tuthill-Kiper Act, then and in that event the assessed valuation of the property of such bank, public utility or other corporation for purposes of taxation for the year 1919 as collected in the year 1920 shall be the assessed valuation as placed on such property for purposes of taxation by the state board of tax commissioners for the year 1919, and prior to the enactment of said chapter 45 of the acts of 1920 and any horizontal or uniform increase in the assessed valuation of the taxable property of the taxing unit within [which] such bank, public utility or other corporate property is located shall not apply to such bank, public utility or other corporation.

As amended Acts 1921, p. 642.

1. New issues of bonds may be had without refiling of the petition, report of viewers and all other preliminary steps leading up to the establishment of the road. *Lesh, 1921.*

2. A new taxing unit is created under the county unit road law. *Lesh, 1921.*

3. Acts of 1917, p. 684, as amended by the acts of 1921, p. 310, considered with section 9595, as amended in 1913, give authority to issue six per cent bonds by the township for more than five years without filing a petition with the state board. *Lesh, 1921.*

4. The township trustee when compelled to keep road in repair and has no funds can make temporary loan on authority of advisory board and pay the market rate of interest. *Lesh, 1921.*

5. *Constitutional Law.*—Acts requiring bonds issued by municipal corporation to be approved by the state board of tax commissioners is not invalid as applied to bonds issued by county under county unit road law as the question for determination by the board is not, as claimed, whether the highways sought to be improved will be of public utility, and questions as to which improvement shall have preference, or whether any of them shall be undertaken at a particular time, are also involved, and are not judicial questions, but may be referred to the board of tax commissioners. *Van Hess v. Board, 129 N. E. 305.*

6. *Counties.*—Bonds under county unit road law are issued by a municipal corporation (section 202) and require the approval by the state board of tax commissioners. *Van Hess v. Board, 129 N. E. 305.*

[Ed.—The above decision was rendered under the act of 1919, but as amended these bonds will require the approval of the state board of tax commissioners only if petitioned for by ten or more taxpayers.]

Defining Municipal Corporation.

202. The phrase "municipal corporation," as used in the five preceding sections, shall be deemed to include a county, township, city, incorporated town, school corporation, or any person, persons or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

Rates Extended by County Auditors.

203. All rates for taxes provided for by law shall be computed and extended by each county auditor on the assessor's valuation of property, as equalized by the county board of review and state board of tax commissioners, except as otherwise provided by law. (§10308 Burns R. S. 1914.)

May Assess Omitted Property—Notice.

204. Whenever the county auditor shall discover or receive credible information, or if he shall have reason to believe that any real or personal property has, from any cause, been omitted in whole or in part, in the assessment of any year or number of years, from the assessment book or from the tax duplicate, he shall proceed to correct the tax duplicate, and add such property thereto, with the proper valuation, and charge such property and the owner thereof with the proper amount of taxes thereon; to enable him to do which, he is invested with all the powers of assessors under this act. But before making such correction or addition, if the person claiming to own such property, or occupying it or in possession thereof, resides in the county, and is not present, he shall give such person notice in writing of his intention to add such property to the tax duplicate, describing it in general terms, and requiring such person to appear before him at his office at a specified time, within five days after giving such notice and to show cause, if any, why such property should not be added to the tax duplicate; and if the party so notified does not appear, or if he appears and fails to show any good and sufficient cause why such assessment shall not be made, the same shall be made, and the county auditor shall, in all cases, file in his office a statement of the facts or evidence on which he made such correction; but, he shall in no case reduce the amount returned by the assessor without the written consent of the state board of tax commissioners, given on the state-

ment of facts submitted by the county auditor. When the county auditor shall discover creditable information or have reason to believe that real or personal property has, from any cause, been omitted, in whole or in part, from assessment for taxation, or such credible information shall be furnished to such county auditor, it shall be the duty of such county auditor to take steps provided for by this section, to place such omitted property on the tax duplicate. If such county auditor shall fail or refuse, on the discovery by himself, or on credible information being furnished him by another person, that property has been omitted from taxation, the state on the relation of any state officer, or of the state board of tax commissioners, of any taxpayer of the county in which such failure or refusal occurs, shall have the right to proceed against such county auditor in any court of competent jurisdiction by mandamus, to compel such county auditor to comply with the provisions of this section. In the trial of such a suit, the question of what constitutes credible information, as mentioned in this act, shall be a question of fact to be determined by the court or jury trying the case, and either party shall have the right to demand a jury to try such question of fact. If judgment shall be rendered to the effect that credible information has been discovered by, or furnished to such county auditor, or that he has reason to believe that property has been omitted from taxation, it shall then be the duty of such county auditor to forthwith place such omitted property on the tax duplicate in accordance with the provisions of this act, and such county auditor shall be liable for all costs of such mandamus suit and for a reasonable attorney's fee for relator's attorney which shall be taxed as a part of the costs of such suit in all cases, where judgment is rendered against him: Provided, however, That in case proceedings are instituted hereunder on the relation of any private citizen, such relator shall give bond to the satisfaction of the court to pay all costs which may be recovered against him. (§10310 Burns R. S. 1914.)

1. *County Assessors.*—Power of county assessors to assess omitted property. See section 162.

2. *Railroad Property Incorrectly Assessed.*—The county auditor does not have power to correct an assessment of railroad trackage which has been incorrectly placed on the duplicate in the wrong municipality. Such property would not come under the definition of omitted property, and the state board of tax commissioners is the only body authorized to assess such property for taxation. *Cleveland, etc., R. R. Co. v. Ensley, Treasurer*, 44 Ind. App. 538, 541; 89 N. E. Rep. 607.

3. *Action of State Board Conclusive.*—The action of the state board of tax commissioners in assessing railroad property is conclusive, though made upon an erroneous return, and the county auditor has no authority to readjust the assessment. *Cleveland, etc., R. R. Co. v. Ensley, Treasurer*, 44 Ind. App. 538, 542; 89 N. E. Rep. 607.

4. *County Board of Review.*—For powers of the county board of review to assess omitted property, see section 164.

5. *County Treasurer.*—For powers of the county treasurer to assess omitted property, see section 255.

6. *Township Assessors.*—For powers of a township assessor to assess omitted property, see section 156.

7. *Powers of Auditors.—Compensation.*—County auditors, in assessing omitted property under this section, have the powers of assessors, but are not entitled to any extra compensation for such services, nor can they contract with county boards for pay for such services. *Vandercook v. Williams*, 106 Ind. 845; 1 N. E. Rep. 619; 8 N. E. Rep. 113; *Williams v. Segur*, 106 Ind. 368; 1 N. E. Rep. 707.

8. *Increasing Valuation.*—County auditors can not increase the valuation of property as fixed by assessors, although such property is purposely undervalued. *Williams v. Segur*, 106 Ind. 368; 28 N. E. Rep. 71; *Florer v. Sherwood*, 128 Ind. 495; 28 N. E. Rep. 71; *Board v. Senn*, 117 Ind. 410; 20 N. E. Rep. 276; *Woll v. Thomas*, 1 App. 232; 27 N. E. Rep. 578; *DuBois v. Board*, 4 App. 138; 30 N. E. Rep. 206; *Donch v. Board*, 4 App. 374; 30 N. E. Rep. 204; *Saint v. Welsh*, 141 Ind. 382; 40 N. E. Rep. 903; *Parkison v. Thompson*, 164 Ind. 609; 73 N. E. Rep. 109; *McConnell v. Hampton*, 164 Ind. 547; 73 N. E. Rep. 1092.

9. *Specific Property.*—County auditors can only assess omitted property when there is specific omitted property capable of identification. *Florer v. Sherwood*, 128 Ind. 495; 28 N. E. Rep. 71.

10. *Listing Under Wrong Item.*—Listing property under the wrong item in the schedule of assessment will not authorize the assessment of such property as omitted property. *Woll v. Thomas*, 1 App. 232; 27 N. E. Rep. 578.

11. *Presumption of Correctness.*—All presumptions are to be indulged in favor of the correctness of the proceedings of the auditor in assessing omitted property, and the error, if any, must be pointed out by the complaining party. *Buck v. Miller*, 147 Ind. 586; 45 N. E. Rep. 647; 47 N. E. Rep. 8; 37 L. R. A. 384. See note 39.

12. *Describing Property.*—A county auditor, in assessing property for taxation as omitted property, must describe the property so assessed, and a description as "money loaned" and "credits" is not sufficient. *Florer v. Sheridan*, 137 Ind. 28; 36 N. E. Rep. 365; 23 L. R. A. 278.

13. *Deducting Indebtedness.*—If a taxpayer is notified to appear before the county auditor to show cause why omitted property should not be assessed for taxation, such taxpayer may have his bona fide indebtedness deducted from credits due him, when such credits are the property sought to be assessed as such omitted property. *Florer v. Sheridan*, 137 Ind. 28; 36 N. E. Rep. 365; 23 L. R. A. 278.

14. *Prior Years.*—A county auditor, after the taking effect of the tax law of 1891, had power to assess property for taxation that had been omitted and not assessed for years prior to the taking effect of such act. *Reynolds v. Bowen*, 138 Ind. 434; 36 N. E. Rep. 756; 37 N. E. Rep. 962; *Saint v. Welsh*, 141 Ind. 382; 40 N. E. Rep. 903.

15. *Information.—Evidence.*—County auditors, in making assessments of omitted property for taxation, may act upon any information, written or oral, or even upon their own belief. *Reynolds v. Bowen*, 138 Ind. 434; 36 N. E. Rep. 756; 37 N. E. Rep. 962.

16. *Notice to Administrators.*—The personal representative of a deceased property owner is the proper person upon whom notice should be served of an intention to assess for taxation property of such deceased property owner that has been omitted from assessment. *Reynolds v. Bowen*, 138 Ind. 434; 36 N. E. Rep. 756; 37 N. E. Rep. 962; *Graham v. Russell*, 152 Ind. 186; 52 N. E. Rep. 806.

17. *Sufficiency of Notice.*—Notice given by a county auditor of an intention to assess for taxation property that has been omitted from assessment, need only describe the property in general terms. *Reynolds v. Bowen*, 138 Ind. 434; 36 N. E. Rep. 756; 37 N. E. Rep. 962.

18. *City Clerk May Assess.*—The clerk of a city is the proper person to assess for taxation property that has been omitted from assessment for municipal purposes, such clerk performing the duties in that respect that are conferred by law upon county auditors. *City of Delphi v. Bowen*, 138 Ind. 235; 36 N. E. Rep. 761.

19. *Notice to Non-Resident of County.*—The assessing officer is not required to go outside his own county to give notice to any one of his intention to assess omitted property, under the above section requiring county auditors to give notice of their intention to assess omitted property of any resident of the county. *Buck v. Miller*, 147 Ind. 586; 45 N. E. Rep. 647; 47 N. E. Rep. 8; 37 L. R. A. 384; 62 Am. St. Rep. 436.

20. *Setting Aside Administrator's Settlement.*—The County Auditor is so far interested by reason of his duties to add omitted property to the tax duplicate that he can maintain an action on behalf of his county to set aside the final settlement of a decedent's estate within three years and subject it to the payment of taxes on property fraudulently concealed in his lifetime, under Section 2558 Burns R. S. 1901. *Graham v. Russell*, 152 Ind. 186; 52 N. E. Rep. 806. See *Brunson v. Starbuck*, 32 Ind. App. 457; 70 N. E. Rep. 162; *Cullop v. City of Vincennes*, 34 Ind. App. 667; 72 N. E. Rep. 166.

21. *Law Liberally Construed.*—Tax laws are to be liberally interpreted in aid of the taxing power. *Graham v. Russell*, 152 Ind. 186; 52 N. E. Rep. 806.

22. *No Vested Right in Fraudulent Returns.*—Neither a taxpayer nor his estate after his death can claim any vested right in the fruits of his fraudulent or careless omission to list his property for taxation. *Graham v. Russell*, 152 Ind. 186; 52 N. E. Rep. 806.

23. *Administrators Must Pay Taxes.*—Taxes are not such claims as the law either requires or intends shall be filed against a decedent's estate, but it is the administrator's duty to ascertain their amount and pay them. *Graham v. Russell*, 152 Ind. 186; 52 N. E. Rep. 806; *Cullop v. City of Vincennes*, 34 Ind. App. 667; 72 N. E. Rep. 166.

24. *Setting Aside Administrator's Settlement.*—That a claim for accrued taxes remained unpaid at the time an estate was finally settled is such illegality as will, on proper petition within the prescribed time, result in setting aside the settlement. *Graham v. Russell*, 152 Ind. 186; 52 N. E. Rep. 806.

25. *Suing State.*—The state can be sued only when it has given its consent by law, and there is no law by which it can be summoned to attend the final settlement of a decedent's estate and compelled to present objections at the time or be concluded by the settlement. *Graham v. Russell*, 152 Ind. 186; 52 N. E. Rep. 806.

26. *Duty of Auditor.*—This section authorizes the county auditor to make an investigation to determine whether taxable property has been secreted and not returned for taxation, and requires him to institute proceedings in relation thereto whenever he shall receive information thereof. *City of Richmond v. Dickinson*, 155 Ind. 345; 58 N. E. Rep. 260.

27. *Prior Years.*—The above section of the tax statutes of 1891 empowers the county auditor, upon notice to taxpayer, to add for any year

or number of years omitted property to the tax duplicate with the proper valuation thereon, and to charge such property to the owner thereof with the taxes thereon. The powers granted to the county auditor under the section mentioned are not limited alone to that official, but the tax law also extends such powers to the county treasurer and the county assessor and boards of review. * * * The provisions of the law, to which we have referred, granting the power mentioned to the county auditor and other officials, are intended to afford an instrumentality or agency through which the state, as far as possible, can prevent property subject to taxation from escaping the burdens or charge imposed by the law. *Graham v. Russell*, 152 Ind. 191; 52 N. E. Rep. 806.

28. *Injunction.—Want of Notice.*—The placing of omitted property upon the tax duplicate by the county auditor without the notice required, is no ground for enjoining the collection of the taxes where none of the substantial rights of the taxpayer is shown to be prejudiced. *Miller v. Vollmer*, 153 Ind. 30; 53 N. E. Rep. 949; *Crowder v. Riggs*, 153 Ind. 158; 53 N. E. Rep. 1019; *McCroory v. O'Keefe*, 162 Ind. 534; 70 N. E. Rep. 812; *People's, etc., Co. v. Harrell*, 36 Ind. App. 588; 76 N. E. Rep. 318.

29. *Evidence of Omitted Property, Sufficiency.*—Where the county auditor, not permitted to make an inspection of books relating to an estate, was compelled to arrive at the value of the estate for taxation by, in a measure, arbitrary deductions from the facts of record and recognized rules of business, although he had no positive evidence before him that the amounts stated by him were entirely accurate, it was held that the assessment made by the auditor would be presumed to be correct and would not be overthrown in the absence of the preponderance of the evidence to the contrary. *Gallup, Executor, v. Schmidt*, 154 Ind. 196; 56 N. E. Rep. 443; affirmed, 183 U. S. 300; 22 Sup. Ct. Rep. 162; *Brunson v. Starbuck*, 32 Ind. App. 457; 70 N. E. Rep. 162.

30. *Penalties Not Allowed.*—It is a misnomer to call an assessment for omitted property a delinquent tax. It was not a tax at all until after the assessment and extension were made. Before that time, the claim existed only in the right to tax; and not until molded by the form of law into a fixed charge was it susceptible of demand and exact payment. The assessment may be made for any year, or any number of years, but whenever made it is to be placed and extended upon the current duplicates for collection as are other taxes. *Gallup v. Schmidt*, 154 Ind. 217; affirmed, 183 U. S. 300; 22 Sup. Ct. Rep. 163; 56 N. E. Rep. 443.

31. *Notice to Foreign Executor.*—The official residence of an executor, so far as the taxation and administration of the assets of an estate are concerned, is in the county of his appointment, and a notice to appear before the county auditor and show cause why property of the estate should not be added to the tax duplicate is not void for the reason that the executor resided in another state. *Gallup v. Schmidt*, 154 Ind. 196; 56 N. E. Rep. 443; affirmed, 183 U. S. 300; 22 Sup. Ct. Rep. 162.

32. *Waiver of Notice.—Invalidity of Law.*—An executor residing in another state, who was present and served with notice of intention of the county auditor to add to the tax duplicate omitted property belonging to the estate, can not assail the constitutionality of said section on the ground that it attempts to provide for the assessment and taxation of omitted property owned by non-residents of the state, without affording such non-residents notice or day in court. *Gallup v. Schmidt*, 154 Ind. 201; 56 N. E. Rep. 443; affirmed, 183 U. S. 300; 22 Sup. Ct. Rep. 162.

33. *Constitutional.*—The above section of the tax law providing notice to property owners by the county auditor of his intention to add omitted property to the tax duplicate is not unconstitutional for failure to provide notice to non-residents, since such assessment is not final and the

non-resident is not deprived of his day in court. *Gallup v. Schmidt*, 154 Ind. 202; 56 N. E. Rep. 443; 183 U. S. 300; 22 Sup. Ct. Rep. 162.

34. *Insufficient Notice, Property Liable for Taxes.*—When any one seeks the aid of a court of equity to enjoin the assessment of property for taxation or the collection of taxes, he can not obtain relief on the ground of want or insufficiency of notice, or other informalities or irregularities. If the property is taxable, the want of notice or the insufficiency thereof, or any other irregularity or informality, does not entitle the owner thereof to an injunction. *Crowder v. Riggs*, 153 Ind. 161; 53 N. E. Rep. 1019; *Cleveland, etc., R. R. Co. v. Town of Waynetown*, 153 Ind. 550; 55 N. E. Rep. 451.

35. *Injunction, When Will Not Lie.*—An injunction will not lie to restrain the county auditor from placing upon the tax duplicate property alleged to have been omitted from taxation for certain years if taxable property belonging to plaintiff was omitted from the tax duplicate in any of the years mentioned. *Crowder v. Riggs*, 153 Ind. 158; 53 N. E. Rep. 1019; *Cleveland, etc., R. R. Co. v. Town of Waynetown*, 153 Ind. 550; 55 N. E. Rep. 451.

36. *Filing Claims for Taxes.*—The state is not required to file, for payment, its claim for taxes against a decedent's estate. *Graham v. Russell*, 152 Ind. 186; 52 N. E. Rep. 806.

37. *Notice to Insane Persons.*—Notice to an insane owner of omitted property may be given to him if he has no guardian; if he has a guardian, then notice must be given to such guardian. *Hennel v. Board*, 132 Ind. 32; 31 N. E. Rep. 462.

38. *Converting Taxable Property Into Non-Taxable.*—If taxable property has temporarily been converted into non-taxable property and for that reason not included in the taxpayer's schedule of property, upon discovering that fact the county auditor may give notice to the taxpayer and then list it as taxable omitted property. *Crowder v. Riggs*, 153 Ind. 158; 53 N. E. Rep. 1019.

39. *Credits Due Taxpayer.*—Where there are credits due the taxpayer and they only equal his indebtedness, such credits should not be assessed as omitted property. *Moore v. Hewitt*, 147 Ind. 464; 46 N. E. Rep. 905.

40. *Illegal Assessment.—Injunction.—Premature Action.*—In the absence of a showing of an especial necessity therefor, a court of equity will not grant a writ enjoining the county auditor from the placing of an alleged illegal assessment upon the tax duplicate. Such a suit being in advance of a threatened levy by the county treasurer, is premature. *Smith v. Smith*, 159 Ind. 388; 65 N. E. Rep. 183.

41. *Describing Personal Property.*—It has been held that the following entry on the tax books of a county was a sufficient description, viz.: "Omitted personal property for the year 1889, \$20,000." *Brunson v. Starbuck*, 32 Ind. App. 457; 70 N. E. Rep. 163. See note 8.

42. *Presumption as to Notice.*—When it is sought to restrain the collection on property that has been assessed as omitted property by the county assessor, it will be presumed that the assessor gave the property owner due notice of his intention to assess such property, unless the contrary appear from the evidence; and the burden is upon such property owner to show that no such notice was given. *Brunson v. Starbuck*, 32 Ind. App. 457; 70 N. E. Rep. 162.

43. *Promise to Pay Taxes on Omitted Property Not Assessed.*—A promise to pay tax on property that has not been listed and approved is void and can not be enforced, even though such property should have been listed for taxation. *State v. Illyes*, 87 Ind. 405.

44. *Contracts With "Tax Ferrets."*—County boards cannot contract with persons to search for and discover property not assessed for taxa-

tion when the same duty is imposed by law upon officers. *State v. Goldthait*, 172 Ind. 210.

45. *Railroad Property Not to be Assessed as Omitted Property.*—County officers cannot assess railroad property for taxation as property that has been omitted to be assessed. *Cleveland Ry. Co. v. Ensley*, 40 App. 538.

46. *Increase of Assessment, County Auditor No Authority To.*—A county auditor has no authority to increase an assessment as returned by a township assessor. It may be increased by a county board of review, on notice, or by the state board of tax commissioners on appeal. *Riggs v. Board*, 181 Ind. 172.

County Auditor—Tax Duplicate.

205. The auditor of each county shall, between the first Monday in July and the last day of December, in each year, make out a roll of taxes assessed in said county according to the forms which shall be prescribed by the state board of accounts, by and with the advice and consent of the state board of tax commissioners, which said taxroll shall be known and designated as the tax duplicate. In so making such tax duplicate, the auditor shall enter in separate columns:

First. All lands and lots in each civil township, with the names of the owners in alphabetical order, the value of the lands or lots without improvements, and opposite this the value of the improvements thereon.

Second. In like manner and order he shall enter all city and town in-lots and out-lots situate in such city or town, with the improvements thereon.

Third. The amount of deduction allowed by reason of mortgage indebtedness upon such real estate.

Fourth. All corporation stock and personal property, subject to taxation, which shall be charged, together with the poll tax, in the civil township, city or town where the owner resides: Provided, That stock in banks shall be assessed and taxed in the town or city in which the bank is located, as is now provided by law; but when any corporation stock or personal property is to be listed in a township, city or town other than the owner's residence, as may be otherwise provided in this act, it shall be taxed in the township, city or town where listed.

Fifth. He shall number each original township, city and town in regular progression as the same shall stand entered on the duplicate, and the same township, city or town shall retain the same number from year to year.

Sixth. He shall number each line in the book or books composing the tax duplicate in regular progression. The county auditor, in making out such duplicate, shall be careful to enter thereon all the lands previously entered for taxation, with the valuation thereof, as heretofore assessed, and all such lands as by mistake, neglect, or for any other cause, shall have been omitted to be entered; also, all such lands as shall be found to have become subject to taxation since the last preceding assessment, with such valuation as shall be affixed thereto by the assessor; and he shall enter all personal property according to the list of the last assessment made in conformity with this act giving a pertinent description of all property thus entered on such duplicate, and duly enter all transfers of land made since the last assessment, and carry into effect all alterations which shall be made in the assessor's list, by either the county board of review or the state board of tax commissioners. (§10312 Burns R. S. 1914.)

1. *Auditor's Copy of Duplicate.*—The copy of the tax duplicate retained by the auditor is an original record, and is admissible in evidence as such. *Standard Oil Co. v. Bretz*, 98 Ind. 231.

2. *Presumption.*—It is presumed, in the absence of a showing to the contrary, that specified taxes were placed upon the tax duplicate in the treasurer's hands by the county auditor. *Adams v. Davis*, 109 Ind. 10.

Tax Estimates—Separate Columns.

206. The county auditor shall estimate in dollars and cents and set down on such tax duplicate in one column the state, county, school, township, road and all other taxes chargeable on the valuation of property contained in such duplicate, including also the poll tax for state, county and all other purposes, and he shall set down in separate columns the amount of taxes on all property returned delinquent, specifying the years and the amount remaining unpaid, with the proper penalties on the same added, and shall carry out the aggregate amount in a column of totals: Provided, however, that in determining the amount of taxes due, all fractions less than one-half cent shall be discarded and all other fractions shall be counted as one cent. (§10313 Burns R. S. 1914.)

Installments, How Arranged.

207. The county auditor shall set down the amount of taxes charged against each taxpayer in two separate columns; the first installment, embracing all road taxes, and one-half of

all other taxes, shall be placed in the first column; and the second installment, embracing the other half, shall be placed in the second column, with a sufficient blank space at the right of each column to write in ink the word "paid," and when payment of either half of such taxes shall be made, the treasurer shall write in a blank space opposite the word "paid," and shall execute a receipt therefor in the usual form now used, except that it shall state which installment the payment is entitled to apply to, and if for the last installment, shall state upon its face, "in full." (§10314 Burns R. S. 1914.)

Adding and Apportioning Rates.

208. The county auditor shall add on each page of such duplicate the several columns containing the valuation of real and personal estate, taxes, charges, and the number of acres, carrying the same forward from page to page to the close of each township, and at the end of the duplicate he shall recapitulate the several townships and apportion the amount of taxes levied on the property in each township, and set down in separate columns the amount of state, county, school, township, road and all other taxes levied, and add the aggregates of the above for the whole county. (§10315 Burns R. S. 1914.)

1. Irregularities in making a tax duplicate do not render the same void. *Board v. McCarty*, 27 Ind. 475.

Correction of Errors in Duplicate.

209. The county auditor shall, from time to time, correct all errors which he may discover in such tax duplicate, either in the name of the person charged with taxes, the description of the property, or the amount of the tax charged; and he shall add from time to time, any corrections or additional assessments, made on the assessor's books by the county assessor, or as made by the state board of tax commissioners; and when such correction is made after such tax duplicate shall have been delivered to the county treasurer for collection, the auditor shall give a certificate of such correction to the treasurer, who shall keep the same as his voucher on settlement with the auditor. (§10316 Burns R. S. 1914.)

1. *Auditor May Correct Duplicate.*—If property is put on a tax duplicate in the name of a person who does not own it, the auditor may correct the duplicate by placing the property against the name of the owner thereof. *Citizens' Nat. Bank v. Klauss*, 46 App. 683.

Tax Duplicate Delivered to Treasurer.

210. The county auditor shall cause such duplicate to be delivered to the treasurer of his county on or before the last day of December in each year; and he shall also make out and cause to be transmitted to the auditor of state on or before the first day of January, in each year, a complete abstract of all the property listed in each township, city and town, the valuation thereof, the amount of mortgage deductions allowed, the number of polls, the amount of each kind of tax, and the aggregate thereof in the county, and certify the same, as also the rate of each kind of tax assessed, and he shall also prepare two additional copies of such abstract sheet, one of which he shall file in his office and the other to be filed in the office of the county treasurer; and such copies of the abstract sheet shall be preserved in the respective offices as other public records. (§10317 Burns R. S. 1914.)

1. *Failure to Deliver Copy.*—Failure to deliver a copy of the duplicate to the treasurer within the time fixed by law, or irregularities in making the same, do not render it void. *Board v. McCarty*, 27 Ind. 475.

2. *Justify Treasurer in Collecting Tax.*—Tax duplicates legal on their face justify treasurers in acting thereunder. *Noland v. Busby*, 28 Ind. 154; *Adams v. Davis*, 109 Ind. 10; 9 N. E. Rep. 162.

3. *Original Duplicate.*—Copies of the tax duplicate in the offices of county auditors and treasurers are both original records, and are admissible in evidence as such. *Standard Oil Co. v. Bretz*, 98 Ind. 231.

Transfer Book—Indorsements—Fee.

211. The county auditor shall keep a transfer book, arranged by townships, cities and towns, in which he shall enter a description for the purpose of taxation of all lands that have been conveyed by deed or partition with the date of the conveyance, names of the parties, and the postoffice address of grantee or grantees and he shall indorse on such deed or instrument of conveyance the words, "duly entered for taxation," or that it is "not taxable," or "has already been listed for taxation," and for every such transfer he shall receive from the party recording such instrument a fee of ten cents for each parcel of ground or lot so transferred. He shall take care that all descriptions for the purpose of taxation are correct, and that the owners' names are properly transcribed. Where the property is already in the name of the right owner, and needs no transfer, he shall not receive the fee of ten cents. (§10318 Burns R. S. 1914.)

1. *No Mortgage Exemption to Vendee Under Conditional Sale Contract of Real Estate.*—Under a conditional sale contract for real estate in which title is not to pass until the purchase price has been paid in full and in which a delinquency of more than three months allows the vendor to declare the entire remainder of the purchase price due and collectible or allows the vendor to take possession, the vendee under such a contract is not entitled to a mortgage exemption and the auditor has no authority to transfer said property for taxation on the transfer book to the name of the vendee. Honan, 1913.

Notice to Taxpayers.

212. As soon as the county treasurer receives such duplicate, he shall forthwith cause notices to be posted up at the courthouse door, and also cause the same to be published in two newspapers of opposite political parties having general circulation in his county, if any there be, for three weeks successively, stating in such notice, the amount of tax charged for state, county, school, road or other purposes, on each one hundred dollars valuation of the taxable property, also the tax on each poll for state, county, or other purposes. (§10319 Burns R. S. 1914.)

Failure to give notice as required above will not affect the collection of taxes. *Noland v. Busby*, 28 Ind. 154.

Attendance at Office.

213. Such treasurer shall attend at his office at the seat of justice, in person or by deputy, for the purpose of collecting the taxes charged on said duplicate, until the first Monday of May next thereafter for the first installment of taxes, and until the first Monday in November for the second installment.

County Treasurers—Temporary Tax Collection Offices.

214. The several county treasurers of the state are hereby authorized, when directed by the board of county commissioners of their counties, during certain periods to be fixed by said board of commissioners, to open temporary offices for the collection of taxes in each of the cities and towns of their county, other than the county seats, having a population of more than nine hundred inhabitants according to the last federal census; and the county commissioners may order the treasurer to collect taxes therein and to attend at such offices in person or by deputy for the collection of taxes during such periods. (§10320a Burns R. S. 1914.)

Extra Compensation.

215. That the said several treasurers collecting taxes as provided in the preceding section, shall be allowed as compensation therefor, in addition to any other salary or compensation now allowed them, a sum not to exceed three hundred dollars per annum for each of the counties, to be fixed by the board of county commissioners. (§10320b Burns R. S. 1914.)

When Taxes Shall be Paid—Penalty.

216. Any person or taxpayer charged with taxes on the tax duplicate in the hands of a county treasurer may pay the full amount of such taxes on or before the first Monday in May, or may, at his option, pay the first installment on or before such first Monday in May, and the remaining installment on or before the first Monday of November following: Provided, however, That all road taxes charged shall be included in the first installment: and, Provided further, That in all cases where the first installment shall not be paid on or before the first Monday in May, the whole amount unpaid shall become due and be returned delinquent, and collected as provided by law, and there shall be a penalty added of ten per cent upon the amount of any installment not paid when due, which the persons or property assessed shall pay, together with cost of collection, and, if such taxes remain delinquent at the succeeding first Monday in November, there shall be a penalty of six per centum added to all such taxes that become delinquent at the preceding May and November settlements, but a penalty of ten per centum only shall be added to the delinquency occurring on the first Monday in November when May installment has been paid. (§10321 Burns R. S. 1914.)

1. *Delinquency.—One Installment.*—If the first installment is paid before becoming delinquent and the second is not paid when due, the penalty will attach thereto. *Abbott v. Edgerton*, 53 Ind. 196.

2. *Delinquency.—Both Installments.*—Penalty and interest added when taxpayer fails to pay both installments. *Evansville Co. v. West*, 139 Ind. 254.

3. *Penalties, How Attached.*—Penalties assessed for non-payment of taxes belong to each fund on which the penalty attaches. *Board v. State*, 119 Ind. 473.

4. *Penalties Not Compounded.*—Penalties are only to be added on current delinquency and not for each year the tax remains unpaid. *Evansville Co. v. West*, 139 Ind. 254.

5. *Omitted Property.*—What penalty and interest may be charged. *Gallup v. Schmidt*, 154 Ind. 196.

6. *Payment.*—What county treasurer may receive in payment of taxes. *Indiana Co. v. Bruce*, 13 App. 550.

Delinquency—Interest.

217. Any and all taxes levied on behalf of the state, or of any county, township, town or city in the state, which were unpaid, and delinquent, on the first day of January, 1919, or which shall thereafter be unpaid on the first day of January of any year, after two years from the beginning of such delinquency, shall bear interest at the rate of six per centum per annum from the first day of January of any such year, until paid, and such interest shall be collected by the treasurer and covered into the treasury of the respective counties, and of the respective towns and cities of the state, in addition to the penalties upon delinquent taxes now provided by law. This section shall apply to any and all taxes which are now merged in judgment or which shall hereafter be merged in judgment, in behalf of the state or of any county, township, town or city in the state. (§10322 Burns R. S. 1914.)

Delinquent List Furnished Treasurer.

218. It shall be the duty of the auditor of each county on or before the first day of June and the first day of December of each year to furnish to the treasurer of each city, town and township in his county, and to the treasurer of such county, a complete list of all persons reported as delinquent in the payment of taxes in such city, town, township or county as shown by the tax duplicate in the office of the county auditor. (§10321a Burns R. S. 1914.)

Application of Money Owing Delinquents.

219. It shall be the duty of the treasurer of each city, town, township or county to deduct from any money due from such city, township or county to any person whose name is found on such delinquent tax list a sum equal to the amount of such delinquent tax and pay the same into the county treasury in satisfaction of such delinquent taxes: Provided, That an assignment of any claim for money due from any such city, town, township or county by any person delinquent in the payment of any tax due such city, town, township or county shall be illegal and void as an attempt to avoid the payment of such tax and the same shall not be accepted by the treasurer of any such city, town, township or county from the assignee thereof. The treasurer of each city, town, township and

county shall make a complete report to the auditor of the county the first days of July and January of each year of all such moneys so received and paid over to the treasurer of each county and deposit with him the receipts for the same. (§10321b Burns R. S. 1914.)

Penalty.

220. Any officer who shall fail to perform the duties imposed by the two preceding sections of this act shall be guilty of a misdemeanor and on conviction thereof shall be fined in any sum not less than ten nor more than one hundred dollars. (§10321c Burns R. S. 1914.)

Delinquent Taxes—List—Collection.

221. After the first Monday of May the treasurer shall cause a list to be made of the delinquents, with the amount due from each, and with a separate column headed "return," which list shall be certified to be correct by the county auditor, and shall then proceed with such list, which, when so certified, shall be sufficient authority, and have the same force and effect as an execution, to call, either in person or by deputy, upon every person named in the duplicate, who is delinquent, and who resides in the county, and he shall make a demand for the amount of such delinquent taxes, and the penalty thereon, of each resident delinquent, and if the taxes and penalty are not paid on such demand, he shall proceed immediately to levy upon sufficient personal property of such delinquent to pay such taxes, penalty and the cost of sale, and to sell the same in the manner and at the place hereinafter provided. In case such delinquent tax and penalty is paid upon demand, such treasurer shall charge and receive from such delinquent, in addition to the taxes and penalty, a sum of fifty cents, and where a levy is made he shall charge and receive, in addition to his other costs, the sum of seventy-five cents for such demand. When he can find no personal property of such delinquent within the county upon which to levy, after diligent search therefor, he shall make, opposite the name of said person on said list in the column marked "return," a special return, setting forth the fact that he had made diligent search in the county for personal property of such delinquent, and was unable to find any upon which to levy for the payment of the

taxes due thereon, which return shall be prima facie evidence of the facts therein recited; and the treasurer shall, if he have reason to believe that such delinquent has money, effects, or other property in his possession or on deposit that can be reached by any remedy known to the law, make known such facts to the prosecuting attorney who shall cause such proceedings to be brought as will secure the payment of such delinquency and for his services in so doing shall receive ten per cent of such money so collected and a docket fee of ten dollars to be taxed as costs in such action and paid out of money so collected: Provided, however, That nothing in this section shall authorize the treasurer in any county in this state to levy upon, or sell for delinquent taxes, the household goods of any person, where the household goods of such person do not exceed in actual value the sum of one hundred dollars. (§10324 Burns R. S. 1914.)

1. *Levy.—When Justified.*—Tax duplicates legal on their face justify treasurers in levying on personal property. *Adams v. Davis*, 109 Ind. 10; *Noland v. Busby*, 28 Ind. 154.

2. *Levy.—When Not Justified.*—Personal property can not be levied on until the tax becomes delinquent, except where taxpayers are leaving the county without paying their taxes. *Veit v. Graff*, 17 Ind. 253; *Gregory v. Wilson*, 52 Ind. 233.

3. *Personal Property.—In Hands of Executor.*—Can be levied on for the collection of delinquent taxes. *Ring v. Ewing*, 47 Ind. 246.

4. *Property.—Sold.—Levied On.*—Personal property sold by the taxpayer may be levied on to collect his delinquent taxes, although he may have other personal property. *Mesker v. Koch*, 76 Ind. 68.

5. *Personal Property.—Levied On Any Time.*—To collect delinquent taxes. 109 Ind. 10.

6. *Replevin.*—Will not lie to recover property levied on for delinquent taxes. *Maple v. Vestal*, 114 Ind. 325; *Adams v. Davis*, 109 Ind. 10.

7. *Replevin of Property On.*—Allegations of complaint as to cause of seizure of property. *Town of Andrews v. Sellers*, 11 App. 301.

8. *Fees.*—Can not be charged by treasurer when no delinquent taxes are collected. *Saint v. Board*, 19 App. 281.

9. *Fees.*—Taxed by treasurers for demanding payment of delinquent taxes and for levying on property, are to be paid into the county treasury. *Board v. Given*, 169 Ind. 468.

10. *Delinquent Taxes.*—Can not be collected under the statute providing for proceedings supplementary to execution. *West v. State*, 168 Ind. 77.

11. *Non-Resident Taxpayers.*—County treasurers are not required to call on taxpayers living outside of their county. *Biven v. Henderson*, 42 App. 562.

12. *Power of Legislation.*—In the enactment of laws pertaining to the collection of delinquent taxes the legislature is reasonably unrestrained in determining what property shall not be subject to distraint and sale, the amount thereof, and the manner of fixing its value. *Kremer v. Beebe*, 115 N. E. 83.

Taxation—Real Estate—Sale for Delinquent Taxes.

222. Any real estate within the State of Indiana against which delinquent taxes have accumulated which aggregate an amount equal to or greater than the assessed valuation of said real estate, and which has been offered for sale at not less than two public tax sales, and has, at each sale, failed to bring an amount equal to the accrued taxes and penalties standing against said real estate, shall be sold by the county treasurer at public sale to the highest bidder for cash, after giving notice of such sale as in case of sale of land for delinquent taxes, and the authorities now designated by law, and authorized to execute deeds shall be authorized to execute to said purchaser a deed conveying the title to said incumbered property to said purchaser for value free and clear of tax incumbrances. (Acts 1913, p. 944.)

Duty of County Treasurer.

223. The county treasurer shall receive the amount of the sale price for such property and shall pro rate the claims of the state, the county and city against such property for taxes and the surplus of such sale, if any, shall be delivered to the owner of said property at the time of the sale. (Acts 1913, p. 944.)

Three Years' Delinquency—Duty of Prosecuting Attorney.

224. The county treasurer between the first day of December and the thirty-first day of December, each year, shall make out a list of all the lands and town and city lots which have been offered for sale for three years successively, upon which no person shall have bid therefor a sum equal to the delinquent taxes thereon, interest and penalty provided by law. In such list he shall give the names of the persons to whom said lands or lots are assessed for taxation, if known, or if unknown, as they appear upon the tax duplicate; the aggregate amount of the taxes, penalty, interest and costs due thereon, and a description of the lands or lots upon which the said taxes are assessed. Such description shall be sufficient if made in the manner that lands may be assessed for taxes. If he finds the description on the tax duplicate of the delinquent lands imperfect, he shall cause the same to be corrected and amended at any time by the county auditor. The county audi-

tor shall certify under his hand and seal of office that such a list is a true, correct and complete list of the lands and lots in the county remaining unsold for taxation, and the same shall be delivered by the treasurer to the prosecuting attorney of said county with an order to him to proceed to enforce the lien of the State of Indiana for such taxes, penalty, interest and costs upon said lands or lots. It shall be the duty of the prosecuting attorney to thereupon immediately bring an action in the circuit court of the county in which such lands or lots are situated, in the name of the State of Indiana on the relation of the prosecuting attorney, against the owners of said lands, making parties thereto all persons who claim to have any interest in said lands or lots, or who appear by the public records of the county to have judgment liens, mortgage liens, or other liens of record upon said lands or lots requiring them to assert said liens or claims in said suit. Before bringing such action, he shall ascertain, if the same can be done, the names and residences of the owners of such lands or lots, and shall make them parties to said suit. Whenever it shall appear that there are any taxes due upon any of said lands or lots in favor of any city or town, the said city or town shall also be made a party defendant to said action and be required to set up their claim. In such case it shall be the duty of the city attorney, or attorney for such town to appear to said action and set up the claim of said city or town for taxes, and he shall be allowed for his services therein a docket fee of five dollars, and ten per cent of the amount recovered in addition thereto as a fee for his services, which shall be taxed as costs. Process shall be issued and served, and publication made in the case of non-resident defendants, and all the proceedings conducted in the same manner as ordinary civil suits to foreclose mortgages are conducted, and the judgment obtained upon the lien for such taxes, penalty, interest, costs and charges, shall have priority over all other liens upon said lands or lots; and next in order of priority shall be a judgment obtained for the taxes, penalty, interest and costs due for municipal purposes of the city or town in which such real estate is situated, and such liens shall in no wise be affected or destroyed by any sale or conveyance of such lands or lots, or by any misnomer upon the tax books or assessment books of the owner of such lands or lots.

Lands Sold for Tax Lien—Proceeds How Applied.

225. The decree of such suit shall provide that the property be sold by the sheriff as other lands are sold on execution, at the courthouse door of the proper county, to the highest bidder, for cash. The judgment as to the lien for taxes, penalty, interest and costs, shall be without any relief whatever from valuation or appraisement laws, and without stay of execution. The proceeds of such sale shall be applied: First, to the payment of costs of the suit. Second, to the payment of the judgment for taxes, penalty and interest, payable to the county treasurer. Third, to the payment of the taxes, penalty and interest due and payable to the city or town, and the residue shall be apportioned in such manner as the court may direct, according to the rights of the parties to such action. In cases where there are no lien claims or conflicting claims of ownership, the court shall direct that the surplus, if any, shall be paid into the treasurer's office of the county, for the use of the owners of such lands and lots. A docket fee of ten dollars, and ten per cent of the amount recovered by the relator, shall in each case be allowed to the prosecuting attorney in the foreclosure of any tax lien, and shall be entered and charged as costs on the judgment against such lands or lots when such judgment is obtained and collected as other costs.

Records of Officers—Prima Facie Evidence.

226. In such actions, and in all other actions relating to the same subject-matter, and for the purpose of evidence or authentication, the records made by the county auditor or the county treasurer, the city comptroller and city treasurer, or the treasurer of any town respecting delinquent lots or lands, the manner of advertising the sales thereof, the sales made of the same, the conveyances thereof executed, and all copies of such records, and also any other papers or documents or records required by the laws relating to taxation, to be made and duly certified to be such by the proper county or town officer, under his hand and seal of office, shall be received as prima facie evidence of the facts contained therein.

Several Parcels of Land—When Included in One Action.

227. Where there are several parcels of land or lots belonging to the same person or persons, and which have been offered for sale for the non-payment of taxes for three years

successively, and upon which no person shall have bid therefor a sum equal to the delinquent taxes thereon, and interest and penalty provided by law, all of such lots and lands shall be included in one action.

When Auditor Shall not Credit Treasurer.

228. County auditors shall not be authorized to credit the treasurer with any uncollected delinquency for which he claims credit, unless such treasurer shall show, by proper returns as above provided, verified by his oath or affirmation, that he has diligently sought for and has been unable to find any personal property from which to collect such taxes, or that having made a levy, he was enjoined or otherwise prevented from making sale or collection by a court of competent jurisdiction; and in all cases where he has failed to make demand upon residents who are delinquent or to levy and sell when personal property can be found in the county out of which to make the tax, he shall be liable, on his official bond, for such uncollected delinquency and ten per cent damages thereon. (§10325 Burns R. S. 1914.)

Levy on Chattels—Delivery Bond.

229. When the county treasurer levies upon personal property, the delinquent may retain the possession of such personal property for sixty days, and until the day of sale, by giving such treasurer a joint and several delivery bond, payable to the State of Indiana, with good freehold surety, to be approved by such treasurer in a penalty at least double the amount of the taxes and cost, conditioned that such personal property will be delivered at the door of the courthouse of the county, or such other place as the treasurer may designate, and at the time named therein to be sold by such treasurer at public auction, or that such obligors will then and there pay such treasurer the amount of said delinquent taxes, penalty and cost. If such bond be not given he shall cause the property to be removed from the place the same is levied on, and to be stored in some secure place in his own name as treasurer. (§10326 Burns R. S. 1914.)

1. *Liability on Bond.*—If a bond is given for the delivery of property on the day of sale, and the sale is prevented by injunction which is afterward dissolved, a demand may then be made for the property, and if refused a suit will lie on the bond. *Pay v. Shanks*, 56 Ind. 554.

2. *Demand When Necessary.*—Demand for delivery of property before suit on bond. *Midland Co. v. State*, 11 App. 433.

3. *Complaint.—Necessary Allegations.*—On delivery bond necessary allegations as to levy of taxes. *Midland Co. v. State*, 11 App. 433.

Form of Bond.

230. Such bond may be substantially in the following form, the names, description, amount and place of sale being changed to suit each particular case:

We, Richard Roe as principal, and Jonathan Jennings, as surety, are jointly and severally bound unto the State of Indiana in the penal sum of fifty dollars, on the following condition:

WHEREAS, Peter Clark, as treasurer of Clark County, has this day levied upon one bay horse of the value of fifty dollars, to satisfy the taxes, penalty and cost for the year 1918, due from said Richard Roe. Now, if the said Richard Roe shall deliver said horse to said Clark at 10 o'clock a. m. of the 20th day of June, 1919, at the door of the courthouse in Jeffersonville, to be sold to pay said taxes, penalty and cost, or will then and there pay to said Clark the full amount of said taxes, penalty and cost, then this bond shall be void, else in full force.

Witness our hands and seals, May 4, 1919.

(Seal)

RICHARD ROE.

(Seal)

JONATHAN JENNINGS.

Approved by me May 4, 1919.

PETER CLARK,
Treasurer of Clark County.

(§10327 Burns R. S. 1914.)

Notice of Sale.

231. The treasurer shall give public notice of the time and place of sale, and of the property to be sold, at least ten days previous to the day of sale, by advertisement to be posted up in at least three public places in the township where such sale shall be made. (§10328 Burns R. S. 1914.)

Manner of Sale—Surplus.

232. Such sale shall be by public auction at the courthouse door, or place designated by the treasurer, and no more property shall be sold than sufficient to pay the tax, cost and charges. The treasurer, if he receives no bid to the amount of the tax, penalty and cost due, may in his discretion, if

he thinks the property is ample surety for the tax, purchase the same in behalf of the State of Indiana, and if the same is not redeemed within the period prescribed by law, he shall then re-expose the same for sale to the highest bidder for cash, after giving the same notice as is provided hereinbefore, and if there is any surplus after paying this tax, penalty and cost, said surplus shall be returned to the owner of said property. (§10329 Burns R. S. 1914.)

1. *Purchaser Assuming Risk.*—Purchasers of property at tax sales assume all risks as to the title of the property. *Logansport v. Humphrey*, 84 Ind. 467.

2. *When May Be Sold.*—Property may be sold on Christmas day for taxes. *Hadley v. Musselman*, 104 Ind. 459.

3. *Who May Buy.*—Persons in possession of property, but who are under no obligation to pay the taxes may purchase the same at tax sale. *Idem*.

Treasurer May Levy at Any Time.

233. Nothing contained in the preceding section shall prevent the treasurer from collecting delinquent taxes at any time by levy and sale of personal property. Whenever he has reason to believe that any person charged with tax is about to remove from the county without payment of his tax, he may at any time levy such tax and charges by distraint and sale of personal property, and it is hereby made his duty to levy and collect all delinquent taxes, whether they be charged upon a current year's duplicate or otherwise, as well before as after his return and settlement for a current year's taxes. (§10330 Burns R. S. 1914.)

1. *Sold Any Time.*—Personal property may be sold for delinquent taxes. *Adams v. Davis*, 109 Ind. 10.

County Treasurer's Fees.

234. The county treasurer, in addition to any salary provided by law, shall be allowed the fees provided by law for demand upon resident delinquents, and shall also be allowed for levying upon, and making sale of personal property the same fees and charges as are allowed by law to constables for making levy and sale of personal property on execution, and his expenses for taking care of the property levied upon; which fees and expenses shall belong to, and be the property of the officer making the collections; but such fees and expenses shall only be paid in the event they are collected from the person delinquent, in addition to the delinquent taxes, or are realized

from the sale of personal property after levy and sale. (§7334a Burns R. S. 1914.)

Collection from Corporations.

235. The county treasurer shall demand payment of all taxes assessed on incorporated companies, except national banks, from the president or other proper officer of such companies, in the same manner as in other cases, and if not paid shall proceed in the collection and payment thereof and penalties thereon in the same manner as in other cases, and shall be liable to the same penalties for the non-payment of moneys collected by him. (§10332 R. S. 1914.)

1. *Suits.*—Against corporation for taxes. *Western Union Co. v. State*, 146 Ind. 54; 147 Ind. 274.

When Tax is Uncollected.

236. If such county treasurer shall not be able to collect any tax assessed upon any incorporated company, he shall return the same to the county auditor and be allowed therefor as in other cases, and the county auditor shall certify the same, with the delinquent taxes, to the state board of tax commissioners. (§10333 Burns R. S. 1914.)

Bill of Discovery.

237. If any such incorporated company shall not have personal or real estate out of which to make such delinquent taxes, the state board of tax commissioners may if it deems it expedient, cause to be filed in a proper court, a bill against such company for the discovery and sequestration of its property; which court shall order such part of the property of such company to be sequestered as it shall deem necessary for the purpose of satisfying the taxes, penalties and interest in arrears, with the cost of prosecution, and it may also, at its discretion, enjoin such company and the officers thereof from any further proceedings under their act of incorporation, and may order and direct such other proceedings as it shall deem necessary to compel the payment of such taxes, penalties, interest and costs; or such tax, penalties or interest may be recovered with cost from such delinquent company by action in the name of the state, or on the relation of the state board of tax commissioners, in the circuit court of the proper county. (§10334 Burns R. S. 1914.)

Treasurer's Special Return.

238. Whenever any person who is delinquent for the non-payment of taxes shall have removed from the county in which he was assessed, to any other county in this state, it shall be the duty of the said treasurer, in making such return, to write opposite the name of such person the words, "removed from this county," also the name of the county to which such person shall have removed, if known to such treasurer, if the same can be discovered upon inquiry. (§10335 Burns R. S. 1914.)

Auditor to Certify—Fees.

239. It shall be the duty of the county auditor, whenever he shall be advised by the return of the treasurer, or by any other means, that any delinquent taxpayer has removed, as aforesaid, if such auditor shall be satisfied that there is a reasonable prospect of collecting said taxes, to make out a list of taxes owing by such person, specifying therein what is state and what are county, school and road taxes, which list shall be certified to be correct, under the hand and seal of such auditor, and the said auditor shall transmit the said list to the auditor of the county to which such person shall have removed; and the said county auditor, for making out and transmitting the said statement, shall be entitled to the sum of fifty cents. (§10336 Burns R. S. 1914.)

Entry in Duplicate.

240. The county auditor, to whom such list shall be sent, shall immediately enter the same on his tax duplicate, and charge the treasurer of his county with the amount and instruct him to collect the same. (§10337 Burns R. S. 1914.)

Treasurer to Collect.

241. The said county treasurer of the county to which such person has removed, shall proceed to collect the said taxes, interest, damages and fees, and, in so doing, he shall be governed by the provisions of this act and the laws regulating the duties of county treasurers; and, when the same is collected, the county treasurer shall pay the same into the state treasury. The county, school and road tax and fees shall be entered to the credit of the county entitled to the same, and the treasurer of state shall pay the same over to the proper county treasurer. (§10338 Burns R. S. 1914.)

Fees of Auditor and Treasurer.

242. The auditor and treasurer of the county to which such statements shall have been sent, shall be allowed the same fees as they are now allowed or may hereafter be allowed for similar services. (§10339 Burns R. S. 1914.)

Fiduciaries Must Pay Taxes.

243. It shall be the duty of every administrator, executor, guardian, receiver, trustee, or person having the property of any decedent, infant, idiot or insane person in charge, to pay the taxes due upon the property of such decedent, ward or party, and, in case of neglecting to pay any installment of taxes when due, when there is money enough on hand to pay the same, the county treasurer shall present to the circuit or other proper court of the county, at its next term thereafter, a brief statement in writing, signed by him as such county treasurer, setting forth the facts and amount of such delinquency, and such court shall at once issue an order directed to such delinquent, commanding him to show cause within five days thereafter why such tax and penalty and costs should not be paid, and, upon his failing to show good and sufficient cause for such non-payment the court shall order him to pay such tax out of the assets in his hands belonging to the estate of said decedent, ward or other person; and such delinquent shall not be entitled to any credit, in any settlement of said trust, for the penalty, interest and cost occasioned by such delinquency, or by the order to show cause, but the same shall be a personal charge against him, and he shall be liable, on his official bond, for such penalty, interest and costs. (§10340 Burns R. S. 1914.)

1. *Private Property of.*—Fiduciaries can not be taken to satisfy the taxes assessed against them in their trust capacities.—*Thiebaud v. Tait*, 138 Ind. 238.

2. *Accrued Taxes.*—Before death should be paid by administrator. *Thompson v. McCorkle*, 136 Ind. 484.

3. *Taxes on Omitted Property.*—In an action to recover taxes from a fiduciary by reason of the assessment of omitted property, the facts stated must show a legal assessment. *Vogel v. Vogler*, 78 Ind. 353.

4. *Guardian's Duty.*—To obtain money to pay taxes. *Ristine v. Johnson*, 143 Ind. 44.

5. *Setting Aside Settlement.*—Of estate for failure to pay taxes. *Graham v. Russel*, 152 Ind. 186; *Cullop v. City of Vincennes*, 34 App. 667.

6. *Receiver's Liability.*—Of non-resident corporation for taxes on assets in this state. *Schmidt v. Failey*, 148 Ind. 150.

7. *Income on Investments.*—Who liable for payment of taxes on bequest of incomes in investments. *Wilson v. White*, 133 Ind. 614.

8. *Treasurer Reporting to Court.*—Failure of fiduciaries to pay taxes, duty as to and time of report: *Gallup v. Schmidt*, 154 Ind. 196.

9. *Same.*—Not necessary in such report to show how the assessments came on the tax duplicate. *Brunson v. Starbuck*, 32 App. 457.

10. *Same.*—May be tested by demurrer.—*Lang v. Clapp*, 103 Ind. 17.

Reimbursement.

244. Every executor, administrator, guardian, trustee, receiver or person having the property of another in charge as aforesaid, who shall be put to any personal expense in paying the taxes of the estate of such decedent, ward or other person, by advancing the money therefor, shall be allowed the amount of the same, with legal interest, up to the time that he is reimbursed from the funds of such estate, and such advancement shall be deemed in all courts a just charge against the estate of the person or persons for whose benefits the same was advanced. (§10341 Burns R. S. 1914.)

Sale of Property of Decedent or Ward.

245. Nothing herein contained shall prevent the county treasurer from levying upon and selling the property of the estate of any decedent or any ward or person whose property is held in trust by another for the payment of any delinquent taxes in the same manner as other property is sold to pay delinquent taxes and the remedy given to the county treasurers by the provisions of this act shall be regarded as only cumulative, but every person holding property, either as executor, administrator, guardian, or in any other representative or fiduciary capacity, who shall neglect or refuse to pay the taxes listed and due thereon, shall be liable in an action to the heirs of such decedent, or to such ward cestui que trust, for any damages sustained by such neglect or refusal. (§10342 Burns R. S. 1914.)

1. *Personal Property.*—Of decedent in hands of executor may be sold for delinquent taxes. *Ring v. Ewing*, 47 Ind. 246.

All Property Liable for Tax.

246. All the property, both real and personal, situated in any county, shall be liable for the payment of all taxes, penalties, interest and costs charged to the owner thereof in such county, and no partial payment of such taxes, penalties, interest or costs shall discharge or release any part or portion

of such property until the whole is paid; which lien shall in nowise be affected or destroyed by any sale or transfer of any such personal property, and shall attach on the first day of March, annually, for the taxes of such year. (§10344 Burns R. S. 1914.)

1. *Liens.—How Removed.*—By payment of all taxes owing by the owner of the property. *Beard v. Allen*, 141 Ind. 243.

2. *Sale.—Does Not Affect Lien.*—A sale or transfer of property does not affect a lien for taxes, and the purchaser can not compel the collection of taxes on other property of the seller. *Rinard v. Nordyke*, 76 Ind. 130.

3. *Lien on Personal Property.*—See *McNiel v. Farneman*, 37 Ind. 203; *Baker v. Morton*, 19 Ind. 146.

Effect Partial Payment on Sale.

247. If any such partial payment be made, and the payer desires it to be applied on any particular property, real or personal, the property so designated shall not be sold for the residue of the taxes due, if property of the same description can be found sufficient to make the balance due. (§10345 Burns R. S. 1914.)

1. *What Portion Can Not Be Sold.*—If taxes on a particular portion of property are paid, such portion can not be sold until the other is exhausted. *Cones v. Wilson*, 14 Ind. 465.

Payment on Part of Real Estate.

248. The treasurer shall receive the tax on a part of any real estate charged with taxes, provided the person paying such tax shall furnish a particular specification of such part and shall pay a like proportion of all the several taxes charged thereon for state, county, road or other purposes; and if the tax on the remainder of such real estate shall remain unpaid, the treasurer shall enter such specification on his return to the county auditor, to the end that the part on which the tax remains unpaid may be clearly known; but such payment shall not discharge any lien of the state, as provided for in this act. (§10346 Burns R. S. 1914.)

1. *Liens.—How Released.*—Liens for taxes can only be released by paying all taxes due. *Beard v. Allen*, 141 Ind. 243; *Gable v. Sieben*, 137 Ind. 155.

Receipt for Tax—Entry.

249. Whenever any person shall pay the taxes charged on any property the treasurer shall enter such payment in his

cash book, give a receipt therefor, specifying for whom paid, the amount paid, what year paid for, and the property and value thereof on which the same was paid, according to its description on the duplicate, in whole or in part of such description, as the case may be; and such entry and receipt shall bear the genuine signature of the treasurer, or his deputy, receiving such payment; and, whenever it appears that any receipt for the payment of such taxes shall be lost or destroyed, the entry so made shall be read in evidence in lieu thereof. The treasurer shall enter the name of the owner or of the person paying the tax, opposite each tract or lot of land, when he collects the taxes thereon, and the address of the person paying such tax. (§10347 Burns R. S. 1914.)

1. *Personal Property*.—Receipt for taxes on need not describe the property. *Woodard v. Jacobs*, 27 App. 188.

2. *Proof of Payment*.—Of taxes may be made by parol as well as by receipt of treasurer. *Indiana Co. v. Bruce*, 13 App. 550.

Lien-Holder May Pay and Keep Lien.

250. Any person who has a lien upon any lands returned for the non-payment of taxes may pay the taxes, interest and charges thereon, and the receipt of the county treasurer therefor shall constitute an additional lien on such land, to the amount therein specified, and the amount so specified shall be collectible, with interest thereon, in the same manner as the original lien. (§10348 Burns R. S. 1914.)

1. *Purchaser of Mortgaged Land*.—Who pays taxes then a lien on such lands can not recover the same from the mortgagor in the absence of a warranty or contract making him liable for the payment of the same. *Semans v. Harvey*, 52 Ind. 331.

2. *Lien for Taxes*.—Mortgagors who have liens on lands for taxes paid must set up same when they foreclose their mortgages. *Dixon v. Eikenbury*, 161 Ind. 811.

3. *Holder of Sheriff's Sale Certified*.—Can not during the year allowed for redemption pay the taxes and obtain a lien for the amount paid. *Government Inst. v. Richards*, 32 App. 24.

Tenant Paying, May Retain from Rent.

251. Whenever the occupant or tenant of any real estate shall have paid the taxes thereon, or the same shall have been collected of him, and any other person by agreement or otherwise, ought to pay such tax, or any part thereof, such occupant or tenant shall be entitled to recover by action the amount which such person ought to have paid, or retain the same from

any rent due or accruing to such person from him, for the land so taxed. (§10349 Burns R. S. 1914.)

1. *Life Tenant*.—Should pay the current taxes on the property in which he holds a life interest. *Hay v. McDaniel*, 26 App. 683.

2. *Tenant Has Lien for Taxes Paid*.—Can recover same from the owner. *Hammönd v. Dexter*, 69 Ind. 37.

Treasurer, Paying by Mistake, Has Lien.

252. Whenever any county treasurer shall, by mistake, have charged himself with, and accounted for, any tax that shall not have been paid to him, such tax shall be deemed and taken as due him personally, whether in or out of office, and may be by him collected in the same way as other taxes due and unpaid are collected. The same shall bear legal interest and be collectible in the same manner as the original lien. (§10350 Burns R. S. 1914.)

1. *Time When May Collect*.—Limitation of, within which treasurer under this section may collect. *State v. Taggart*, 148 Ind. 341.

2. *Illegal Currency*.—If treasurer accepted, he can not again collect taxes for his own use. *Richards v. Stogsdell*, 21 Ind. 74.

3. *Judgment for County Treasurer*.—For taxes under this section will not permit such judgment to be declared a specific lien on the land on which the taxes accrued. *Schaum v. Showers*, 49 Ind. 285.

Tax May Be Paid Before Sale.

253. Delinquent taxes, with penalty, interest and cost, may be paid to the county treasurer at any time before property is sold therefor. (§10351 Burns R. S. 1914.)

Cash Book, Monthly Report.

254. The county treasurer shall keep a cash book, in which he shall enter, at the time of its reception, the amount of money received by him for taxes and special assessments from any person, company or corporation, the date of its reception, the name of the township, city or town in which such tax or assessment appears upon the tax duplicate and the tax duplicate number; and he shall likewise enter each payment of taxes made and not to be accounted for by the treasurer upon the tax duplicate at either of the current year's semi-annual settlements at the time of its reception in the cash book for the next succeeding year's May settlement. He shall also, in like manner, enter all such payments received by him as are in excess of the amount of taxes due in the current cash book, and such excess payments shall be particularly des-

ignated therein. Such excess payments, if any, shall constitute a special fund, to be known as the surplus tax fund, and all moneys entering therein shall be disbursed to the party entitled thereto on the warrant of the county auditor upon the filing and approval of a verified claim for the refund thereof in the office of said auditor. He shall further compare and properly check the payments made and entered in said cash book with the respective credits therefor made and entered by him in the cash columns upon the tax duplicate and certify to the correctness of the same at the close of the final entry in said cash book at the time of the semi-annual settlement with the county auditor. Such county treasurer shall keep the current cash book of tax payments in his office during such time as he shall receive payments to be accounted for at the next ensuing semi-annual settlement, and at the time of such settlement such cash book shall be delivered to the county auditor to be preserved as a public record. Such county treasurer shall also keep a cash book in which he shall enter, at the time of its reception, the amount of money received by him for all purposes other than taxes or assessments from any person, company or corporation, the date of its reception, the number of the receipt, the name of the person paying the same, and the account on which such money is received. He shall keep such cash book, last above described, in his office during his official term, when the same shall be delivered to his successor to be preserved as a public record. Such county treasurer shall at the close of each month, report the total amount of cash payments received by him during the month and the respective accounts on which the same was paid to the county auditor, who shall preserve such receipt. (§10352 Burns R. S. 1914.)

How He May Assess.

255. Whenever the county treasurer shall discover or receive credible information, or if he shall have reason to believe, at any time, that any property, real or personal, or the poll of any person, liable to pay tax, has not been assessed by the assessor, or that any real or personal property has been omitted in the assessment of any year, or any number of years, from the assessment book or from the tax duplicate, or that any person, company or corporation, has, from any cause,

omitted to list any part of his, her or their property for any year, or number of years, or has in any year, or number of years, given a false, or incorrect, or partial statement of any of the property required by this act to be listed, or that any real property by reason of a defective description thereof, has failed to pay taxes for any year, or any number of years, or that the tax for which the said property was liable, has not been paid, or shall discover before the meeting of the county board of review that any of the assessors have not returned the full value of the assessables of any person required to be listed, or have made any erroneous return of such assessables, he shall report the same forthwith to the county auditor, whose duty it shall be to correct the tax duplicate in the hands of the county treasurer, adding such property or polls thereto, and also adding the assessments and valuations thereon. All additional assessments of omitted tax, or omitted property, whether made upon information received by either the treasurer or the auditor, made after the tax duplicate is in the hands of the county treasurer, shall be known as auditor's assessments, and shall be entered in the proper township, city or town in the duplicate upon a page or pages following the final original entry of taxes made in the respective townships. At the time of making such additional assessments; the county auditor shall likewise enter the same upon the proper assessor's books in his office. All property so assessed shall be rated at its true cash value. As to notice to the person, when not present, if residing in the county, the treasurer shall be governed by the provisions of the foregoing sections in relation to assessors and auditors, but he shall not be required to assess the property upon actual view, nor to furnish the owner with a blank list. (§10353 Burns R. S. 1914.)

1. *Assessment of Omitted Property by Assessors and Auditors.*—See sections 156, 162 and 164.

2. *Appeal.*—Section 256 provides for an appeal when property is assessed for taxation as omitted property.

3. *Assessment After Delivery of Duplicate.*—If a county auditor makes an assessment of omitted property after delivery of the duplicate to the treasurer, and the treasurer acts on such assessment, it will be sufficient. *Strader v. Manville*, 33 Ind. 111.

4. *Extent of Assessment of Omitted Property.*—Under the tax law of 1891, omitted property may be assessed for taxation, for years elapsing before the passage of the law. *Reynolds v. Bowen*, 138 Ind. 434, 36 N. E. Rep. 756, 37 N. E. Rep. 962; *Saint v. Welch*, 141 Ind. 382, 40 N. E. Rep. 903.

5. *Penalties.*—Penalties and interest can not be added to taxes that are due on property assessed as omitted property. *Gallup v. Schmidt*, 154 Ind. 196, 56 N. E. Rep. 448.

Appeal from Assessment of Omitted Property.

256. That from any finding, conclusion or decision of any county assessor, any county auditor, any county treasurer or any other officer or officers or board whose duty it may be to investigate, decide, assess and place on the tax duplicate of any county of this state, any property subject to taxation and omitted to be returned, listed and assessed for taxation, the owner of such property or other person against whom such omitted property has been assessed shall have the right to appeal from such finding, conclusion or decision to the circuit court of the county wherein said omitted property is so listed or added for taxation: Provided, That such appeal shall be taken within ten days after the entering of such omitted property on the tax duplicate of such county, by the taxpayer or person against whom such taxes are assessed, filing his written undertaking with the auditor of such county with security to be approved by such auditor, conditioned to pay, without delay, all taxes, interest and penalties as may on final hearing be found due, together with costs assessed against him: Provided, also, The officer so entering such omitted property for taxation shall, at the time of entering the same on the tax duplicate, deposit in the United States mail properly addressed to the taxpayer against whom the assessment is made, notice of said assessment. (§10310a Burns R. S. 1914.)

Towns and Cities—Tax Notice—Collections—Delinquents.

257. Every county treasurer shall include in the notice now required by law to be given by him of the receipt of the tax duplicate for collection a statement of the amount of taxes charged in such city, for city purposes, upon each one hundred dollars valuation of the taxable property, and also for such purposes upon each taxable poll, and such notice shall be the only notice required to be given of such facts. It shall be the duty of the county treasurer to receive and collect all taxes shown upon the duplicate of such city for city purposes, the same as he is required by law to receive and collect the taxes shown thereon for state, county, township, road and other purposes. In all cities of this state which are not county

seats and have city treasurers, the common council of such city may authorize such city treasurer to receive and collect all taxes shown upon the duplicates of such city for city purposes the same as the county treasurers collect such taxes for other cities. If one-half of the amount of such city taxes for the current year charged to any person, and the entire amount of delinquent city taxes, penalty, interest and costs charged to such person and unpaid, be paid on or before the first Monday in May, the payment of the other half of such taxes for the current year may be postponed to the first Monday in November following; but if on or before the first Monday in May payment be not made of that part of the above specified amount the entire amount of unpaid city taxes charged upon the duplicate to such person shall become due and be returned delinquent and collected as such, with like penalty, interest and costs as is provided where the first installment of state, county, township, and road taxes is not paid by the time prescribed. If such taxes remain delinquent after the first Monday in November following, there shall be an additional penalty of six per centum added to all such taxes that become delinquent at the preceding May and November settlements; but a penalty of ten per centum only shall be added to the current delinquency occurring on the first Monday in November. After payment by any person of taxes charged to him, the treasurer shall give to such person a receipt in the form prescribed by law, which shall include all amounts paid by him, for city as well as other taxes. Any partial payment in money, of either current or delinquent taxes shall be prorated among the different taxes charged to the person paying in proportion to the amount of such taxes respectively. If either installment, or any part thereof, of such taxes for such city purposes remain unpaid after expiration of the time limited for payment thereof, the county treasurer shall have the same power and be under a like duty to collect the entire amount of such taxes remaining unpaid, by levy and sale of personal property and by suit, as is granted to and imposed upon him for the collection of delinquent state, county, township, road and other taxes. (§8827 Burns R. S. 1914.)

1. *"Tax Ferret" Contract.*—Right and power of cities to contract with persons to search for property that has not been returned for taxation. *City of Richmond v. Dickinson*, 155 Ind. 345.

2. *Penalty and Interest, First Installment.*—Penalty and interest when the first installment of taxes is not paid. *Evansville Co. v. West*, 139 Ind. 254; *Roseberry v. Huff*, 27 Ind. 12.

3. *Penalty and Interest, Second Installment.*—If the second installment of taxes is not paid when it becomes due, the penalty prescribed by law will attach thereto. *Abbot v. Edgerton*, 53 Ind. 196; *Evansville R. R. Co. v. West*, 139 Ind. 254.

4. *Back Taxes, Penalty and Interest.*—If property is omitted from assessment for several years, and is then assessed for back taxes, penalty and interest can not be included in the assessment. *Gallup v. Schmidt*, 154 Ind. 196.

5. *Penalties, How Distributed.*—Penalties assessed on delinquent taxes are to be distributed among the several funds to which the taxes belong. *Board v. State*, 119 Ind. 473.

6. *Construction of Statutes.*—Construction of statutes providing for the collection of delinquent taxes when real estate has been offered for sale three times. *State v. Leich*, 166 Ind. 680.

7. *Duties of County Treasurers Acting as City Treasurers.*—Duties and liabilities of county treasurers when they act as treasurers for cities or towns. *State v. Spinney*, 166 Ind. 282.

Delinquent List—Certificate.

258. Between the first Monday of December and the first day of January, annually, the county auditor shall make out and record, in a book to be provided for that purpose, a list of lands and lots, returned and remaining delinquent for taxes, including as well the lands of those whose personalty, as assessed on the tax duplicate, is less in value than the taxes charged against the lands or lots, describing such lands or lots as the same are described in the tax duplicate, and charging them with the amount of delinquent tax, with interest and a penalty of ten per centum on such taxes, also with the taxes of the current year, and shall certify to the correctness thereof, with the date when the same was recorded, and sign the same by himself, or deputy, officially. (§10354 Burns R. S. 1914.)

1. *Penalty and Interest.*—Should be added to the delinquent tax. *Evansville Co. v. West*, 139 Ind. 254.

2. *Faulty Description in Notice.*—Land advertised for sale for delinquent taxes, unless described in the notice, the same as on the tax duplicate will not convey title. *Brown v. Reeves*, 31 App. 517.

3. *Omitted Property.*—No penalty or interest charged for years prior to the assessment. *Gallup v. Schmidt*, 154 Ind. 196.

Copy, How Posted and Published.

259. The auditor shall cause a copy of such list to be posted on the door of the courthouse, and also in some public place in each township, at least three weeks before the day of

sale, and shall have such list printed in two newspapers of opposite political parties of the county for three consecutive weeks before such sale. It shall only be necessary in the posted list to state in the aggregate the amount of taxes, penalty, interest, and cost due thereon, including the taxes for the current year. To such list shall be attached and in like manner so posted a notice that so much of said lands and lots as may be necessary to discharge the taxes, interest and charges which may be due thereon, or due from the owner thereof, at the time of sale, will be sold at public auction at the courthouse door of such county, on the second Monday in February next thereafter, commencing at 10 o'clock of said day, and continuing from day to day thereafter until all are offered. The county auditor shall, on or before the day of sale, insert at the foot of such list on his record a copy of such notice, and certify on said record immediately following such notice the manner in which the same was posted, and the place where the same was posted, and for what length of time it was printed and posted. The expense of such printing, when had, shall be paid out of the county treasury, and it shall not exceed thirty cents for each description. (§10355 Burns R. S. 1914.)

1. *Owner of Personal Property.*—May enjoin the advertising of his lands for sale. *Abbot v. Edgerton*, 53 Ind. 196.

2. *Sale Not Enjoined.*—On account of irregularities in the tax assessment. *Smith v. Pyle*, 44 App. 150.

3. *County Auditor.*—Can bind county by contract for publishing delinquent list. *Board v. Kiroff*, 14 Ind. 284; *Foy v. Board*, 37 Ind. 347.

4. *Same.*—Can not collect for expense of publishing delinquent list in his own paper. *Stropes v. Board*, 72 Ind. 42.

Manner of Sale.

260. On the day mentioned in the notice, the county treasurer shall commence the sale of such lands, and shall continue the same from day to day until so much of each parcel assessed or belonging to each person assessed, shall be sold as will pay the taxes, interest and charges thereon, or chargeable to such person in said county. The person offering at said sale to pay the required sum for the least quantity of any tract shall be considered the purchaser of such quantity: Provided, No bid shall be received from any person not a resident of the State of Indiana, until such person shall file with said treasurer an agreement in writing consenting to the jurisdiction of the circuit court of the county in which such sale shall be

made, and also filing with such treasurer an appointment of some citizen of said county as agent of said purchaser, and consenting that service of process on such agent shall give such court jurisdiction to try and determine any suit growing out of or connected with such sale for taxes. (§10356 Burns R. S. 1914.)

1. *Presumption as to Regularity.*—Of sale of lands for taxes. *Gable v. Seiben*, 137 Ind. 155.

2. *Persons Bidding Jointly.*—May do so, for the protection of their own interests when such agreement is not made to prevent bidding at such sale. *Morrison v. Bank*, 81 Ind. 335.

3. *Non-Resident Purchaser.*—Effect on sale to, who failed to file agreement as to jurisdiction and service of process. *Shedd v. Disney*, 139 Ind. 240.

4. *Sale Where Held.*—Sales of land for delinquent taxes must be held at the courthouse door and sale in treasurer's office will not convey title. *Dixon v. Thompson*, 98 N. E. 738.

5. *Sale for Less Than Taxes.*—The purchaser may have a lien for the amount paid although deed may not convey title. *Holbrook v. Kunz*, 41 App. 260.

Sale to Highest Bidder, When.

261. Whenever any lands have been or shall hereafter be offered for sale for delinquent taxes, interest and penalty by the treasurer of the proper county for any two successive years and no person shall have bid therefor a sum equal to the delinquent taxes thereon, interest and penalty provided by law, then such county treasurer shall at the next regular tax sale of lands for delinquent taxes, sell the same to the highest bidder, and the purchaser thereof shall acquire thereby the same interest therein as is acquired by purchasers of other lands at such delinquent tax sales. (§10357 Burns R. S. 1914.)

Redemption from Sale.

262. Such lands may be redeemed from such sale upon the same terms and conditions as other lands may be redeemed from delinquent tax sales, as provided herein; but in the event of the redemption of any land from any sale made under the provisions of this act, the land so redeemed shall be liable to resale by such county treasurer at the next or any subsequent tax sale of lands for delinquent taxes for all delinquent taxes, penalty, interest and costs not paid by such sale. (§10358 Burns R. S. 1914.)

Deed, Limitation, Lien Released.

263. In all cases where lands have been or may hereafter be sold for delinquent taxes, penalty, interest and costs and

a certificate of purchase has been or may hereafter be issued, it is hereby made the duty of such purchaser, his heirs or assigns, to cause a deed to be executed and placed on record in the proper county within four years from the date of said sale: Provided, That on failure of said purchaser, his heirs or assigns so to do, then and in that case the amount due such purchaser shall cease to be a lien on said lands so purchased as herein provided and as is now provided by law. (§10359 Burns R. S. 1914.)

Sale of Part of Tract.

264. When less than the whole of any tract of land shall be sold, the quantity sold shall be in a square form, as near as practicable, at the most northwesterly corner of the tract, and when less than the whole of any in-lot or out-lot of any city or town shall be sold, the part sold shall extend from the main or principal street, road or alley, forming the most convenient front to such lot, to the rear of such lot, and so as to bound the same by lines as nearly parallel with the outlines of such lot as practicable. (§10360 Burns R. S. 1914.)

1. *Where Located.*—When a part of a tract of land is sold the law will locate such in a square form in the most northwesterly corner of the tract. *Major v. Brush*, 7 Ind. 232.

Sale of More Than One Tract.

265. When more than one tract or lot belonging to the same person shall be for sale at the same time, in the same municipal corporation or township, a part of one of said tracts or lots shall be offered, first for the payment of the whole sum due from such owner on all such delinquent lands or lots, or otherwise; and if no person shall bid off a part of such tract or lot for the sum required, the said tract or lot shall then be offered to the highest bidder for cash, and if any amount shall yet remain due, or if no person bid for a part or all of one tract or lot, each of the other tracts or lots shall be offered in like manner until the required sum is realized; and if no one bids upon a part or all of said tracts or lots separately, enough to pay the amount due, then the whole of said tracts and lots shall be offered together and sold to pay the taxes, penalty, interest and costs thereon. (§10361 Burns R. S. 1914.)

Payment of Bids—Penalty.

266. Where such sale is made, the purchaser at such sale shall immediately pay the amount of his bid to the treasurer, who shall pay the surplus, if any, to the person entitled thereto; or if he has doubt, or a dispute arises as to the proper person, the same shall be paid into the county treasury. In case the purchaser fails to pay his bid, the land shall be again forthwith offered for sale the same as if no sale had been made, and the purchaser so failing shall forfeit and pay for the use of the common school fund of the county a penalty of twenty-five per cent on the amount of his bid, to be recovered by action of debt in the name of the treasurer, before any justice of the peace, or court having jurisdiction, and the prosecuting attorney shall conduct such suit, and for his services a fee of five dollars shall be taxed against such delinquent purchaser. (§10362 Burns R. S. 1914.)

Auditor to Attend and Keep Record.

267. The county auditor shall attend, either in person or by deputy, as the clerk of the sale of such delinquent land, and shall enter the same on a sufficient record book, giving a description of the proper tract or lot, showing how much of each was sold, to whom, and the price, or whether the same remains unsold. (§10363 Burns R. S. 1914.)

Certificate of Sale—Assignment.

268. After payment shall have been made, the county auditor shall give the purchaser a certificate in writing, describing the land so purchased, the sum so paid, and the time when the purchaser will be entitled to a deed for said land, and where the county surveyor has surveyed and furnished a sufficient description, said auditor shall take care that the land is described and identified by that description. Such certificate shall be signed by the county auditor, who shall register the same in his office before delivery to the purchaser. Such certificate shall be assignable, but no assignment therefor shall be valid unless indorsed on such certificate and acknowledged before some officer authorized to take acknowledgments of deeds, or the proper county auditor or recorder in his office, for which record said auditor shall be entitled to a fee of twenty-five cents, to be paid by the pur-

chaser and treated as a part of the costs of the sale. (§10364 Burns R. S. 1914.)

1. *Possession, When Obtained.*—Tax certificates entitle holder to possession of premises when sale is in all respects legal. *Barten v. McWhinney*, 85 Ind. 481.

Guaranty of Treasurer.

269. It is hereby made the duty of the county treasurer, at the time he sells lands for taxes unpaid and delinquent, as is directed in this act, and after the purchaser of land under such sales shall have made payment of the amount of their bids, respectively, to indorse upon and annex to each certificate to be given to the purchaser by the county auditor, as required by this act, his written guaranty, signed by him, warranting that the taxes due upon the tract, lot or lots, piece or parcel of land, which, or a portion of which, are named in such certificate. And if it should at any time appear that such county treasurer had, before the time of making such guaranty, received, either in person or by deputy, the taxes assessed against such tract or tracts, lot or lots, piece or parcel of land, the holder of such certificate is entitled to his action upon such written guaranty aforesaid, forthwith, upon the fact becoming known that such lands were improperly sold, and without waiting the accrual of any special damage to such holder; and, in such action, the measure of damages to which such holder of such certificate is entitled, shall be double the amount paid by such holder, as taxes, interest, penalty and charges, with lawful interest thereon; or such holder is entitled to his action on the official bond of such treasurer, against him and his sureties, as for dereliction in duty, in which action the measure of damages is the same as above mentioned. (§10365 Burns R. S. 1914.)

1. *What Treasurer May Show.*—If he receives anything except money at a tax sale, he may show such fact in a suit against him upon a guaranty given under this section for the purpose of showing that purchase money is unpaid. *Baldwin v. Shill*, 3 App. 291.

Time and Cost.

270. The owner or occupant of any land sold for taxes, or any other persons having an interest therein, may redeem the same at any time during the two years next ensuing, in the following manner: If redeemed within six months from day of sale, he shall pay to the county treasurer, for the use of the purchaser, his heirs or assigns, the full sum of

the purchase money named in his certificate, and all the costs of sale, together with ten per centum in addition; if redeemed after six months and within one year, he shall pay, in like manner, the purchase money, together with costs and fifteen per centum in addition; if redeemed after one year and within two years, he shall pay, in like manner, the purchase money, together with costs and twenty-five per centum in addition, and he shall also pay all taxes which have been paid thereon, with interest at the rate of six per centum per annum on such taxes, and, in case the party purchasing the land, or his assigns, fails to take a tax deed for the land so purchased within six months after the expiration of the two years, no interest shall be charged or collected from the redemptioner after that time. (§10366 Burns R. S. 1914.)

1. *Persons Having Undivided Interest.*—This section applies to, and not to separate tracts of lands assessed to the same person. *Cockrum v. West*, 122 Ind. 872.

2. *Sale Ineffectual to Convey Title.*—When, but vests the lien of the sale for taxes, a redemption from the sale must be made under this section. *Logansport v. Case*, 124 Ind. 254.

3. *Sale Under Judicial Decree.*—Purchaser holding certificate of, may redeem from tax sales. *Gable v. Seiben*, 137 Ind. 155.

4. *Estoppel.*—Acceptance of redemption money can not dispute the right to redeem. *Jackson v. Neal*, 136 Ind. 173.

5. *Penalty and Interest.*—To be paid on redeeming lands from tax sales. *Ristine v. Johnson*, 143 Ind. 44.

By Infants, Idiots, and the Insane.

271. Infants, idiots and insane persons may redeem any lands belonging to them sold for taxes, within two years after the expiration of such disability, in the same manner as provided in the preceding section for redemption by other persons. (§10367 Burns R. S. 1914.)

1. *When May Redeem.*—Within the time fixed by statute upon the same terms that other persons may redeem. *Wagner v. Stewart*, 143 Ind. 78; see also *Schissel v. Dickson*, 129, 139; *Ristine v. Johnson*, 143 Ind. 44.

2. *Deed When Executed.*—This section does not prevent the execution of a deed before the time expires in which persons under disabilities may redeem. *Lancaster v. Du Hadway*, 97 Ind. 565.

Of an Undivided Part.

272. Any person claiming an undivided part of any land sold for taxes may redeem the same on paying such proportion of the purchase-money, interest, penalty and subsequent taxes as he shall claim of the land sold. (§10368 Burns R. S. 1914.)

Of a Share of an Undivided Part.

273. Any person claiming an undivided share in any land out of which an undivided part shall have been sold for taxes, may redeem his undivided share by paying such portion of the purchase-money, interest, penalty and subsequent taxes as he claims of the land sold. (§10369 Burns R. S. 1914.)

Of a Specific Part.

274. Any person claiming a specific part of any lands sold for taxes may redeem his specific part by paying such proportion of the purchase-money, interest, penalty and subsequent taxes as his quantity of ground shall bear to the whole quantity sold. (§10370 Burns R. S. 1914.)

Of a Specific Part of Undivided Realty.

275. Any person claiming a specific part of any lands out of which an undivided part shall have been sold for taxes charged on the whole tract or lot, may redeem his specific part by paying such proportion of purchase-money, interest, penalty and subsequent taxes as his quantity of ground shall bear to the whole quantity taxed. (§10371 Burns R. S. 1914.)

Contribution, How Made.

276. Any person claiming a specific part of any lands out of which a specific part belonging to some other owner shall have been sold for taxes charged on the whole tract or lot, may exonerate himself from all liability to contribute to the owner of the part sold, by paying into the county treasury, at any time before the expiration of the time allowed for redemption, such proportion of purchase-money, penalty and interest as his quantity of acres will bear to the whole taxed; and such payment shall operate as a redemption of a proportionate part, according to the amount paid, of the land sold. (§10372 Burns R. S. 1914.)

When Auditor to Be Arbitrator.

277. In every case where a partial redemption is asked for, pursuant to the preceding five sections, the county auditor, upon the application of the redemptioner, after notice to the holder of the certificate, shall determine the proportion to be paid by the party applying to redeem, and his decision shall be final thereon. For his services in stating

the proportion, the redemptioner shall pay him fifty cents; and in every case of a partial redemption, pursuant to either of the said sections, the quantity sold shall be reduced in proportion to the amount paid on such partial redemption, and the county auditor shall convey accordingly. (§10373 Burns R. S. 1914.)

From Taxes Assessed Conjointly.

278. Whenever the land of any one person shall be sold for taxes assessed conjointly on the lands of such person and the lands of another person, and such other person shall not pay his due proportion, the person whose lands shall be sold may redeem the same in paying the amount due to the purchaser; and he shall be entitled to recover from such other person whose lands were assessed with his, a just proportion of the redemption money so paid, with lawful interest from the time of such redemption; but no suit shall be brought for the recovery of such proportions until after the expiration of the time allowed for redemption. (§10374 Burns R. S. 1914.)

Recovery in Such Cases.

279. If such owner shall not redeem the lands sold, and the same shall be conveyed by the county auditor, such owner may recover from such other person the same proportion of the value of the land sold and conveyed, that he ought to have paid of the tax, interest and charges, for which the land shall have been sold. (§10375 Burns R. S. 1914.)

Priority of Judgment Recovered.

280. Every judgment obtained under either of the last two sections shall have priority as against the lands of the defendant therein, on which the tax was assessed and for which such proportionate part ought to have been paid, to all mortgages executed, and all judgments recovered since the time when such taxes were assessed. (§10376 Burns R. S. 1914.)

Improvements, How Affected by.

281. In case any lasting and valuable improvements shall have been made by the purchaser at a sale for taxes, or by any person claiming under him, and the land on which the

same shall have been made shall be redeemed as aforesaid, the premises shall not be restored to the person redeeming, until he shall have paid or tendered to the adverse party the value of such improvements; and, if the parties can not agree on the value thereof the same proceedings shall be had in relation thereto as shall be prescribed in the law existing at the time of such proceedings for the relief of occupying claimants of lands. No compensation shall be allowed for improvements made before the expiration of two years from the date of sale for taxes. (§10377 Burns R. S. 1914.)

Auditor's Memorandum and Certificate.

282. When lands sold for taxes, or any portions thereof, shall be redeemed, the county auditor shall insert a memorandum of such redemption, the quantity or description of the portion redeemed, if not the whole, the date thereof and by whom made, on his record of sales of land for delinquent taxes, and sign the same officially, and shall likewise give a certificate thereof to the person redeeming. (§10378 Burns R. S. 1914.)

Tax-Deed.

283. If no person shall redeem the lands sold for taxes within two years from the sale, at the expiration thereof, and on production of certificate of purchase, and in case the certificate covers only a part of a tract or lot of land, then accompanied with a survey or description of such part, made by the county surveyor, the auditor of the county in which the sale of such lands took place shall execute to the purchaser, his heirs or assigns, in the name of the state, a conveyance of the real estate so sold, which shall vest in the grantee an absolute estate in fee simple, subject, however, to all the claims which the state may have thereon for taxes, or liens, or incumbrances. In making such conveyance, when two or more parcels, tracts, or lots of land are sold for the non-payment of taxes to the same purchaser or purchasers, or the same person or persons shall, in anywise become the owner of the certificates thereof, all of such parcels shall be included in one deed. (§10379 Burns R. S. 1914.)

1. *Superior Lien.*—Lien for taxes is, to liens for drainage assessments, and a title acquired under a tax lien is free from drainage lien. *Ellison v. Branstrator*, 45 App. 307.

2. *City Acquiring Lots.*—Does not divest liens for street improvements. *City of Indianapolis v. City Bond Co.*, 42 App. 470.

3. *Vest Fee-Simple Title.*—When the law regulating the assessment of lands and the sale thereof for taxes has been complied with. *Steeple v. Downing*, 60 Ind. 478.

4. *Purchaser Takes Deed Subject to Liens.*—Subject to all liens the state may have for taxes and other claims, in deeding school fund mortgages. *State v. Jones*, 95 Ind. 175.

5. *Burden of Proof.*—Persons claiming under tax deeds have the burden of proof to show compliance with the law in making sale and levy of taxes. *Mattox v. Stevens*, 140 Ind. 282; *Shedd v. Disney*, 139 Ind. 240.

6. *Injunction to Execute Deed.*—If the owner seeks to enjoin the execution of a deed he must tender the purchaser the amount due. *Logansport v. Case*, 124 Ind. 254; *Rowe v. Peabody*, 102 Ind. 198; *Morrison v. Jacoby*, 114 Ind. 85.

Form of Deed.

284. Such conveyance shall be executed by the county auditor, under his hand and seal, witnessed by the county treasurer and acknowledged before the county recorder, or any other officer authorized to take acknowledgments and the same shall be recorded in the recorder's office before delivery; a fee for recording shall be paid by the purchaser and shall be included in the costs of sale. Such deed shall be prima facie evidence of the regularity of the sale of the premises described in the deed, and of the regularity of all prior proceedings, and prima facie evidence of a good and valid title in fee simple in the grantee of said deed; and such deed shall be in the following form, as nearly as the nature of the case will admit, namely:

Whereas, A. B. did, on the day of, 19. . . , produce to the undersigned, C. D., auditor of the county of, in the State of Indiana, a certificate of purchase, in writing, bearing date the day of, 19. . . , signed by E. F., who at the last mentioned date, was auditor of said county, from which it appears that the said A. B. did, on the day of, 19. . . , purchase at public auction at the door of the courthouse in said county, the tract, parcel or lot of land lastly in this indenture described, and which lot was sold to for the sum of dollars and cents, being the amounts due on the following tracts or lots of land, returned delinquent in the name of G. H., for the non-payment of taxes, costs and charges for the years, namely: (Here set out the lands offered for sale); which said lands have been recorded, among other tracts, in the office of said

auditor, as delinquent for the non-payment of taxes, costs, and charges due for the year last aforesaid, and a true copy of said record transmitted to the office of the auditor of state, in manner and form prescribed by law, and legal publication made of the sale of said lands; and it appearing that the said A. B. is the legal owner of said certificate of purchase and the time fixed by law for redeeming the land therein described having now expired, the said G. H. nor any person in his behalf, having paid or tendered the amount due the said A. B. on account of the aforesaid purchase, and for the taxes by him since paid, and the said A. B., having demanded a deed for the tract of land mentioned in said certificate, and which was the least quantity of the tract above described that would sell for the amount due thereon for taxes, costs and charges, as above specified, and it appearing from the records of said county auditor's office that the aforesaid lands were legally liable for taxation, and had been duly assessed and properly charged on the duplicate with the taxes for the years

Therefore, this indenture, made this day of, 19.., between the State of Indiana, by C. D., auditor of said county, of the first part, and the said A. B., of the second part, witnesseth: That the said party of the first part, for and in consideration of the premises, has granted, bargained and sold unto the said party of the second part, his heirs and assigns, forever, the tract or parcel of land mentioned in said certificate, situate in the county of, and State of Indiana, and described as follows, namely: (Here set out the particular tract or parcel sold), to have and to hold the said last mentioned tract or parcel of land, with the appurtenances thereto belonging, to the said party of the second part, his heirs and assigns forever, in as full and ample a manner as the auditor of said county is empowered by law to sell the same.

In testimony whereof, the said C. D., auditor of said county of, has hereunto set his hand, and affixed the seal of the board of county commissioners, the day and year last above written.

Witness: (L. S.)
Auditor of County.

State of Indiana, County, ss:

Before me, the undersigned,, in and for said county, this day, personally came the above-named C. D., auditor of said county, and acknowledged that he signed and sealed the foregoing deed for the uses and purposes therein mentioned.

In witness whereof, I have hereunto set my hand and seal this day of, 19....

..... (L. S.)

(§10380 Burns R. S. 1914.)

1. *Indefinite Description.*—If the deed contains, so that the land can not be identified, the purchaser can not have his title quieted. *Sharpe v. Dillman*, 77 Ind. 280.

2. *Sufficiency of Description.*—Of lands sold for taxes, see *Hannah v. Collins*, 94 Ind. 201; *Green v. McGrew*, 35 App. 104; *Brown v. Reeves*, 31 App. 517; *Armstrong v. Hufty*, 156 Ind. 606.

3. *Lien for Purchase Money.*—If description of land in tax deed is too indefinite to convey title the purchaser may have lien for purchase money. *Green v. McGrew*, 35 App. 104; *Armstrong v. Hufty*, 156 Ind. 606; *Scavoy v. Lewis*, 133 Ind. 96; *Travelers' Ins. Co. v. Martin*, 131 Ind. 155; *Ball v. Barnes*, 123 Ind. 394; *State v. Casteel*, 110 Ind. 174; *Scott v. Millikin*, 104 Ind. 75; *Peckham v. Millikin*, 99 Ind. 351; *Reed v. Earhart*, 88 Ind. 159; *Sloan v. Sewall*, 81 Ind. 180.

4. *Personal Property Recital as to.*—If tax deeds do not recite that the owner of the lands had no personal property, or that his personalty was first sold, such deeds are not admissible to prove title unless there is evidence showing such want or sale of personal property. *Woolen v. Rockafeller*, 81 Ind. 208; *Smith v. Kyler*, 74 Ind. 575; *Ward v. Montgomery*, 57 Ind. 276.

5. *Prima Facie Evidence.—Regularity.*—Tax deeds are, of the regularity of the tax sale and of all prior proceedings. *Ellison v. Branstator*, 45 App. 307; *Bivens v. Henderson*, 42 App. 562; *Holbrook v. Kung*, 41 App. 426; *Millikan v. Patterson*, 91 Ind. 515.

6. *Tax Deeds.*—Must be witnessed by county treasurer in order that they may be proof of the facts recited therein. *Green v. McGrew*, 35 App. 104; *Essex v. Meyers*, 27 App. 639; *Armstrong v. Hufty*, 156 Ind. 606; *Bowan v. Striker*, 100 Ind. 45; *Gabe v. Root*, 93 Ind. 256.

Form May Vary.

285. In case circumstances should exist requiring any variation from the foregoing form, in the recital part thereof, the necessary change shall be made by the county auditor executing such deed, and the same shall not be vitiated by any such change, provided the substance be retained. (§10381 Burns R. S. 1914.)

Auditor's Fees.

286. The county auditor shall be entitled to receive for each tax certificate fifty cents, and for each tax deed one

dollar, which shall include the acknowledgment, and in case two or more deeds be made to the same person, the auditor shall be entitled to demand and receive from such person seventy-five cents for the first deed and fifty cents for each additional one. (§10382 Burns R. S. 1914.)

Deeds under Former Laws.

287. The county auditors are hereby authorized to make deeds for lands in their respective counties, sold for taxes under any former law, where the same remains yet to be done, and the deeds so made shall be good and valid, as if made by the person authorized under any former law to make them. (§10383 Burns R. S. 1914.)

Certificates, When Canceled—Lost Certificates.

288. When conveyances are delivered for lands sold for taxes the certificates therefor shall be canceled and filed away by the auditor; and in case of the loss of any certificate, on being fully satisfied thereof by due proof, or upon the production of a certified copy thereof, the auditor may execute and deliver the proper conveyance, and file such proof in his office. (§10384 Burns R. S. 1914.)

Register of Sales.

289. A register shall be kept by the county auditor in his office containing a brief description of the lands by him conveyed on sales for taxes, the name of the person charged therewith, the date of the sale, the name of the purchaser, the amount for which it sold, the name of the grantee in the deed, and the date of its execution. (§10385 Burns R. S. 1914.)

Proceedings When Sale Invalid.

290. Whenever the county auditor shall discover, prior to the conveyance of any lands sold for taxes, that the sale was, for any cause whatever, invalid, he shall not convey such lands; but the purchase money and the interest thereon shall be refunded out of the county treasury to the purchaser, his representatives or assigns, on the order of the county auditor; and such land, if originally liable to taxation, being still delinquent, shall again be placed on the delinquent list, and the

amount so refunded, with interest, be collected as in other cases. (§10386 Burns R. S. 1914.)

1. *When County Liable.*—When the purchaser acquires neither a lien to the land nor a lien for his purchase money the county will be liable to refund such purchase money. *State v. Casteel*, 110 Ind. 174.

2. *Same.*—When a sale is declared void before a deed is made the county is liable for the purchase money unless the land owner, has paid the same. *McWhinney v. Brinker*, 64 Ind. 360.

When Sale Is Invalid.

291. No sale or conveyance of land for taxes shall be valid if at the time of being listed such land shall not have been liable to taxation, or, if liable, the taxes thereon shall have been paid before sale, or if the description is so imperfect as to fail to describe the land or lot with reasonable certainty and in all such cases, the money paid by the purchaser at such void sale shall be refunded, with interest, out of the county treasury, on order of the county auditor. (§10387 Burns R. S. 1914.)

1. *Burden of Proof.*—Rests on the land owner to show the invalidity of the tax sale. *May v. Dobbins*, 166 Ind. 331; *Cole v. Gray*, 139 Ind. 396.

2. *Description of Land.*—What sufficient in tax sales. *Scarry v. Lewis*, 133 Ind. 96; *McWhinney v. Logansport*, 132 Ind. 9.

3. *County Liable.*—For purchase money only where land was not liable for taxation, or the tax was paid before sale. *McWhinney v. Indianapolis*, 101 Ind. 150; *McWhinney v. Indianapolis*, 98 Ind. 182; *McWhinney v. Logansport*, 132 Ind. 9; *Milikan v. Lafayette*, 118 Ind. 323; *Hilgenberg v. Board*, 107 Ind. 498.

Lien of State, When Transferred.

292. If any conveyance for taxes shall prove to be invalid and ineffectual to convey title because the description is insufficient, or for any other cause than the first two enumerated in the preceding section, the lien which the state has on such lands shall be transferred to and vested in the grantee, his heirs and assigns, who shall be entitled to recover from the owner of such land the amount of taxes, interest and penalty, legally due thereon at the time of such sale, with interest, together with the amount of all subsequent taxes paid, with interest, and such lands shall be bound for the payment thereof. (§10388 Burns R. S. 1914.)

1. *Faulty Description.*—When lands sold are so described as not to convey title, the purchaser will have a lien thereon for his purchase money, penalty and interest. *Brown v. Reeves*, 31 App. 517; *Scarry v. Lewis*, 133 Ind. 96; *Travelers Co. v. Martin*, 131 Ind. 155; *Cooper v. Jackson*, 71 Ind. 244.

2. *Burden of Proof.*—Is upon land owner to show that there is no lien created by the sale. *Cole v. Gray*, 139 Ind. 396; *Scott v. Millikan*, 104 Ind. 75.

3. *Same.*—Rests upon purchaser at a tax sale to show a lien on the land when he seeks to have one declared. *Grigsby v. Akin*, 128 Ind. 591.

4. *Tax Deeds.*—Sufficient evidence to establish liens in favor of grantees. *Scarry v. Lewis*, 133 Ind. 96.

5. *Necessary Parties.*—To enforce liens for purchase money paid at tax sales. *Grigsby v. Akin*, 128 Ind. 591; *Abbott v. Union Co.*, 127 Ind. 70.

Lien under Illegal Tax Sales—Release.

293. Every person holding a lien upon any real estate in this state by virtue of any illegal or invalid tax deed, shall, upon the payment or tender to him by the owner or any person having an interest in such real estate, of the full amount of said lien, together with the sum of one dollar and twenty-five cents, and together with any sum that may be due him as an occupying claimant, make, execute and acknowledge before some officer authorized to take acknowledgments of deeds, and deliver to the person making such payment or tender a deed of release, releasing to the owner of such real estate all claims the holder of such invalid tax deed has on such real estate on account of such tax deed; and upon the failure of the holder of such lien to execute such deed of release as herein provided for in this act, he shall be subject to an action in any court of competent jurisdiction to quiet the title of such real estate as against such lien, in favor of the person making such payment or tender, and shall be liable in said action for all costs accruing therein and also for a reasonable fee for the plaintiff's attorney in such action. (§10389 Burns R. S. 1914.)

Name of Owner Immaterial.

294. The sale of lands for taxes shall not be invalid on account of such lands having been listed or charged on the duplicate in any other name than that of the rightful owner. (§10390 Burns R. S. 1914.)

1. *Sale Not Invalid.*—Taxation of lands in name of persons not the owner will not render sale invalid. *Fell v. West*, 35 App. 20; *Schrodt v. Deputy*, 88 Ind. 90; *Helms v. Wagner*, 102 Ind. 385; *Hannah v. Collins*, 94 Ind. 201; *Cooper v. Jackson*, 244.

Proceedings When Purchaser Dies.

295. In all cases of sale of lands for taxes, if the purchaser or his assigns shall die before a deed shall be executed

on such sale, the deed may be executed by the auditor to and in the name of the deceased person, if such deceased person being still alive, would be entitled to a deed, or to his heirs at law or devisees; which deed shall vest the title in the heirs or devisees of such deceased person in the same manner and liable to like claims of creditors and other persons as if the same had been executed to such deceased person immediately previous to his death (or the executor or administrator may assign the certificate of purchase, and the deed may issue to the assignee thereof), and in like cases which have heretofore occurred, the same rule shall apply, and all deeds heretofore issued in the name of any deceased person who if living at the time of the execution thereof would have been entitled thereto, shall have like effect as above provided. (§10391 Burns R. S. 1914.)

Proof Required to Defeat Title.

296. In all suits and controversies involving the title of land claimed and held by virtue of the deed executed by the county auditor for non-payment of taxes thereon, under this or any former tax law, the person claiming by adverse title to such deed shall be required to prove, in order to defeat the title conveyed by such deed, either that the land described therein was not subject to taxation at the date of assessment of the tax for which it was sold, or that the taxes for the non-payment of which the land was sold were paid to the proper officer within the time limited by law therefor, or that the same had not been assessed for the taxes for the non-payment of which it was sold, or that the same had been redeemed pursuant to law, or that a certificate in proper form had been given by the proper officer, within the time limited by law for paying taxes or for redeeming from sales made for the non-payment thereof, stating no taxes were due at the time such sale was made, or that the lands were not subject to taxation. (§10392 Burns R. S. 1914.)

1. *Title.*—Proof necessary to establish. See *Mattox v. Stevens*, 140 Ind. 282; *Shedd v. Disney*, 139 Ind. 240.

2. *Same.*—In order to obtain, title by virtue of a tax sale all the substantial requirements of the statute as to the assessment of the property, levy of taxes and sale of the property must be complied with. *Bowen v. Swander*, 121 Ind. 164; *Milikan v. Patterson*, 91 Ind. 515; *Steeple v. Downing*, 60 Ind. 478; *Ellis v. Kenyon*, 25 Ind. 134; *Wilson v. Lemon*, 23 Ind. 433.

Suits to Quiet Title.

297. Any person holding any deed of lands or lots executed by the county auditor for the non-payment of taxes, may commence a suit in the circuit court of the county where such lands lie, to quiet his title thereto, without taking possession of such lands, and all parties who have, or claim to have, or appear of record in any of the public offices of the county where such land or lot is situated, to have any interest in, or lien upon, such lands or lots, shall be made defendants in such suit, and no outstanding unrecorded deed, mortgage, lease or claim shall be of any effect as against the title or right of the complainant as fixed and declared by the decree made in such cause. The court shall cause the facts to appear of record, and if upon the hearing of such cause it shall appear that the complainant's title was or is invalid for any cause, such suit shall not be dismissed by the court, but the court, in cases where the tax was due and unpaid, or where the complainant's title was invalid for defect or uncertainty of description shall ascertain the amount due the complainant, for principal and interest, to be computed at twenty per cent per annum, and from whom due, and shall decree the payment thereof within a reasonable time by the owner of such land, the owner of any life estate therein, or any other person in possession as lessee thereof and owing such sum ascertained, and in default thereof shall direct that such leasehold, life estate and land or lot be sold therefor, and that the equity and right of redemption of all defendants in such suit, and all persons claiming under them shall be forever foreclosed. In any such sale the interest of the life tenant or other person so adjudged to be owing the amount so ascertained shall be first offered for sale; on failure to realize therefrom a sum sufficient to discharge said lien and costs of sale then the life estate in such land together with the interest of such debtor shall be next offered for sale and on failure to realize a sum sufficient to discharge said lien and costs of sale then the rents and profits of said land for a term not exceeding seven years shall be next offered for sale and on failure to realize a sum sufficient to discharge said lien and cost of sale, then, finally, the fee simple of such land shall be offered for sale. In case of the sale of such land or any part or parcel thereof or any interest therein, the sheriff shall upon the receipt of the purchase money, execute to the purchaser

a deed in fee simple, or a lease for the unexpired term of the interest so sold, as the case may be, and there shall be no redemption from any such sale, and the purchaser shall have the right of immediate possession of such land or lot. (§10393 Burns R. S. 1914.)

1. *Statute of Limitation.*—Suit to quiet title to lands sold for taxes are governed by the fifteen-year statute of limitation. *Bowen v. Striker*, 87 Ind. 317.

2. *Same.*—Does not run in favor of a purchaser at tax sale unless he has actual possession or constructive possession under a deed that shows title on its face. *Kraus v. Montgomery*, 114 Ind. 103.

3. *Quiet Title.*—Purchaser at tax sales must hold a deed under the sale before he can quiet title. *McDonald v. Geisendorff*, 128 Ind. 153.

4. *Same.*—When the land owner sues to, he must tender the amount due the purchaser and bring the tender into court. *Willard v. Ames*, 130 Ind. 851.

5. *Same.*—In foreclosure of mortgage the defendants may set up their tax titles and have their title quieted. *Ludlow v. Ludlow*, 109 Ind. 199.

6. *Proof Required.*—To establish lien for purchase money at tax sale. *Grigsby v. Akin*, 128 Ind. 591.

Lien When Transferred to Grantee.

298. If any conveyance made by the county auditor, pursuant to a sale made for the non-payment of taxes, under this or any former tax law, shall prove to be invalid and ineffectual to convey title for any other cause than such as are enumerated in the section immediately preceding the last section, the lien which the state had on such land for state, county, township and all lawful purposes, shall remain in full force, and shall be transferred by such deed to the grantee and vested in him, his heirs and assigns, who shall be entitled to recover from the owner of such lands, the owner of any life estate or any other person, first personally liable for the payment of such taxes, the amount of such legal taxes, together with all lawful charges, with interest at twenty per cent per annum, from the date of such sale, and also the amount of all subsequent taxes paid, with like interest, and such claim shall be a lien upon such lands, and the same shall be bound for the final payment thereof; and in case judgment be rendered against the person holding the title from the auditor, as aforesaid, for the recovery of such land, in an action of ejectment or other action, either at law or in equity, brought by the owners of such land, his heirs or assigns, the court shall ascertain the amount due to the party holding such tax deed and

from whom due for principal and interest and for all improvements made by him on such lands and shall decree the payment thereof within such reasonable time by the owner of such land; the owner of any life estate, if any there be, or any other person first liable for the payment of such taxes, such ownership and liability shall be ascertained by the court and entered of record in such cause, and in default of such payment the court shall decree that such life estate, the interest of such debtor in such lands and the fee simple thereof, shall be sold therefor or sufficient thereof to pay the amount of such improvements, principal and interest due to the party having the auditor's deed, his heirs and assigns. Such property shall be offered and such sales shall be made in the order, and in the manner and form as provided in the preceding section: Provided, That there shall be no right of redemption of such property or of any such interest therein, after the date of sale, and that the sale shall be without the benefit of appraisement laws, and the sheriff shall, upon receipt of the purchase money, execute to the purchaser a deed in fee simple or a lease for the unexpired term of the part or interest so sold, as the case may be, and the purchaser shall have the right of immediate possession of such land or lot and the improvements thereon. (§10394 Burns R. S. 1914.)

1. *Right to Enforce Lien.*—Covered by fifteen-year statute of limitation. *Montgomery v. Aydelotte*, 95 Ind. 144.

2. *Same.*—United States courts have power to, in favor of purchasers at tax sales in proper cases. *Abbott v. Union Co.*, 127 Ind. 70.

3. *Priority of Lien.*—The lien of taxes is superior to the lien of a prior mortgage given for purchase money. *Peckham v. Millikan*, 99 Ind. 352.

Tax Not Invalid for Want of Form.

299. No general or specific tax authorized by the laws of this state, and which shall be assessed on any property in any township, city or town within this state by any officer authorized to make assessments or which if made by another person or may be adopted by such officer as his act shall be held to be illegal or invalid for want of any matter of form in any proceeding not affecting the merits of the case, and which shall not prejudice the rights of the party assessed. And all taxes assessed upon any property in this state, shall be presumed to be legally assessed until the contrary is affirmatively shown, and no sale of real estate for the non-payment of the

taxes thereon shall be rendered invalid by showing that any certificate, return, affidavit or other paper required to be made and filed in any office is not found in any office where the same ought to be filed or found, but until the contrary is proven the presumption shall be in all cases that such certificate, return, affidavit or other paper was properly made and filed in the proper office. (§10395 Burns R. S. 1914.)

1. *Presumption of Regularity.*—All taxes are presumed to be legally assessed until the contrary is shown. *Fell v. West*, 35 App. 20; *Brunson v. Starbuck*, 82 App. 457; *Parkinson v. Thompson*, 164 Ind. 609; *Adams v. Davis*, 109 Ind. 10.

2. *Equity.*—Will not relieve persons from the payment of taxes for mere irregularities or informalities. *Hunter v. Woodard*, 152 Ind. 474.

When County Officers Are Liable for Neglect.

300. Whenever the owner of any tract, lot, parcel or piece of land is deprived of his title thereto, or to some portion thereof, or by reason of any suit in relation thereto is put to expense, damages, costs or charges, by reason of the failure of the county treasurer to give proper credit for any taxes paid by him, or whenever any tract, parcel or lot of land shall have been assessed to two different persons and the entire tax shall have been paid by either of them, and the treasurer shall sell such land as delinquent on account of the non-payment by the other party of the taxes assessed against him thereon, the party damaged by such sale, or his legal representatives, may, in an action against the officer by whose act or omission such damages have been caused, or upon his official bond, recover a judgment for double the amount of all the damages, costs and charges to which such owner may have been subjected in consequence of such failure or such dereliction of duty. (§10396 Burns R. S. 1914.)

Settlement with County Auditor.

301. The county auditor and treasurer shall attend at the office of said auditor on the first Tuesday after first Monday in May, annually, and the treasurer shall then and there make a settlement with the auditor for the amount of taxes for which such treasurer is to stand charged, as follows:

First. The auditor shall, in a column or columns, for the purpose, opposite the name and description on the right hand of the duplicate, in the hands of the auditor and treasurer ex-

tend a list of all such taxes as the treasurer shall have been unable to collect.

Second. The treasurer under oath, to be administered by the auditor, shall certify in such duplicate to the correctness of such list, setting out in words and in figures the amount thereof.

Third. The treasurer shall immediately proceed to collect the same in the manner provided by law.

Fourth. After deducting the amount of taxes so returned delinquent, and the collection fees allowed the treasurer from the several taxes charged on the duplicate, in a just and ratable proportion, the treasurer shall be held liable for the balance.

Fifth. The auditor shall certify in such manner as the auditor of state shall direct the balance due for all state purposes, and the balance due for county or other local purposes, which certificate he shall deliver to the treasurer, who shall deliver the same to the auditor of state at the time he makes settlement with him. The said treasurer shall also, on the first Tuesday after the first Monday in November, make settlement with the county auditor for the amount of all the tax and delinquent tax for which said treasurer is to stand charged; said settlement, in all respects, to be made and certified in such manner as the auditor of state shall direct, and it shall be the duty of the county auditor to forward a certified copy of such settlement forthwith to the auditor of state. (§10397 Burns R. S. 1914.)

State Board of Finance—Advance Settlements.

302. At any time the state board of finance shall deem it necessary that any moneys in the treasuries of the several counties of Indiana, belonging to or due the state revenue and benevolent institution fund, should be paid into the treasury of the state, said board shall, by its secretary, so direct the treasurers of the respective counties, and such treasurers shall forthwith transmit the same in equal proportion to the amount of the state tax to be due the state at the next semi-annual settlement of each county, under the direction of such state board of finance to the treasurer of state, and the county auditor of any such county, when requested by any such county treasurer, shall draw his warrant as now provided by law

for the amount so due the state as demanded by such state board of finance. Should any county auditor or any county treasurer fail to comply with the provisions of this act within ten days after the requisition made upon such treasurer, then suit shall be instituted by the attorney-general of Indiana, upon the bond of any such county auditor or upon the bond of such county treasurer, so failing to comply and ten per cent damages upon the amount of money subject to such order, and all accruing costs thereon, shall be recovered of such defaulting county auditor or county treasurer. (Acts 1913, p. 71.)

Payments to State Treasurer June Settlement.

303. Each county treasurer of Indiana, shall, on or before the 30th day of June, in each year, pay over to the state treasurer all moneys found due for state purposes, according to the certificate of settlement with the auditor of his county, and shall take a receipt from the state treasurer for the money so paid, which receipt he shall deposit with the auditor of state, who shall give him a quietus. (§10398 Burns R. S. 1914.)

December Settlement.

304. Each county treasurer shall also, on, or before the 31st day of December in each year, pay over to the state treasurer all moneys found due for state revenue and all other state purposes, according to the certificate of settlement with the auditor of his county, and shall take a proper receipt from the treasurer of state for the moneys so paid which he shall deposit with the auditor of state, who shall issue to him a quietus: Provided, That in all settlements made by the several county treasurers of the state with the treasurer of state, the treasurer of state shall accept from the county treasurer certificates of deposit issued by any authorized depository of any county, in the name of such county in the state in payment of any settlement due the state, on account of the school revenues for tuition fund collected by any such county treasurer to an amount to be determined by the auditor of state approximately equal to the sum of money to be returned to any such county by the state on account of the common school tuition distribution which certificate of deposit shall be returned to the county in the settlement of any amount due such

county on account of such distribution. (§10399 Burns R. S. 1914.)

Penalty for Failure to Pay—Duty of Auditor of State.

305. If any county treasurer shall fail to pay into the state treasury the amount due the state on his account for state and other taxes, and other amounts for state purposes, before, or at the time required by this act, he shall forfeit and pay to the State of Indiana, a penalty of fifteen per cent of the amount due, as shown by his certificate of settlement, which shall, together with the amount due the state, be recovered by an action of debt in the name of the State of Indiana against such dilatory treasurer. And if any county auditor of any county shall fail or refuse to draw his warrant for the amount due the state on such settlement, as hereinbefore provided, or if he shall fail or refuse to prepare and deliver to his county treasurer a proper certificate of settlement on forms furnished by the auditor of state, not later than two full days before such county treasurer is required by this act to make his settlement with the state treasurer, such county auditor shall forfeit and pay to the State of Indiana, a penalty of fifteen per cent on the same amount due the state, which shall be recovered by an action of debt in the name of the State of Indiana, against such dilatory auditor and his bondsmen. And it shall be the imperative duty of the auditor of state to notify at once the prosecuting attorney of the proper county of such default of such county treasurer, or of the negligence of such county auditor, and such prosecuting attorney shall bring suit immediately against such treasurer or auditor, as the case may be, and such penalty when recovered, shall be paid into the state treasury. For his services in collecting such penalty, such prosecuting attorney shall be allowed a docket fee of twenty-five dollars to be taxed as costs against such defaulting or negligent officer. In no case shall such prosecuting attorney fail to bring suit when so notified by the auditor of state. (§10400 Burns R. S. 1914.)

Mistakes, How Corrected.

306. If any county treasurer in making settlement with the county auditor shall stand charged by mistake with any tax remaining unpaid, and shall not receive a credit therefor in such settlement such treasurer may collect such

tax for his own use at any time after such settlement, either by distress and sale, as hereinbefore provided, or by an action of debt in his own name, before any justice of the peace or court having jurisdiction. (§10401 Burns R. S. 1914.)

Liability for Not Settling.

307. If any county treasurer shall refuse or neglect to make return or settlement with the auditor of his county, as in this act required, he and his sureties shall be held liable to pay the full amount of the taxes charged on the duplicate, respecting which he so refuses or neglects to make return or settlement, together with interest from the time when such return or settlement should have been made, and ten per centum damages, and it shall be the duty of the county auditor to notify immediately the prosecuting attorney of such failure or refusal, who shall bring suit at once upon such treasurer's official bond. (§10402 Burns R. S. 1914.)

Not Paying Over.

308. The county treasurer shall pay over all the revenues collected for county, road and other purposes, and make settlements therefor at the time and in the manner by this act required, and, upon failure or refusal to do so, he and his sureties, on his official bond, shall be held liable to pay the full amount which he should have paid over, together with interest and ten per centum damages, and such suit, if for state revenue, shall be brought by the attorney-general, in the name of the State of Indiana, on relation of the auditor of state, upon the written request of the auditor of state, and, if for county, road, or any other purpose, it shall be brought by the prosecuting attorney, in the name of the State of Indiana, on relation of the county auditor, upon the written request of the county auditor, or upon the order of the board of county commissioners. And in case of recovery upon such bond, such attorney-general, or prosecuting attorney shall be entitled to a compensation of five per centum upon all sums collected, after judgment for the full amount, interest and ten per centum damages, has been obtained, and also a docket fee of ten dollars, to be taxed as costs against the judgment defendants. (§10403 Burns R. S. 1914.)

1. *Action on Bond.*—Of county treasurer for failing to pay over township funds should be brought on the relation of the county auditor. Tag-

gart v. State, 49 Ind. 47; Hostetter v. State, 62 Ind. 183; Gauntt v. State, 81 Ind. 137; Hunt v. State, 93 Ind. 311.

2. *Same.*—When county has a cause of action on account of a mistake in settling with a county treasurer, the county board is the proper relator. Board v. Kimberlin, 108 Ind. 449.

3. *Same.*—When the state sues for its own use on, no relator need be named. Fry v. State, 27 Ind. 348.

Stated Accounts, Prima Facie Evidence.

309. The stated account of the county treasurer against whom suit is brought, certified by the auditor of state as truly transcribed from the account current against such treasurer on the books of said auditor's office, authenticated by the state seal, shall be prima facie evidence against such treasurer and his sureties. (§10404 Burns R. S. 1914.)

1. *Competent Evidence.*—Certified copies of the accounts current of a county treasurer kept by the county auditor are, against the treasurer. Wells v. State, 22 Ind. 241.

Books and Papers Admissible Testimony.

310. In all suits brought against any county treasurer and his sureties, the books and papers belonging to the treasurer's office and all books and papers belonging to the auditor's office, shall, when proved by the oral testimony of the auditor, be admissible testimony. (§10405 Burns R. S. 1914.)

Duties of Sheriff as to Collecting.

311. The sheriff, or other officer, who shall collect any money from any delinquent county treasurer or his sureties, shall, within ten days after the assessment and collection thereof, pay into the county treasury such portion thereof as shall belong to the county, and within the state treasury the portion belonging to the state, retaining the same traveling fees allowed by law to county treasurers, or he shall pay the same over in such other manner as the auditor of state may direct. (§10406 Burns R. S. 1914.)

Refunding by County to Treasurer.

312. Whenever it shall appear to the board doing county business in any of the counties of the state, by clear and sufficient proof, that by reason of erroneous charges in the tax duplicate, or from any other cause, the treasurer of such county has paid and accounted to said board for more money than was justly due from him on account of county revenue,

said board doing county business shall direct the auditor to credit said treasurer with the sum or sums thus improperly paid, and order the same to be refunded out of the county treasury: Provided, however, That any such person shall be barred from recovering any such taxes further back than a period of ten years: Provided, further, That it shall not be necessary for the county council to appropriate any such money ordered to be refunded before the same shall be paid. (§10408 Burns R. S. 1914.)

1. *County Funds*.—This section applies only to, and the county can not be held liable for other funds paid into the county treasury through mistake. Board v. Tichenor, 129 Ind. 562.

Refunding by State to Treasurer.

313. Whenever similar improper or erroneous payments have been made by any county treasurer to the state treasurer, the board doing county business shall direct the auditor to certify said improper or erroneous payments to the auditor of state, under his seal of office, who shall audit and allow the same as a claim against the treasurer, and the treasurer shall pay the same out of any moneys not otherwise appropriated. §10409 Burns R. S. 1914.)

1. *Mandamus*.—Auditor of state refusing to allow a claim properly presented may be compelled by mandate to do so. Henderson v. State, 53 Ind. 60; Wolfe v. State, 90 Ind. 16.

Provision Applies to All County Treasurers.

314. The provisions of the preceding sections shall extend to persons who have been, as well as those who are now, and shall hereafter be, county treasurers. (§10410 Burns R. S. 1914.)

Annual Review of Delinquents.

315. Annually, in the month of November, before the delinquencies of a former year or years are carried upon the current year's duplicate, it shall be the duty of the county auditor and treasurer to review and carefully examine the list of delinquencies; all such delinquencies as by reason of removal from the state, leaving no property, or dying, leaving no property, and all delinquencies which, in the judgment of said auditor and treasurer, from any other cause, there is no reasonable probability of being collected, shall be omitted from the current year's duplicate; such omissions shall be entered by the auditor upon a record to be known as the

insolvent record and shall be kept in the office of the county treasurer as a public record. Such dropped taxes shall be listed in such insolvent record by civil townships, cities and towns and each entry made under the name of each township, city or town shall contain, in addition to the amount of delinquent taxes dropped, the name of the person against whom such tax was assessed, the duplicate number and a brief statement of the cause for dropping the same from the tax duplicate. A recapitulation by townships, cities and towns of the amount of taxes dropped and the aggregate amount thereof in the county shall be made following the final entry thereof in each year. And such treasurer shall be relieved of the charge of the aggregate amount of delinquent taxes thus dropped in each year. The real or personal property within the state which may at any time thereafter be owned by any person whose taxes are thus placed upon the insolvent record shall be subject to the lien of all such taxes, together with interest thereon at the rate of six per centum per annum from the date of such entry. And thereafter, whenever it shall appear to the county treasurer that any person, whose taxes have been thus dropped, shall become the owner of real or personal property within the state out of which property collection of such taxes may be made, or whenever thereafter such person may offer to pay the same, in whole or in part, or whenever thereafter the county treasurer shall demand and receive payment on account of taxes thus dropped, the county auditor shall be notified thereof by such treasurer, and it shall be the duty of such auditor to restore such person's dropped taxes to the current tax duplicate, with interest thereon as herein provided, in like manner as auditor's assessments are placed upon the tax duplicate, by entering the same upon a page or pages following the entry of auditor's assessments within the township, city or town where taxed; and it shall be the duty of such county treasurer to collect the same as other delinquent taxes are collected. Said county auditor shall further enter in the insolvent record opposite such dropped tax a memorandum of the date and duplicate on which the same was so restored. (§10411 Burns R. S. 1914.)

Delay Not to Vitate.

316. Any failure to deliver the treasurer's or assessor's books within the time required by this act, or to make any

official certificate within the time required by this act, shall in no way affect the validity of the assessment and levy or collection of taxes, but in case of such failure, the assessment and levy of taxes and the proceedings to collect taxes, shall be held to be as valid and binding as if said books had been delivered at or within the time required by law. (§10412 Burns R. S. 1914.)

Forms and Instructions.

317. It shall be the duty of the state board of tax commissioners to make out and forward to each county auditor, from time to time, for the use of such auditor and other officers, suitable forms and instructions, and all such instructions shall be strictly complied with by the officers in the performance of their respective duties. It shall give its opinion and advice on all questions of doubt as to the true intent and meaning of the provisions of this act. (§10413 Burns R. S. 1914.)

Uncollected Tax, How Added.

318. If the tax on any property liable to taxation is prevented from being collected for any year or years, by reason of any erroneous proceedings or other cause, or has not heretofore been assessed, the same shall be assessed as in this act provided, and the amount of such tax which such property should have paid, shall be added to the tax on such property for the next succeeding year. (§10418 Burns R. S. 1914.)

Uniform System of Bookkeeping.

319. It shall be the duty of the auditor of state with the approval of the state board of tax commissioners, to order and enforce a correct, and, as far as practicable, uniform system of bookkeeping by the county treasurers and auditors, so as to afford a suitable check upon their mutual action and insure the thorough supervision and safety of state, county and other funds. (§10419 Burns R. S. 1914.)

Copies of Act—Distribution.

320. The state board of tax commissioners shall, from time to time, whenever it shall find it necessary, cause to be printed, at the expense of the state, a sufficient number of copies of this act to furnish one copy to each township as-

essor, county assessor, treasurer, auditor and commissioner within this state, and shall transmit to each county auditor a sufficient number for his county. Every county auditor receiving such copies shall immediately distribute the same to the persons entitled thereto. The state board of tax commissioners shall also furnish the several township assessors, county assessors, auditors and treasurers with all such forms and instructions as it may wish them to pursue in the performance of the duties required by this act: Provided, however, That the auditor of state shall prepare forms for returns to be made by county auditors to him required by law and also forms of settlement sheets to be used by county treasurers in making settlements with the state auditor, and shall require them in said forms to show separately the amount collected and paid in on account of poll tax. (§10420 Burns R. S. 1914.)

School Land Assessments Legalized.

321. In all cases where school lands have been sold and a certificate has been issued to the purchaser or entered or recorded in the proper office or otherwise and the purchaser has entered into possession and paid a part or the whole of the purchase money, or could have entered into occupancy, such lands shall be deemed and held as having been sold so as to make them liable to taxation, within the meaning of the law, as fully and completely as they would have been had a deed been made and delivered, and the fee had passed to the purchaser; and all appraisements of land so sold, and all assessments of the same for taxes, and all levies and collections of taxes thereon heretofore made, shall be, and are hereby legalized and declared to be lawful and valid, and shall in nowise be subject to question by reason of such sale not having been consummated by execution and delivery of deed. But whenever any treasurer fails to collect any delinquent taxes for any year, and the same is carried over to the next year's duplicate, together with all penalties and interest, such treasurer shall not be entitled to any fee for collecting the delinquent part of said duplicate, more than he is entitled to by law for collecting the duplicate of the current year. (§10421 Burns R. S. 1914.)

When Treasurer Not to Refund.

322. No treasurer shall refund any taxes paid, nor shall any board of county commissioners authorize the refunding or repayment of any taxes so levied or collected, nor shall any action be commenced or maintained in any court in this state, nor shall any court have jurisdiction to recover taxes so levied and collected as being illegal by reason of such lands not being sold in any case contemplated in the preceding section. (§10422 Burns R. S. 1914.)

Three Years' Delinquency—Compromise.

323. Whenever the owner of any tract of land, or city, town or village lot, heretofore assessed with state and county taxes, and unsold for taxes, which have been continuously delinquent for at least three years or more before the taking effect of this act, offers to the county treasurer to pay in cash the full amount of such taxes, with interest thereon at the rate of six per cent per annum, from the day each installment of tax became due and payable, without the penalty, costs and charges thereon, and it appears to the joint satisfaction of the county auditor, treasurer and assessor, that it will be more advantageous to the county and state to accept such offer, than to proceed against such lands or lots, they shall at once jointly report the offer with their opinions, to the state board of tax commissioners, and if it notifies the county auditor, under its seal of office, that it deems it advantageous to the county and state to accept such offer, it shall thereupon be the duty of the county treasurer to accept such offer and to receive the amount of such taxes and interest without the penalty, costs and charges. (§10425 Burns R. S. 1914.)

Certificate of Satisfaction.

324. As soon as such payment is made the certificate of satisfaction and redemption shall be issued by the county treasurer, attested by the signature and seal of the county auditor, and delivered to such owner, which certificate shall be valid and effectual to release said land or lot from the lien of all state and county taxes, penalties and costs due thereon. Such sum so paid shall be distributed to the state and county in proportion that the amount received bears to the whole amount and charged against such tract or lot. (§10426 Burns R. S. 1914.)

Limit of Privilege—Cities and Towns.

325. The privilege to compromise and pay, permitted in the foregoing sections shall apply to municipal taxes in cities and incorporated towns, and in cities the treasurer, clerk and chairman of the finance committee shall perform the same duties as are now enjoined in said sections on the county auditor, treasurer and assessor, and in incorporated towns, the board of trustees shall have full power to perform the duties in said sections enjoined upon said officers as aforesaid, but in every case the same shall have the approval of the state board of tax commissioners before any compromise shall become effective, and the same certificate shall be required as in the preceding section. (§10427 R. S. 1914.)

Former Liens and Penalties.

326. All liens for taxes, and all penalties, and any right to redeem from tax sales, accrued under former laws, and existing at the time of the passage of this act are hereby continued in force and may be enforced under the provisions of this act except as otherwise specially provided in this act and all suits and proceedings now pending for collection of taxes under former and existing laws, shall be continued to a final determination, the same as if this act had not been passed. (§10428 Burns R. S. 1914.)

Taxes in Municipal Corporations, How Assessed.

327. Except as otherwise provided in this act, taxes in municipal corporations shall be assessed and collected in accordance with the provisions of the act concerning municipal corporations, approved March 6, 1905, and subsequent amendments thereto.

Assessments by Township Assessor and Other Officers—Shall Serve for City and Town.

328. The assessments of real and personal property, as made and returned by the township assessor and other assessing officers and boards shall serve as the assessments for city and town purposes.

Perjury—Penalty.

329. Any person who, under any of the proceedings required or permitted by this act, shall wilfully swear falsely,

shall be guilty of perjury and subject to all its penalties. (§10431 Burns R. S. 1914.)

False Assessment—Penalty.

330. Any assessor or member of a board of review, or of a board of tax commissioners, who shall wilfully assess any property at more, or less than what he believes to be its true cash value, as the same is defined in this act, shall be guilty of a misdemeanor, and on conviction thereof he shall be punished by a fine not exceeding three hundred dollars, or by imprisonment in the county jail not more than one year, or both, in the discretion of the court. (§10431 Burns R. S. 1914.)

Failure to Perform Duty—Penalty.

331. Any officer who shall be guilty of violating any provisions of this act, or who shall wilfully neglect or refuse to perform any of the duties imposed on him by this act, when no other provision is made herein, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined for each violation in any sum not less than twenty dollars, nor more than five hundred dollars, to which may be added imprisonment in the county jail for a period not to exceed one year, either or both, in the discretion of the court, and shall be liable to any person injured thereby to the full extent of the damages sustained. (§§10311 and 10432 Burns R. S. 1914.)

Taxation—Erroneous—Refund by County.

332. In all cases where any person or persons or body politic or corporate shall appear before the board of commissioners of any county in this state, and establish by proper proof, that such person or body politic or corporate has at any time paid for any year or part thereof any amount of taxes which were wrongfully assessed against such person or body politic or corporate in such county, it shall be the duty of said board to order the amount, so proved to have been wrongfully paid, to be refunded to said payer from the county treasury, so far as the same was assessed and paid for county taxes, and the county auditor shall draw his warrant therefor and the county treasurer shall pay the same out of any money not otherwise appropriated: Provided, however, That after January 1, 1919, any such person or persons, body politic or cor-

porate, shall be barred from recovering any such taxes further back than a period of ten years: Provided further, That it shall not be necessary for the county council to appropriate any such money ordered to be refunded, before the same shall be paid: and Provided further, That no taxes shall be considered as having been wrongfully paid or as having been wrongfully assessed when same were extended on assessments made as the judgment of taxing officers authorized to make same, and concerning which no complaints were registered at the time same were made either by application for rehearing or by an appeal. (§6090a Burns R. S. 1914.) (Improper valuation is not a wrongful assessment, 181 Ind. 172.)

Refund by State.

333. In all cases where a portion of the amount so wrongfully assessed and paid shall have been for state purposes, and shall have been paid into the state treasury, it shall be the duty of the said board of commissioners to certify to the auditor of state the amount so proven to have been wrongfully paid, under the seal of said board of commissioners and the auditor of state shall, thereupon, audit the same as a claim against the treasury, and the treasurer of state shall pay the same, out of any money not otherwise appropriated. (§6090b Burns R. S. 1914.)

Appeal.

334. An appeal may be taken from the action of the board of county commissioners in any matter referred to in the last two preceding sections, as in other cases, and if any board of county commissioners refuse to hear the proofs offered by any person or body politic or corporate, complaining or offering to complain before them, that he or it has been wrongfully assessed, the person or body politic or corporate so offering to complain shall have the same right to appeal from the decision of said board, so refusing to hear such complaint, that he or it would have in other cases, and upon either of such appeals the court to which such appeal is taken shall decide the merits of the case and order the taxes repaid or not as the case may be: Provided, That nothing in this act shall affect any pending litigation. (§6090c Burns R. S. 1914.)

Lien of Taxes on Real Estate.

335. The lien of the state for all taxes for state, county, school, road, township and all other purposes, and all taxes for city, town or municipal purposes, shall attach on all real estate on the first day of March annually; and such lien on real estate for all taxes due from the owner thereof, which have been heretofore placed on the tax duplicate or which have heretofore accrued or which shall accrue or attach on or before the first day of March, 1919, with interest and penalties in each case, shall continue for ten years from and after the first Monday in May, 1920, and no longer unless already sold for taxes, and such lien on real estate for all such taxes as shall attach or accrue or become due from the owner thereof from and after the first day of March, 1919, with the interest and penalties in each case, shall continue for ten (10) years from and after the first Monday in May in each year in which such taxes become due and payable according to law, and no longer unless already sold for taxes; which lien shall in nowise be affected or destroyed by any sale or transfer of any such real estate: Provided, That in any case where any suit, action or other proceeding is instituted by proper authority for the collection of any such taxes or the enforcement of any such lien on real estate at any time within said ten years limitation, but has not been completed, that said ten years limitation shall be extended until the final termination and completion of any such suit, action or other proceeding: Provided, further, That no amount of taxes dropped from the tax duplicate as provided for in this act, shall be a lien against any property in the hands of a bona fide purchaser without actual notice thereof while such taxes so remain dropped from the tax duplicate. (§10343 Burns R. S. 1914.)

As amended Acts S. S. 1920, p. 164.

Power of State Board to Make and Enforce Rules.

336. Whenever by the provisions of this act any power is granted to or duty enjoined upon any board, officer or person and there is no provision for the method or manner of executing such power or performance of such duty, the state board of tax commissioners may make and enforce all rules and regulations in relation thereto which may be necessary fully to carry out the purposes of this act.

337. Should any section or sections, or subsection or subsections of this act be held unconstitutional by the supreme court of Indiana such decision or decisions shall not affect the validity of the remaining sections or subsections.

338. All laws and parts of laws in conflict with the provisions of this act are hereby repealed: Provided, That nothing in this act shall be considered as repealing the law for the taxation of transfer of property by inheritance.

339. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in full force and effect from and after its passage.

APPENDIX

RULES ADOPTED BY THE STATE BOARD OF TAX COMMISSIONERS.

Under its power to prescribe and promulgate all forms of books, schedules, blanks, notices and all other papers required to be used in fully carrying out the purpose of the tax law, the State Board of Tax Commissioners shall annually before March 1st adopt necessary forms to be used for the assessing of property in the State of Indiana.

Pursuant to such power to prescribe and promulgate all forms of books, schedules, blanks, notices and all other papers required to be used in fully carrying out the purpose of the tax law, the State Board of Tax Commissioners on January 16, 1922, did adopt necessary forms to be used for the assessing of property in the State of Indiana, such forms being numbered from one to thirty, both inclusive.

Taxpayers Required to Make Full Return.

Rule 1. All taxpayers shall be and are required, in addition to giving a full statement of all their personal property, to answer the interrogatories set out in the personal property schedule. (Form No. 1.) All domestic corporations shall be, and are, required to answer the questions and give the information asked for in the Domestic Corporation Statement (Form No. 2); and all individuals, firms, partnerships, unincorporated companies and foreign corporations engaged in manufacturing, merchandising or brokerage business in the State of Indiana shall be, and are, required to answer the questions and give the information asked for in the Supplementary Information Statement. (Form No. 8.) Any failure on the part of a taxpayer to give the information requested, or show a sufficient reason why the same can not be given, shall be considered a refusal to give information to the assessing officer, and the assessing officer is authorized to set down and assess to such taxpayer such amount of personal property as he may deem just.

Township Assessors' Weekly Reports.

Rule 2. Township assessors and their deputies shall make weekly report to the county assessor on Form 14 (1922), showing the number of assessments made each day, and make report in detail as required by such form. Failure to make such report shall be sufficient cause for the filing of a complaint by the county assessor against such delinquent officer.

County Assessors' Report to State Board.

Rule 3. County assessors shall make report on Form No. 15 (1922) to the State Board of Tax Commissioners in detail as required by such form on the following dates:

Second Monday in March.
Fourth Monday in March.
Second Monday in April.
Fourth Monday in April.
Second Monday in May.

Failure on the part of such county assessor to file such report shall be sufficient reason for the citing of such county assessor to appear before the State Board of Tax Commissioners to show cause why he should not be removed from office.

Assessments Made by State Board First Session.

Rule 4. Persons interested in the assessment of property of telephone, express, telegraph, sleeping-car, transportation and pipe-line companies, building and loan associations, public utilities, electric, street and inter-urban and steam railroads, and the stock of banks and trust companies considered by the State Board of Tax Commissioners at its first session, which convenes on the first Monday in April, and who desire to appear before the Board and be heard, may make application to the secretary of the Board, giving date upon which they desire to be heard, and stating the subject-matter which they desire to present to the Board. All statements of any kind whatsoever regarding these classes of property must be presented at this first session. For the purpose of expediting the hearings on questions to be passed upon by the state Board the time has been fixed for the hearing of the statements relative to classes of property as follows:

Telephone companies.....	First week of session
Express, telegraph, sleeping-car, transportation and pipe-line companies	Second week of session
Banks, trust companies, building and loan associations and public utilities	Third week of session
Electric, street and interurban railroads.....	Fourth week of session
Steam railroads.....	Fifth week of session

Application for Revision of Assessments Made by State Board at the First Session.

Rule 5. Any person dissatisfied with any assessment fixed by the State Board of Tax Commissioners at its first session and desiring a rehearing and revision of such assessment, must file an application for review and reassessment with the State Board of Tax Commissioners at least ten days before the second session of the Board, which said second session convenes on the Tuesday following the first Monday of July in each year. The application for a rehearing and revision of the assessment shall state explicitly the grounds relied upon and the secretary of the Board shall fix the date for such rehearing. Statements in support of such applications must be concise and briefs in support of such rehearsings should be filed with the Board on or before the first Monday of July. Written petitions for such rehearsings should be verified or accompanied with affidavits and exhibits, or the Board, at its discretion, at its second session may permit the hearing of oral or written testimony in case it shall appear to the State Board of Tax Commissioners that such course will be more satisfactory. Assessments made at the first session on which no application for rehearing or revision are made shall be final. Assessments revised at the second session shall be final as approved or revised.

Appeals from County Boards of Review to State Board of Tax Commissioners.

Rule 6. Any person, partnership, association or corporation, township or county assessor, member of board of review, or taxpayer of a county dissatisfied with the action of the county board of review in the assessment of any property regularly coming before said Board at its annual session, which convenes the first Monday in June of each year, and desiring to take an appeal from such assessment to the State Board of Tax Commissioners, must file written notice with the county auditor, within five days after the adjournment of the county board of review, of his or its intention to appeal, giving explicitly the reason for such appeal. The county auditor upon receiving notice of such appeal shall prepare a statement giving the nature of the complaint, the action of the county board of review in the matter appealed, and the postoffice

addresses of the appellant and the interested taxpayer and shall forward the same, together with the notice of appeal, to the State Board of Tax Commissioners. The secretary of the Board shall then fix the date for hearing of such appeal and notify all parties interested in the matter, and at such hearing oral or written evidence may be heard. All notices of appeal, and certificates of such appeals, must be upon forms prescribed by the State Board of Tax Commissioners, which forms may be secured of the county auditor. Appeals should be founded upon distinct and well-grounded reasons which may be presented orally or by written or printed statements. The hearings of such appeals will, whenever possible, be held in the auditor's office of the county from which the appeal was taken. The amount fixed by the State Board of Tax Commissioners shall be the final assessment of such property.

Assessments Certified to State Board of Tax Commissioners on Its Order.

Rule 7. Any person whose assessment has been certified to the State Board of Tax Commissioners on its order for review or reassessment at its third session will be notified by letter signed by one member of the Board of such certification and the time and place for the hearing of the same. The hearing shall be at least eighteen days after the date said letter is mailed, provided the hearing is had at its third session, at which hearing written or oral testimony will be heard as to the correct valuation of the property of the person whose assessment has been certified for review and reassessment. After such hearing, if the same was had during the third session and before the adjournment of said session, the State Board of Tax Commissioners shall determine the assessment of the property of the person so reviewed or reassessed and the amount fixed by said Board shall be the final assessment of such property.

At its fourth session, which will convene on the third Monday of September each year and remain in session until the Saturday following the First Monday in December each year, the State Board of Tax Commissioners may review or reassess property of any person whose assessment has been certified for review or reassessment at the third session of the Board and continued for hearing during the fourth session. The state Board may add omitted property at this session and any person or persons whose property is being reviewed, reassessed or assessed originally, shall be given a written or other notice to appear before said State Board of Tax Commissioners, not less than ten days from the date of the serving of such notice, to show cause, if any there be, why such correction, addition or original assessment, as the case may be, shall not be made. If such person or persons so notified do not appear, or if any appear and fail to show any good and sufficient cause why such corrections, additions or original assessment should not be made, the same shall be made and stand as the final assessment of such persons and certified as such to the proper county auditor.

Budget for Tax Levy—Notice.

Rule 8. The proper legal officers of any municipal corporation in preparing for publication a budget on forms prescribed by the State Board of Accounts shall file one copy of such budget at the time of its publication with the State Board of Tax Commissioners.

(Notice by publication for ten days is necessary, see Acts 1921, Chapter 222.)

(Form 81—1922.)

NOTICE TO TAXPAYERS OF TAX LEVIES.

In the matter of determining the tax rate for certain purposes by } Before the
(municipality)

Notice is hereby given the taxpayers of.....
(municipality)

.....County, Indiana, that the proper legal officers of said municipality at their regular meeting place, on..... day of.....192., will consider the following budget for the year.....

.....
.....
..... (Here insert budget on forms prepared by State Board of Accounts.)
.....
.....
.....

The total net valuation of assessment of all property within such municipality is \$.....and the rate of taxation proposed is as follows:

.....
.....
.....

Taxpayers appearing shall have a right to be heard thereon. After the tax levies have been determined, ten or more taxpayers feeling themselves aggrieved by such levies may appeal to the State Board of Tax Commissioners for further and final action thereon, by filing a petition therefor with the county auditor not later than the fourth Monday of September, and the state board will fix a date for hearing in this county.

Dated.....
.....
(Officer of taxing unit)

Taxpayers' Petition for Appeal to State Board on Tax Levies.

Rule 9. Ten or more taxpayers in any municipal corporation, other than those who pay poll tax only, who are affected by any local tax levy and who may feel aggrieved with such levy or any item thereof, may file a petition with the county auditor of the county in which such municipal corporation is located, not later than the fourth Monday of September, setting forth that the amount to be collected on the levies adopted by the tax levying officers is more than government economically administered warrants, or that any item in such levy will raise more money than the public needs require. Such petition shall be referred by the county auditor to the State Board of Tax Commissioners for its action thereon as prescribed in section 200 of the tax law as amended by the General Assembly of 1921, Chapter 222.

The petition shall be sufficient if substantially in the following form:

(Form 82—1922.)

State of Indiana, } ss:
..... County

In the matter of appealing from the action of local tax levying officers of..... to the State (municipality) Board of Tax Commissioners on the question of reviewing and finally determining the tax levies.

Petition of taxpayers for appeal from tax levies.

To the County Auditor of.....County:

We, the undersigned taxpayers (ten or more) other than those who pay poll tax only, of the.....County Indiana, (municipality)

who are affected by the tax levies fixed by the tax levying officers of the above taxing unit, and who feel themselves aggrieved by such tax levy, hereby petition you as County Auditor to certify such tax levy to the State Board of Tax Commissioners for review and final action as provided in Section 200 of the tax law as amended. See Acts 1921, p. 640.

We object to the tax levies as fixed by the local officers for the reason that the amount to be collected on the levies so fixed is more than government economically administered warrants.

Names of Taxpayers	Postoffice Address
1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

I.....County Auditor of.....County, Indiana, hereby certify that the above and foregoing is a copy of the petition filed with me this.....day of.....1921.

Witness my hand and official seal.

.....
County Auditor.

Proceeding for Bond Issues Where Interest Rate Does Not Exceed 5 Per Cent or of the Class of Bonds Bearing 6 Per Cent Prior to March 10, 1921.

Rule 10. Whenever the proper legal officers of any municipal corporation contemplate the issuing of bonds or other evidences of indebtedness, in excess of \$5,000.00 and bearing interest not to exceed five per cent, or if within the class of bonds legally bearing interest at six per cent previous to March 10, 1921, they shall indicate the same by resolution determining to issue such bonds and notice of such determination shall be given by the proper officer by publication for two weeks in two leading newspapers of opposite political parties published in such taxing district, or in one such paper if only one be there published, or in case no newspaper is there published, then the same shall be published in any two newspapers representing the two leading political parties in the county and having a general circulation in such taxing

Taxpayers' Objection to Bond Issue.

Rule 12. Ten or more taxpayers, other than those who pay poll tax only, desiring to file a petition objecting to bond issues determined upon by the taxing officers of any taxing unit and after proper notice shall have been given, shall file a petition with the county auditor, who shall immediately certify the same to the State Board of Tax Commissioners. The petition shall be sufficient if in the following form:

(Form 34—1922.)

(Important.—This petition must be filed within 29 days after the first publication of notice of determination to issue bonds.)

State of Indiana, }
..... County } ss:

In the matter of appealing from the action of local officers of..... (municipality) to the State Board of Tax Commissioners on the question of approval of bond issues or other evidences of indebtedness, in the sum of \$..... }
Petition of Taxpayers for Appeal.

To the County Auditor of.....County:

We, the undersigned ten or more petitioners, being taxpayers, other than those who pay poll tax only, of the..... (municipality)County, Indiana, who will be affected by the proposed issuance of bonds or other evidences of indebtedness determined upon by such municipal corporation on the.....day of..... 192.., for the purpose of..... object to such issue for the following reasons:

..... and that the proposed issue is unnecessary, unwise and excessive and therefore we petition you as county auditor to certify this petition to the State Board of Tax Commissioners for review and final determination upon the issuance of said obligations and the amounts thereof, if any, which may be lawfully issued.

Names of Taxpayers	Postoffice Address
1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

I.....County Auditor of.....County, Indiana, hereby certify that the above and foregoing is a copy of the petition filed with me this.....day of....., 192..
Witness my hand and official seal.

.....
County Auditor.

Petition for Bond Issues Where Interest Exceeds 5 Per Cent with Certain Exceptions.

Rule 13. A petition for the approval of a bond issue or other evidences of indebtedness, in all cases where the interest exceeds five per cent per annum (excepting temporary obligations and those classes of bonds legally bearing six per cent previous to March 10, 1921), shall be deemed sufficient as to matter and form if it sets out the exact amount to be borrowed, the purpose for which the money is to be used, the necessity therefor, the amount of net taxable property of the taxing unit, the amount of the indebtedness of such unit and is duly certified by the proper officer of such taxing unit. Provided, however, that the State Board of Tax Commissioners may require such additional information as may be pertinent to the issue.

The petition shall be sufficient if substantially in the following form:

(Form 35—1922.)

State of Indiana, }
..... County } ss:

BEFORE THE STATE BOARD OF TAX COMMISSIONERS.

In the matter of the petition of..... }
..... }
for authority to issue bonds or evidence }
of indebtedness for..... } **Petition.**
and bearing interest in excess of five per }
cent and of the class of bonds not legally }
bearing interest at six per cent prior to }
March 10, 1921. }

The undersigned officers of..... { civil } township,
city, town or county, hereby petition the State Board of Tax Commis-
sioners to approve an issue of bonds or evidences of indebtedness under
section 201 of the tax law of 1919 as amended by the Acts of 1921,
Chapter 222, in the sum of..... Dollars.

The proceeds of this issue are to be used for.....
.....
.....

In this matter every preliminary requirement of the law has been
complied with.

The assessed valuation, less lawful deduction, of this taxing unit at
this time is \$....., and the present total indebtedness with-
out this issue is \$..... Bonds or evidences of indebtedness
are to be issued in denominations of \$..... and payable
.....with interest at.....per cent.

Wherefore petitioner prays that the petition herein be granted.

Signature.....

Notice to Taxpayers.

Rule 14. If such petition is filed by taxing officers of any taxing unit, notice of the filing of such petition shall be given by them by publication for two weeks in two leading newspapers of opposite political parties published in such taxing district, or in one such paper if only one be there published, or in case no newspaper is there published, then the same shall be published in any two newspapers representing the two leading political parties, published in the county and having a general circulation in such taxing unit, or if only one such paper be there

published then such notice published in such paper shall be sufficient, and by posting such notice in three public places in such taxing district. The notice required shall be substantially as follows:

(Form 86—1922.)

NOTICE OF APPLICATION TO ISSUE BONDS OR OTHER EVIDENCE OF INDEBTEDNESS BEARING INTEREST IN EXCESS OF FIVE PER CENT.

State of Indiana, County } ss:
 In the matter of the application of..... }
 } No.
 (taxing unit)
 to issue bonds or other evidence of indebtedness.

Notice is hereby given that..... of
 (officer)
 the..... has filed with the State Board of
 (municipality)
 Tax Commissioners a petition to issue bonds or other evidence of indebtedness, in a sum not to exceed..... Dollars, bearing interest in excess of five per cent per annum, for the purpose

.....
 The net assessed value of all property in this taxing unit is \$..... and the present total indebtedness without this issue is \$..... Ten or more taxpayers, other than those who pay poll tax only, affected by the proposed indebtedness, who may be of the opinion that such indebtedness should not be incurred or that it be excessive, shall file their objection with the State Board of Tax Commissioners not later than the..... day of..... 192.. Where objections are filed, a date for a hearing in this county will be fixed and notice of such hearing will be given the executive officer of the taxing unit and the first ten taxpayers signing the objections. Where no objections are filed the State Board may approve such petition without a hearing, but in no instance will the State Board deny the petition without a hearing held in this county.

Any taxpayer or interested person may be present and be heard at such hearing.

Dated.....

 Officer of Taxing Unit.

Proof of the giving of notice should be made to the tax board before the date fixed in the notice. The publisher of the paper should make affidavit after the second publication, and the person who posted the notices should make affidavit showing when and where he posted them. All proofs must be on file before order can be made.

Procedure in Bond Issues Where Interest Exceeds Five Per Cent.

Rule 15. When an application to issue such bonds or other evidence of indebtedness bearing interest in excess of five per cent except those classes of bonds legally bearing interest at six per cent previous to March 10, 1921, is filed by any taxing unit, and no objection thereto is filed by at least ten taxpayers of such taxing unit on or before the date fixed in the published notice, such failure of any objections being filed shall be deemed by the board sufficient ground to entitle such taxing

unit to a judgment in its favor on such application. Provided, however that the board in its discretion may deny such petition, or modify the same, when the facts and circumstances warrant such action, but only after a hearing thereon as hereinafter provided. When objection by ten or more taxpayers, other than those who pay poll tax only, is filed to such bond issue or other evidence of indebtedness, the State Board shall fix a time and place for the hearing of such matter, which shall be not less than five nor more than thirty days thereafter, and said hearing shall be held in the taxing unit, or in the county where such taxing unit is located, which proposes to issue such bonds or other evidences of indebtedness. Notice of such hearing shall be given by said State Board to the executive officer of the taxing unit and to the first ten taxpayers objecting to such proceedings, by a letter signed by one member of the State Board of Tax Commissioners and enclosed in a sealed envelope with full prepaid postage addressed to said officer and taxpayers at their usual place of residence at least five days before the hearing thereof. Any taxpayer interested may appear and be heard. The decision of the State Board of Tax Commissioners upon the issuance of said obligations and the amounts thereof, if any, which may be lawfully issued, shall be final.

Petition of taxpayers objecting shall be sufficient if in the following form:

(Form 37—1922.)

State of Indiana, County } ss:
 In the matter of the petition of..... }
 }
 for authority to issue bonds or evidence }
 of indebtedness for..... }
 and bearing interest in excess of five per }
 cent and of the class of bonds not legally }
 bearing interest at six per cent prior to }
 March 10, 1921. }
 Objections of Tax-
 payers.

To the State Board of Tax Commissioners:

We, the undersigned ten or more petitioners, being taxpayers, other than those who pay poll tax only, of the.....
 (municipality)
County, Indiana, who will be affected by the proposed issuance of bonds or other evidence of indebtedness petitioned for the purpose of.....

object to such issue for the following reasons:

And that the proposed issue is unnecessary, unwise and excessive and we ask that the same be not approved.

Names of Taxpayers	Postoffice Address
1.
2.
3.
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INDIANAPOLIS:

***WM. B. BURFORD, CONTRACTOR FOR STATE PRINTING AND BINDING
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REVENUE LAWS

6

OF THE
STATE OF WASHINGTON
JUNE, 1917

Compiled and Annotated by the
STATE TAX COMMISSIONER

X72: (Z7361)



STATE TAX COMMISSIONER

§1. Appointment of Commissioner—Bond and Oath.

There is hereby created the office of State Tax Commissioner. Said State Tax Commissioner shall be appointed by the Governor with the advice and consent of the senate. Said Commissioner shall hold office for a term of four years but may be removed by the Governor for any cause he may deem sufficient, which power of removal shall be absolute and there shall be no right of review of the same in any court whatsoever. Before entering upon the duties of his office, said Commissioner shall give surety bond in the sum of ten thousand dollars (\$10,000.00) conditioned for the faithful performance of his duties, cost of said bond to be paid by the state, and shall take and subscribe the oath required of state officers. The Commissioner shall receive an annual salary of three thousand dollars (\$3,000.00), payable in the same manner as the salaries of other state officers, and shall be allowed such expenses as shall be actually and necessarily incurred in the performance of his duties. Said Commissioner may appoint and remove at pleasure an assistant commissioner, who shall draw a salary not to exceed eighteen hundred dollars (\$1,800.00) per annum, and may appoint such clerks and other employees as may be necessary for the administration of the affairs of the department. (L. '17, § 1, p. 210.)

Sec. 2 of this act vests the State Tax Commissioner with all the powers and duties formerly exercised or performed by the State Board of Tax Commissioners.

§2. Duties.

The Commissioner shall have the power, and it shall be his duty:

First.—To have and exercise general supervision of the system of taxation throughout the state.

Second.—To exercise general supervision over assessors and county boards of equalization and the determination and assessment of the taxable property in the several counties, cities and towns of the state, to the end that all taxable property in this state shall be placed upon the assessment rolls and equalized between persons, corporations and companies in the several counties of this state, and between the different municipalities and counties therein, so that equality of taxation shall be secured according to the provisions of law.

Third.—To take charge of and superintend the enforcement of the direct and collateral inheritance law, and the collection of taxes provided for therein.

Fourth.—To confer with, advise and direct assessors, boards of equalization and county boards of commissioners as to their duties under the law and statutes of the state, and to direct what proceedings, actions or prosecutions shall be instituted to support the law relating to the penalties, liabilities and punishment of public officers, persons, and officers or agents of corporations for failure or neglect to comply

with the provisions of the statutes governing the return, assessment and taxation of property, and cause complaint to be made against assessors in the proper county for their removal from office for official misconduct or neglect of duty. In the execution of these powers and duties the said Commissioner may call upon county attorneys or the Attorney General, who shall assist in the commencement and prosecution for penalties and forfeiture, liabilities and punishments for violations of the laws of the state in respect to the assessment and taxation of property.

Fifth.—To prescribe all forms of books and blanks to be used in the assessment and collection of taxes, and to change such forms when prescribed by law, and to recommend to the legislature such changes as may be deemed most economical to the state and counties, and such recommendation shall be accompanied by carefully prepared bill or bills for this end.

Sixth.—The Commissioner shall have power to require county, city and town officers to report information as to assessments of property, equalization of taxes, the expenditure of the public fund for all purposes, and other information which said Commissioner may request.

Seventh.—To require individuals, partnerships, companies, associations and corporations to furnish information as to their capital, funded debts, value of property, earnings, taxes and all other facts called for on these subjects, so that the Commissioner may ascertain the relative burdens borne by all kinds and classes of property within the state.

Eighth.—To summon witnesses to appear and testify on the subject of property earnings, taxes, or upon any matter deemed material to the investigation of the system of taxation, and the expenditure of public funds for state, county, district and municipal purposes. Such summons to be served in like manner as a subpoena issued out of the superior court and to be served by the sheriff of the proper county, and such service certified by him to said Commissioner without compensation therefor. Persons appearing before said Commissioner in obedience to a summons shall in the discretion of the Commissioner receive the same compensation as witnesses in the superior court, to be audited by the State Auditor on the certificate of said Commissioner.

Ninth.—To visit the counties in the state, unless prevented by the necessary official duties, for the investigation of the methods adopted by the county assessors and county boards of commissioners in the assessment and equalization of taxation of real and personal property; to carefully examine into all cases where evasion of property taxation is alleged, and ascertain where existing laws are defective, or improperly or negligently administered.

Tenth.—The Commissioner may administer oaths to witnesses. In case any witness shall fail to obey the summons to appear, or refuse to testify, such person shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than fifty dollars,

nor more than one thousand dollars. Any person who shall testify falsely shall be guilty of and punished for perjury.

Eleventh.—The Commissioner shall thoroughly investigate all complaints which may be made to him of illegal, unjust or excessive taxation, and shall endeavor to ascertain to what extent and in what manner, if at all, the present system is unequal or oppressive.

Twelfth.—It shall be the duty of the county assessor, on the completion of his assessment rolls each year, to furnish the Tax Commissioner a list of corporations, companies, associations, banks and individuals doing business of a public character whose assessed valuation is three thousand dollars or more, together with the class of property and the valuation placed on same for assessment purposes. (L. '07, §1, p. 508; R. & B. Code, §9085.)

Duties relating to assessment of operating property of railroads: §§66, *et seq.*, *infra*.

Duties relating to assessment of property of telegraph companies: §§78, *et seq.*, *infra*.

§3. To Examine and Test All Assessments.

The Commissioner shall examine and test work of county assessors during progress of the assessments, or at any time when it is deemed necessary and convenient. Said Commissioner shall have all the rights and powers of the assessor for the examination of persons and property and for the discovery of property subject to taxation. If such Commissioner shall ascertain that any property is omitted, or not assessed according to law, he shall bring the same to the attention of the county assessor of the proper county, and if the assessor shall neglect or refuse to correct the assessment to conform to law, the said Commissioner shall report the fact in writing to the clerk of the board of county commissioners, who shall lay the same before the board of county commissioners for review and examination in said county at a meeting of said board held for the equalization of taxes. (L. '05, §3, p. 227; R. & B. Code, §9086.)

State Tax Commissioner a member of the State Board of Equalization. See §91 *infra*.

§4. To Investigate Revenue Laws and Make Report to Legislature.

The State Tax Commissioner shall make diligent investigation concerning the revenue laws and systems of other states and countries, so far as the same may be known by reports and statistics and can be ascertained by correspondence, and with the aid of information thus obtained, together with the experience and observation of our own laws and the operation thereof, recommend to the Governor, in a biennial report at least sixty days before the meeting of the legislature, such amendments, changes and modifications of our revenue laws as seem proper and requisite to remedy injustice and irregularities in taxation, and to facilitate the assessment and collection of public revenue in the most economical manner. All such recommendations shall

be accompanied by suitable bill or bills necessary to carry into effect such recommendations. This report shall also show in tabulated form the whole amount of taxes collected in the state for all purposes, classified as state, county and municipal, with the sources thereof, the amount lost, the cause of the loss and such other pertinent statistics, matter and information concerning revenue and taxation as may be deemed of public interest. (L. '05, §4, p. 227; R. & B. Code, §9087.)

§5. Printed Copies of Report to Legislature.

There shall be printed copies of said report, one copy of which shall be sent to each member of the legislature at least twenty days prior to the assembling thereof. (L. '05, §5, p. 228; R. & B. Code, §9088.)

§6. Shall Compile Tax Laws.

The State Tax Commissioner shall compile the laws of this state relating to assessment and collection of taxes, with such annotations, instructions and references to the decisions of the courts concerning the same as he may deem proper. And he shall cause the same to be printed and distributed to the several county assessors, deputy county assessors, county attorneys, county commissioners, in the state, and to such other officers and persons as may request the same, such printing to be borne by the public printing fund. (L. '07, §3, p. 511; R. & B. Code, §9090.)

§7. County Assessors' Annual Convention.

For the purpose of instruction on the subject of taxation, the county assessors of the state shall meet with the State Tax Commissioner at the capital of the state on the third Monday of January of each year. Each assessor shall be paid by the county of his residence his actual expenses in attending said convention, upon presentation to the county auditor of proper vouchers. (L. '11, §1, p. 46; R. & B. Code, §9086-1.)

DEFINITIONS AND EXEMPTIONS

§8. Property Subject to Taxation.

That all real and personal property now existing, or that shall be hereafter created or brought into this state, shall be subject to assessment and taxation for the support of the state government, and for county, school, municipal, or such other purposes as shall be designated by law, upon equalized valuations thereof, fixed with reference thereto on the first day of March at 12 o'clock meridian, in each and every year in which the same shall be listed, except such property as shall be expressly exempted therefrom by the provisions of law. (L. '97, §1, p. 136; R. & B. Code, §9091.)

See Art. VII, §1, Const., property liable to taxation, exception.

See Art. VII, §2, Const., uniformity and equality of taxation guaranteed.

See Art. VII, §3, Const., assessment of corporate property.

§9. Realty Defined.

Real property, for the purposes of taxation, shall be construed to include the land itself, whether laid out in town lots or otherwise, and all buildings, structures and improvements, or other fixtures of whatsoever kind, thereon, and all rights and privileges thereto belonging, or in anywise appertaining, and all quarries and fossils in and under the same, which the law defines, or the courts may interpret, declare and hold to be real property under the letter, spirit, intent and meaning of the law, for the purposes of taxation. (L. '97, §2, p. 136; R. & B. Code, §9092.)

Leases taxed as personality: §11, *infra*.

Standing timber taxed as personality: §12, *infra*.

Improvements on public lands: §65, *infra*.

Fish traps and fishing locations taxed as personality: §12, *infra*.

§10. "Personalty" Defined—Ships Exempt—Moneys and Credits.

Personal property, for the purpose of taxation, shall be construed to embrace and include, without especially defining and enumerating it, all goods, chattels, stocks or estates; all improvements upon lands, the fee of which is still vested in the United States, or in the State of Washington, or in any railroad company or corporation, and all and singular of whatsoever kind, name, nature and description, which the law may define or the courts interpret, declare and hold to be personal property, for the purpose of taxation, and as being subject to the laws and under the jurisdiction of the courts of this state, whether the same be any marine craft, as ships and vessels, or other property holden under the laws and jurisdiction of the courts of this state, be the same at home or abroad: *Provided*, That the ships or vessels registered in any custom house of the United States within this state, which ships or vessels are used exclusively in trade between this state and any of the islands, districts, territories, states of the United States, or foreign countries, shall not be listed for the purpose of or subject to taxation in this state, such vessels not being deemed property within this state: *Provided*, That mortgages, notes, accounts, moneys, certificates of deposit, tax certificates, judgments, state, county, municipal and school district bonds and warrants shall not be considered as property for the purpose of this chapter, and no deduction shall hereafter be allowed on account of an indebtedness owed. (L. '07, §1, p. 69; R. & B. Code, §9093.)

Leases taxed as personality: §11, *infra*.

Standing timber taxed as personality: §12, *infra*.

Improvements on public lands: §65, *infra*.

Fish traps and fishing locations taxed as personality: §12, *infra*.

This section in so far as it exempts "moneys" from taxation violates the constitutional requirement that all property be taxed: *State ex rel. Wolfe vs. Parmenter*, 50 Wash. 164.

§11. Leases.

For the purposes of assessment and taxation all leases of real property and leasehold interests therein for a term less than the life

of the holder, shall be and the same are hereby declared to be personal property. (L. '07, §1, p. 206; R. & B. Code, §9094.)

§12. Standing Timber—Fish Traps and Fishing Locations.

For the purposes of taxation the following described property shall be deemed personal property and shall be assessed and taxed in the county where situated, viz.:

Standing timber held or owned separately from the ownership of the land upon which it may stand.

Fish trap, pound net, reef net, set net and drag seine fishing locations. (L. '07, §1, p. 206; L. '11, §1, p. 90; R. & B. Code, §9222-1.)

§13. Lumber and Saw Logs—Where Listed.

Lumber and saw logs shall be assessed and taxed in the county and assessment district where the same may be situated on the first day of March of the assessment year. (L. '07, §3, p. 206; R. & B. Code, §9096.)

§14. General Definitions.

The term "money" or "moneys," wherever used in this act, shall be held to mean gold and silver coin, gold and silver certificates, treasury notes, United States notes, bank notes, and every deposit which any person owning the same or holding in trust, and residing in this state, is entitled to withdraw in money. The term "tract" or "lot," and "piece or parcel of real property" and "piece or parcel of lands," wherever used in this act, shall each be held to mean any contiguous quantity of land in the possession of, owned by, or recorded as the property of the same claimant, person, or company. Every word importing the singular number only may be extended to or embrace the plural number, and every word importing the plural number may be applied and limited to the singular number, and every word importing the masculine gender only may be extended and applied to females as well as males. Whenever the word "oath" is used in this act, it may be held to mean affirmation, and the word "swear" in this act may be held to mean affirm. The term "person," wherever used in this act, shall be construed to include firm, company, association or corporation. The words "county auditor," when used in this act, shall be construed to mean register or recorder, whenever it shall be necessary to use the same to the proper construction of this act. The word "householder" shall be taken to mean and include every person, married or single, who resides within the State of Washington, being the owner or holder of an estate, or having a house or place of abode, either as owner or lessee. (L. '97, §4, p. 138; R. & B. Code, §9097.)

"Manufacturer" defined: 56, *infra*.

§15. Exemptions from Taxation.

All property described in this section, to the extent herein limited, shall be exempt from taxation, that is to say:

First.—All lands used exclusively for public burying grounds or cemeteries, all churches built and supported by donations whose seats

are free to all, and the grounds whereon such churches are built, not exceeding one hundred and twenty feet by two hundred feet in quantity, together with a parsonage: *Provided*, That in any case the area exempted shall include all ground covered by such churches and parsonages and the structures and ground necessary for street access, light and ventilation, but the area of unoccupied ground exempted in connection with both church and parsonage under this proviso shall not exceed the equivalent of 120 by 120 feet. The parsonage need not be on land contiguous to the church property if the total area exempted does not exceed the area above designated: *Provided*, That such grounds are used wholly for church purposes and not otherwise; also the property of other non-sectarian organizations or associations, organized and conducted primarily and chiefly for religious purposes and not for profit, which shall be wholly used, or to the extent solely used for the religious purposes of such associations, or for the educational, benevolent, protective or social departments growing out of, or related to, the religious work of such associations: *Provided*, Such purposes are for the general public good and such properties are devoted to the general public benefit; also all art, scientific or historical collections of associations, maintaining and exhibiting such collections for the benefit of the general public and not for profit.

Second.—All property, whether real or personal, belonging exclusively to any school district, county, municipal corporation, the state, or to the United States.

Third.—All fire engines and other implements used for the extinguishment of fires, with the building used exclusively for the safe-keeping thereof, and for the meetings of fire companies, providing that such belongs to any town or fire company organized therein.

Fourth.—All free public libraries, orphanages, orphan asylums, institutions for the reformation of fallen women, homes for the aged and infirm, and hospitals for the care of the sick, when such institutions are supported in whole or in part by the public donations or private charity, and all of the income and profits of such institutions are devoted, after paying the expenses thereof, to the purposes of such institutions, and the grounds, whenever such libraries, orphanages, institutions, homes and hospitals are built and when used exclusively and not otherwise for the purposes in this subdivision enumerated. In order to determine whether such libraries, orphanages, institutions, homes and hospitals are exempt from taxes, within the true intent of this chapter, the state board of health, the county and city authorities of the county and city wherein such institutions are respectively situated, shall have access to the books of such institutions, and the institution claiming exemption shall provide by its articles of incorporation that the mayor of the city and the chairman of the board of county commissioners wherein such institution is located shall be *ex-officio* trustees thereof, and shall be notified of each and every meeting thereof, and shall have the same powers as a trustee of such insti-

tution. And the superintendent or manager of the library, orphanage, institution, home or hospital claiming exemption from taxation under this chapter shall make oath before the assessor that the income and the receipts thereof, including donations to it, have been applied to the actual expenses of maintaining it, and to no other purpose. He shall also, under oath, make annual report to the state board of health of its receipts and disbursements, specifying in detail the sources from which the receipts have been derived and the object to which disbursements have been applied, and shall furnish in the said report full and complete vital statistics for the use and information of the state board of health, who may publish the same in its annual report.

Fifth.—All ships, vessels and boats in actual construction and all materials especially designed and set apart for the construction of any such ship, vessel or boat in process of building within this state, shall be exempt from taxation.

Sixth.—The personal property of each head of a family or widow liable to assessment and taxation of which such individual is the actual and *bona fide* owner to an amount of three hundred dollars: *Provided*, That each person shall list all of his personal property for taxation and the county assessor shall deduct the amount of the exemption authorized by this section from the total amount of the assessment and assess the remainder. The property owned by humane societies in this state in actual use by such societies not exceeding ten thousand dollars in taxable value owned by any society. (L. '15, §1, p. 345; R. & B. Code, §9098.)

Cemeteries exempt, when: R. & B. Code, §3640, 3642.

The proviso to the amendment to the constitution authorizing the legislature to exempt personal property to the amount of \$300 for each head of a family liable to assessment and taxation permits a deduction only of personal property to the actual value of the amount of the exemption and not an exemption of \$300 from the value placed on the property for the purpose of assessment: *State ex rel. Board of Tax Commissioners vs. Cameron*, 90 Wash. 407.

§16. Property of Schools and Colleges.

There shall be exempt from taxation in the State of Washington all property, real and personal, owned by any school or college in this state, supported in whole or in part by gifts, endowments or charity, the entire income of which said school or college, after paying the expenses thereof, is devoted to the purposes of such institution, and which is open to all persons upon equal terms: *Provided*, That said property is used solely for educational purposes (or the revenue therefrom be devoted exclusively to the support and maintenance of such institution): *And provided further*, That the real estate so exempt shall not exceed ten acres in extent, and shall be used exclusively for college or campus purposes: *Except, however*, That any school of collegiate grade and accredited by the state board of education shall be entitled to an exemption of not more than forty acres of real estate used exclusively for said purposes, but no corporation shall be entitled

to more than one such larger exemption, and where the college is under the direction or control of any religious denomination such larger exemption shall be allowed to one college only directed or controlled by such religious denomination: *And provided further*, That real estate owned or controlled by such institution and leased or rented by them for the purpose of deriving revenue therefrom shall not be exempt from taxation under the provisions of this act: *Provided further*, That the annual income from such endowment is equal to or exceeds all incomes from tuitions received by said institutions. (L. '15, §1, p. 403; R. & B. Code, §9099.)

§17. No Exemption from Local Assessment.

Nothing in this act will exempt such property from payment of local assessment for improvements made or hereafter to be made. (L. '15, §2, p. 404; R. & B. Code, §9099-1.)

"This act" refers to preceding section.

§18. Filing Claims of Exemption.

Any such institution claiming said exemption shall file such claim with the county auditor of the county where such property is located and also with the secretary of state. (L. '15, §3, p. 404; R. & B. Code, §9099-2.)

§19. Sworn Statement to Be Filed With Assessor.

Before any exemption provided for by this act shall be allowed for any year, the institution claiming such exemption shall file with the county assessor of the county wherein such property is situated and subject to taxation, on or before the first day of March in each year, a statement verified by the oath of the president, treasurer, or other proper officer of such institution, containing a list of all property claimed to be exempt, the purpose for which the same is used, the revenue derived from the same for the preceding year, the use to which such revenue was applied, the number of students in attendance at such school or college, and the total revenues of the same, with the source from which the same was derived, and the purposes to which such revenues were applied, giving the items of such revenues and expenditures in detail. The county assessor of the county wherein such property is subject to taxation and such exemption is claimed, shall at all times have access to the books and records of such institution in order to determine whether any property claimed to be exempt from taxation should be exempted under the provisions of this act. (L. '03, §2, p. 389; R. & B. Code, §9100.)

LISTING AND ASSESSMENT OF PROPERTY

§20. When Property Listed.

All real property in this state subject to taxation shall be listed and assessed under the provisions of this act in the year 1900 and biennially thereafter on every even numbered year, with reference to

its value on the first day of March preceding the assessment. All personal property in this state subject to taxation shall be listed and assessed every year with reference to its value on the first day of March preceding the assessment: *Provided*, That the assessed value of all real property in this state as fixed by the assessment of 1897 shall be the assessed value until the year 1900: *Provided further*, That real estate becoming subject to taxation since the last assessment, and improvements upon real estate made since the last assessment, shall be assessed and included in the assessment list and tax roll in every odd numbered year: *And provided further*, That the destruction or removal of improvements since the last preceding assessment shall be duly noted by the county assessor, and the assessment and tax rolls herein provided made to conform to such changes: *Provided further*, That all real estate subject to taxation shall be listed by the assessor each year in the detailed and assessment list, and in each odd numbered year the valuation of each tract for taxation shall be the same as the valuation thereof as equalized by the county board of equalization in the preceding year. (L. '97, §6, p. 140; R. & B. Code, §9101.)

Personal property brought into state after March 1, shall pay tax: §40, *infra*.

Itinerant merchants, how taxed: §131, *infra*.

Migratory stock, how taxed: §41, *infra*.

§21. Assessor's Oath and Bond.

Every person elected or appointed to the office of assessor shall file with the board of county commissioners, within the time provided by law, his bond, payable to the State of Washington, with two or more good freehold sureties, to be approved by the said board, in the penal sum to be fixed by the board of county commissioners, conditioned that he will diligently, faithfully and impartially perform the duties enjoined on him by law; and he shall, moreover, take and subscribe on said bond an oath that he will, according to the best of his judgment, skill and ability, diligently, faithfully and impartially perform all the duties enjoined on him by this act; and if any person so elected or appointed fails to give bond or fails to take the oath required within the time prescribed, such failure shall be deemed a refusal to serve. (L. '97, §44, p. 157; R. & B. Code, §3972.)

Election of assessor: R. & B. Code, §3971.

§22. Deputy Assessors.

Any assessor who deems it necessary, to enable him to complete the listing and the valuation of the property of his county within the time prescribed by law, may appoint one or more well qualified citizens of his county to act as his assistants or deputies, and assign them to such portion of his county as he thinks proper; and each assistant so appointed shall, under the direction of the assessor, after taking the required oath, perform all the duties enjoined upon, vested in or imposed upon assessors by the provisions of this act; and each of such deputies shall receive for his services while actually employed in such

work the sum which may be designated and allowed by the board of county commissioners, not exceeding three and one-half dollars per day: *Provided*, That no assessor shall appoint any deputy unless the same be actually necessary, and then for no longer time than may be actually needed: *Provided further*, That the county commissioners may limit the number of deputies to be employed by the assessor. (L. '97, §45, p. 157; R. & B. Code, §4973.)

§23. Assessor Shall Begin Work, When.

The assessor shall begin the preliminary work for each assessment not later than the first day of February of each year in all counties from the first to the sixteenth class, inclusive, and not later than the first day of March in all other counties in the state. He shall also complete the duties of listing and placing valuations on all property by May 31st of each even numbered year, and in the following manner, to-wit: He shall actually determine as nearly as practicable the true and fair value of each tract or lot of real property listed for taxation and shall enter the value thereof, including the value of all improvements and structures thereon, opposite each description of property. He shall make an alphabetical list of the names of all persons in his county liable to assessment of personal property, and require each person to make a correct list and statement of such property according to the prescribed form, which statement and list shall be subscribed and sworn to by the person listing the property, and the assessor shall thereupon determine the value of the property included in such statement and enter the same in assessment books opposite the name of the party assessed; and in making such entry in his assessment list, he shall give the name and postoffice address of the party listing the property, and if the party reside in a city the assessor shall give the street and number or other brief description of his residence or place of business. (L. '97, §46, p. 157; R. & B. Code, §9102.)

§24. Lists, How Secured.

The assessor shall call at the office, place of doing business or residence of each person required by this act to list property, and list his name, and shall require such person to make a correct statement of his taxable property, in accordance with the provisions of this act; and every person so required shall enter a true and correct statement of such property in the form prescribed, which statement shall be signed and verified by the oath of the person listing the property, and shall deliver to the assessor, who shall thereupon assess the value of such property and enter the same in his books: *Provided*, If any property is listed or assessed on or after the fourth Monday of May, and before the return of the assessor's books, the same shall be legal and binding as if listed and assessed before that time: *Provided further*, That if from any reason the assessor shall fail to visit any such person, firm or corporation, said failure shall not impair or invalidate such assessment. (L. '97, §47, p. 158; R. & B. Code, §9102½.)

§25. Omitted Property to Be Listed.

The assessor, upon his own motion, or upon the application of any taxpayer, shall enter in the detail and assessment list of the current year, any property shown to have been omitted from the assessment list of any preceding year, at the valuation of that year, or if not then valued, at such valuation as the assessor shall determine from the preceding year, and such valuation shall be stated in a separate line from the valuation of the current year. (L. '97, §48, p. 158; R. & B. Code, §9103.)

Listing of property omitted in current year: §33, *infra*.

§26. List of Sick or Absent Person.

If any person required by this act to list property shall be sick or absent when the assessor calls for a list of his property, the assessor shall leave at the office, or usual place of residence or business of such person, a written or printed notice requiring such person to make out and leave at the place named by said assessor, on or before some convenient day named therein, the statement or list required by this act. The date of leaving such notice and the name of the person required to list the property, shall be noted by the assessor in his assessment book. (L. '97, §49, p. 158; R. & B. Code, §9104.)

§27. Return "Refused to List," Etc.

In every case where any person whose duty it is to list personal property for taxation has refused or neglected to list the same when called on by the assessor for that purpose, or to take and subscribe an oath in regard to the truth of his statement of personal property, or any part thereof, when required by the assessor, the assessor shall enter opposite the name of such person, in an appropriate column, the words "refused to list" or "refused to swear," as the case may be; and in every case where any person required to list property for taxation has been absent, or unable from sickness to list the same, the assessor shall list the property of such person and enter opposite the name of such person, in an appropriate column, the words "absent or sick." The assessor is hereby authorized to administer oaths to all persons who, by the provisions of this act are required to swear, or whom he may require to testify in any case, and he may examine upon oath any person whom he may suppose to have knowledge of the amount or value of the personal property of any person refusing to list or to verify his list of personal property. The assessor shall report to the county board of equalization all cases where the owner or agent of property assessed was, at the time of assessment, either absent or sick, or refused to make a sworn statement in reference thereto. (L. '97, §50, p. 159; R. & B. Code, §9105.)

§28. Shall List for School and Road Districts.

It shall be the duty of assessors, when assessing real or personal property, to designate the number of the school district and road dis-

trict in which each person and each description of property assessed is liable for tax, which designation shall be made by writing the number of the districts opposite each assessment, in a column provided for that purpose in the detail and assessment list. When the real and personal property of any person is assessable in several school districts and road districts, the amount in each shall be assessed on separate detail and assessment lists and all property assessable in incorporated cities shall be assessed in consecutive books, where more than one book is necessary, and separate from outside property and separately, and the name of the owner, if known, together with his postoffice address, placed opposite each amount. (L. '97, §51, p. 159; R. & B. Code, §9108.)

§29. Maps of School and Road Districts.

The county commissioners of each county shall furnish the assessor with a map of the county, showing the boundaries of each road and school district therein numbered. And the board of county commissioners, in fixing, changing or revising the boundaries of any district or districts, shall, wherever practicable, make the boundaries of such district or districts conform to the boundaries of the school district nearest coincident thereto, to the end that the several school and road districts in each county shall correspond in territory one with the other: *Provided*, That any road district may include more than one school district. (L. '97, §52, p. 160; R. & B. Code, §9107.)

§30. Failure of Obtain Lists—Service of Estimated List.

In all cases of a failure to obtain a statement of personal property, from any cause, it shall be the duty of the assessor to ascertain the amount and value of such property and assess the same at such amount as he believes to be the true value thereof. The assessor, when requested, shall deliver to the person assessed a copy of the statement of property hereinbefore required, showing the valuation of the property so listed, which copy shall be signed by the assessor. (L. '97, §53, p. 160; R. & B. Code, §9108.)

§31. Footings of Lists by Assessor.

The assessor shall add up and note the amount of each column in his detail and assessment lists, which he shall have bound in book form. He shall also make, under proper headings, a tabular statement showing the footings of the several columns upon each page, and shall add and set down under the respective headings the total amounts of each column, which he shall attach to the highest numbered assessment book, and on or before the first Monday in August he shall file the same, properly indexed, with the clerk of the county board of equalization for the purpose of equalization by the said board. Such returns shall be verified by his affidavit, substantially in the following form:

State of Washington,County, ss.

I,, assessor of..... do solemnly swear that the books No. 1 to No....., to the last of which this is attached, contain a

correct and full list of all the real property (or personal property, as the case may be) subject to taxation in.....county, so far as I have been able to ascertain the same; and that the assessed value set down in the proper column, opposite the several kinds and descriptions of property, is in each case the true and fair value of such property, to the best of my knowledge and belief, and that the footings of the several columns in said books, and the tabular statement returned herewith, are correct, as I verily believe.

.....Assessor.
 Subscribed and sworn to before me this.....day of....., 19...
 [L. S.]Auditor of.....County.

Provided, That the failure of the assessor to attach his certificate shall in nowise invalidate the assessment. After the same has been duly equalized by the county and state board of equalization, the same shall be delivered to the county auditor, who shall then extend the amount as levied by the state and county boards upon the said detail and assessment lists as by law provided. (L. '97, §54, p. 160; R. & B. Code, §9109.)

County assessor to extend rolls after 1911: §... *infra*.

§82. Correction of Lists.

If any person required to list property for taxation is prevented by sickness or absence from giving to the assessor such statement, such person or his agent having charge of such property, may, at any time before the close of the session of the board of equalization, make out and deliver to said board a statement of the same as required by this act, and the board shall, in such case, make an entry thereof, and correct the corresponding item or items in the return made by the assessor, as the case may require; but no such statement shall be received by the said board from any person who refused or neglected to make oath to his statement when required by the assessor as provided herein; nor from any person unless he makes and files with the said board an affidavit that he was absent from his county, without design to avoid the listing of his property, or was prevented by sickness from giving the assessor the required statement when called on for that purpose. (L. '97, §55, p. 161; R. & B. Code, §9110.)

§83. Addition of Omitted Property.

The county auditor shall carefully examine the assessment books when returned to him by the assessor, and if he discovers that the assessment of any property has been omitted, shall enter the same upon the proper list and forthwith notify the assessor making such omission, who shall immediately proceed to ascertain the value thereof and correct his original return; in case of the inability or neglect of the assessor to perform his duty, the auditor shall ascertain the value of such property and make the necessary corrections. (L. '97, §56, p. 161; R. & B. Code, §9111.)

Assessment of property omitted in preceding years: §25. *supra*.

§84. Assessment at Not to Exceed Fifty Per Cent. of True Value.

All property shall be assessed at not to exceed fifty per cent. of its true and fair value in money. In determining the true and fair value

of real or personal property, the assessor shall not adopt a lower or different standard of value because the same is to serve as a basis of taxation; nor shall he adopt as a criterion of value the price for which the said property would sell at auction, or at a forced sale, or in the aggregate with all the property in the town or district; but he shall value each article or description of property by itself, and at such sum or price as he believes the same to be fairly worth in money at the time such assessment is made. The true cash value of property shall be that value at which the property would be taken in payment of a just debt from a solvent debtor. In assessing any tract or lot of real property, the value of the land, exclusive of improvements, shall be determined; also, the value of all improvements and structures thereon, and the aggregate value of the property, including all structures and other improvements, excluding the value of crops growing on cultivated lands. In valuing any real property on which there is a coal or other mine, or stone or other quarry, the same shall be valued at such price as such property, including the mine or quarry, would sell at a fair, voluntary sale for cash. Taxable leasehold estates shall be valued at such a price as they would bring at a fair, voluntary sale for cash. (L. '13, §1, p. 438; R. & B. Code, §9112.)

§85. Listing and Description of Realty.

The assessor shall list all real property according to the largest legal subdivision as near as practicable. The assessor shall make out in the plat and description book in numerical order a complete list of all lands or lots subject to taxation, showing the names and owners, if to him known, and if unknown, so stated; the number of acres and lots or parts of lots included in each description of property and the value per acre or lot: *Provided*, That the assessor shall give to each tract of land where described by metes and bounds a number, to be designated as Tax No. . . . , which said number shall be placed on the tax rolls to indicate that certain piece of real estate bearing such number, and described by metes and bounds in the plat and description book herein mentioned, and it shall not be necessary to enter a description by metes and bounds on the tax roll of the county, and the assessor's plat and description book shall be kept as a part of the tax collector's records: *And provided further*, That the board of county commissioners of any county may by order direct that the property be listed numerically according to lots and blocks or section, township and range, in the smallest platted or government subdivision, and when so listed the value of each block, lot or tract, the value of the improvements thereon and the total value thereof, including improvements thereon, shall be extended after the description of each lot, block or tract, which last extension shall be in the column headed "Total value of each tract, lot or block of land assessed with improvements as returned by the assessor." In carrying the values of said property into the column representing the equalized value thereof, the county auditor

shall include and carry over in one item the equalized valuation of all lots in one block, or land in one section, listed consecutively, which belong to any one person, firm or corporation, and are situated within the same road or school district or municipal corporation, and in the assessed value of which the county board of equalization has made no change. Where assessed valuations are changed, the equalized valuation must be extended and shown by item. The detail and assessment lists and blanks shall be in readiness for delivery to the assessors on the third Monday of January of each year. (L. '01, §3, p. 167; R. & B. Code, §9113.)

§36. Owner Shall Plat Irregular Tracts.

In all cases of irregular subdivided tracts or lots of land other than any regular government subdivision the county assessor shall outline a plat of such tracts or lots and notify the owner or owners thereof with a request to have the same surveyed by the county surveyor, and cause the same to be platted into numbered (or lettered) lots or tracts: *Provided, however,* That where any county has in its possession the correct field notes of any such tract or lot of land a new survey shall not be necessary, but such tracts may be mapped from such field notes. (L. '01, §1, p. 265; R. & B. Code, §9114.)

§37. Neglect or Refusal of Owner.

In case the owner of such tracts or lots neglect or refuse to have the same surveyed or platted, the county assessor shall notify the board of county commissioners in and for the county, who may order and direct the county surveyor to make the proper survey and plat of the tracts and lots. (L. '01, §2, p. 265; R. & B. Code, §9115.)

§38. Plats, Requirements as to.

A plat shall be made on which said tracts or lots of land shall be accurately described by lines, and numbered (or lettered) which numbers (or letters) together with number of the section, township and range shall be distinctly marked on such plat, and the field notes of all such tracts or lots of land shall describe each tract or lot according to the survey, and such tract or lot shall be numbered (or lettered) to correspond with its number (or letter) on the map. The plat shall be given a designated name by the surveyor thereof. When the survey, plat, field notes and name of plat, shall have been approved by the board of county commissioners, the plat and field notes shall be filed and recorded in the office of the county auditor, and the description of any tract or lot of land described in said plats by number (or letter), section, township and range, shall be a sufficient and legal description for revenue and all other purposes. (L. '01, §3, p. 265; R. & B. Code, §9116.)

§39. Who Shall List Personalty.

Personal property shall be listed in the manner following:

First.—Every person of full age and sound mind, being a resident of this state, shall list all his moneys, notes, accounts, bonds or stock.

shares of stock of joint stock or other companies (when the property of such company is not assessed in the state), franchises, royalties, and other personal property.

Second.—He shall also list separately, and in the name of his principal, all moneys deposited subject to his order.

Third.—The property of a minor child shall be listed by his guardian or by the person having such property in charge.

Fourth.—The property of an idiot or lunatic, by the person having charge of such property.

Fifth.—The property of a person for whose benefit it is held in trust by the trustees of the estate of the deceased person, or by the executor or administrator.

Sixth.—The property of corporations whose assets are in the hands of receivers by such receivers or their agents.

Seventh.—The property of a body politic or corporate, by the president or proper agent or officer thereof.

Eighth.—The property of a firm or company, by a partner or agent thereof.

Ninth.—Money and property in litigation, in possession of any county officer, must be assessed to the custodian thereof, and the taxes thereon paid by the custodian thereof under the direction of the court. (L. '97, §8, p. 141; R. & B. Code, §9117.)

Penalty for false statement under this act see §45, *infra*.

Certain personal property exempt: §10, *supra*.

§40. Owner of Personalty Removing.

The owner of personal property removing from one county to another between the first day of March and the first day of July shall be assessed in either in which he is first called upon by the assessor. The owner of personal property moving into this state from another state between the first day of March and the first day of July shall list the property owned by him on the first day of March of such year in the county in which he resides: *Provided*, That if such person has been assessed and can make it appear to the assessor that he is held for the tax of the current year on the property in another state or county, he shall not be again assessed for such year. (L. '97, §7, p. 141; R. & B. Code, §9118.)

Taxation of itinerant merchants: §131, *infra*

Taxation of migratory stock: §41, *infra*.

Collection of tax where property has been removed: §142, *et seq.*, *infra*.

§41. Migratory Stock—Animals Grazing.

When any cattle, horses, sheep or goats are driven into any county of this state for the purpose of grazing therein at any time after the first Monday in April in any year, they shall be liable to be assessed for all taxes leviable in that county for the year the same as if they had been in the county at the time of the annual assessment, and it shall be the duty of the assessor in any county in which any of

said stock are driven, to assess the same, and the taxes on said stock shall become due upon the assessment of the same, and the sheriff shall collect said taxes at once in the manner prescribed by law for the collection of delinquent taxes: *Provided*, That such stock has not been assessed in some other county in this state for that year. (L. '95, §1, p. 105; R. & B. Code, §9119.)

§42. Payment in Another State Does Not Exempt.

The payment of taxes in any other state or territory, or the proof that said stock has been assessed for that year in any other state or territory, shall in no way exempt said stock from the operation of section one of this act. (L. '95, §2, p. 106; R. & B. Code, §9120.)

Compare: §40, *supra*, a later enactment.

§48. Personalty—Where Listed.

Personal property, except such as is required in this act to be listed and assessed otherwise, shall be listed and assessed in the county where the owner or agent resides. If there be no principal office or place of business in this state, then at the place in this state where any such corporation or person transacts business. The personal property pertaining to the business of a merchant or of a manufacturer shall be listed in the town or place where his business is carried on. (L. '97, §9, p. 141; R. & B. Code, §9121.)

§44. List of Electric Lighting, Etc., Companies.

Any person, company, power company or corporation using or operating a telegraph,* telephone, electric line or electric light line in this state shall annually, in the month of March, return to the county assessor a map and a schedule or statement, under oath, as follows: *First*, The amount of capital stock authorized and the number of shares into which said capital stock is divided; *second*, the amount of capital stock paid up; *third*, the market value, or if no market value, then the actual value of the shares of stock; *fourth*, the total amount of all indebtedness, except current expenses for operating the line; *fifth*, the length of the line operated in each county and the total length in the state; *sixth*, the total assessed valuation of its tangible property in this state. Such schedule shall give the date, character, extent and value of such franchise, the gross income, the number of poles per mile, the number of wires, and every electric light company shall give the kind of lights and the number of each kind supplied, the location and value of the electric plant, whether the ground is owned or leased, and if leased, the owner's name, and the value of the plant separate from such ground. Such schedule shall be made in conformity to such instructions and forms as may be prescribed by the State Auditor, and with reference to amounts and values on the first day of March of the year

*This section insofar as it relates to telegraph companies is repealed by §78 *et seq.*, *infra*.

for which the return is made, and it shall be the duty of the county assessor to transmit a copy of such schedule to the State Auditor on or before the first Monday in July of each year. All property, real and personal, owned by such person, company or corporation and situated in this state must be listed and assessed for taxation and shall be subject to the same levies as the property of individuals and the same rules that govern other companies and corporations. (L. '97, §40, p. 154; R. & B. Code, §9169.)

Duty of Tax Commissioner to prescribe forms: § 2, *supra*.

§45. Penalty for False Statement, Etc.

If any person or corporation shall give a false or fraudulent list, schedule or statement required by this act, or shall fail or refuse to deliver to the assessor, when called on for that purpose, a list of the taxable personal property which he is required to list under this act, he or it shall be liable to a penalty of not less than ten dollars nor more than two thousand dollars, to be recovered in any proper form of action in the name of the State of Washington on the complaint of any person, such fine, when collected, to be paid into the county treasury to the credit of the general fund. (L. '97, §41, p. 154; R. & B. Code, §9170.)

"This act" refers to the general revenue act of 1897 and the subsequent amendatory acts.

§46. Personalty of Common Carriers.

The personal property of express, transportation and stage companies shall be listed and assessed in the county where the same is usually kept. All vessels of every class which are by law required to be registered, licensed or enrolled, must be assessed and the taxes paid thereon paid only in the county where the owner or managing owner or agent thereof resides: *Provided*, That such interest shall be taxed but once. Vessels registered, licensed or enrolled out of, and plying in whole or in part in, the waters of this state, the owners, managing owners or agents of which reside in this state, must be assessed in this state, and in the county in which the owners, managing owners or agents reside, to the value of the respective share or shares owned by said person or persons. All boats and small craft not required to be registered must be assessed in the county where the same are kept. (L. '97, §10, p. 142; R. & B. Code, §9122.)

§47. Gas and Water Companies.

The personal property of gas, electric and water companies shall be listed and assessed in the town or city where the same is located. Gas and water mains and pipes laid in roads, streets or alleys, shall be held to be personal property. (L. '97, §11, p. 142; R. & B. Code, §9122.)

§48. Street Railroad and Other Roads.

The personal property of street railroad, plank road, gravel road, turnpike or bridge companies, shall be listed and assessed in the county, town or city where the same is located, and the track, road or bridge shall be held to be personal property. (L. '97, §12, p. 142; R. & B. Code, §9124.)

§49. Personalty of Owner Not Residing on Farm.

When the owner of live stock or other personal property connected with a farm does not reside thereon, the property shall be listed and assessed in the county or place where the farm is situated; if not listed in said county, then to be taxed where found. (L. '97, §13, p. 142; R. & B. Code, §9125.)

§50. Decision of Question as to Place of Listing.

In all questions that may arise under this act as to the proper place to list personal property, or where the same cannot be listed as stated in this act, if between several places in the same county, the place for listing and assessing shall be determined and fixed by the county board; and when between different counties, or places in different counties, by the Auditor of State; and when fixed in either case shall be as binding as if fixed by this act. (L. '97, §14, p. 142; R. & B. Code, §9126.)

State board of tax commissioners to advise assessors, etc.: §2, *supra*.

§51. List to Be Made Under Oath—Stocks Otherwise Listed Omitted.

Every person required by this act to list property shall make out and deliver to the assessor, when required, a statement, verified by his oath, of all the personal property in his possession or under his control, and which, by the provisions of this act, he is required to list for taxation, either as owner or holder thereof, or as guardian, parent, husband, trustee, executor, administrator, receiver, accounting officer, partner, agent or factor; no person shall be required to list for taxation in his statement to the assessor any share or portion of the capital stock, or of any of the property of any company, association or corporation, which such person may hold in whole or in part, where such company, being required so to do, has listed for assessment and taxation its capital stock and property with the Auditor of State, or as otherwise required under the laws of this state. (L. '97, §15, p. 143; R. & B. Code, §9127.)

§52. Blanks—Detail and Form of Lists.

The Auditor of State shall prepare and furnish county auditors with suitable blank forms of detail and assessment lists or schedules, to be paid for by the county at their cost to the state, to be used by the assessors for the listing and assessment and equalization of property, and upon which shall be entered by the assessor, or by the owner or holder, the agent or attorney, the partner, trustee, assignee, receiver, guardian, executor or administrator or by the president, secretary or

principal accounting officer of any company or corporation, a full, true and accurate statement or listing of all property, real and personal, as being owned, held or controlled as aforesaid, and as in such detail list directed, with any and all other property that may not be specified therein, if any such there be, that may be liable to assessment and taxation, and including all property that may or shall be deducted therefrom under exemptions. Such listing shall be verified under the oath of the owner or holder of any such listed property, or by the duly authorized agent making the same, and the true and fair value of such property having been determined and fixed by the assessor, such valuation shall be entered opposite each and every item as therein listed and verified, but to which detail and assessment list may and shall be added by the auditor, assessor or his deputy, any and all other taxable property that may at any time be hereafter created or discovered, not at present appearing therein, so that no property shall escape assessment and taxation. Said detail list shall be substantially in the following form:

**Detail List and Assessment of Real Property of.....
of.....County, Washington, 19....**

Resident road district..... Resident school district.....
Character or designation of property. Description of lands and town property. (In describing lands, state whether they are farming, grazing, mineral or timber lands; also, if city or town property, give the name of the town and plat, or addition, and give accurate description of all other designated real estate under this head.) Town or city property. No. lot. No. block. No. of section. No. of township. No. of range. No. of acres in each tract or parcel except lots. No. of acres in each tract or parcel improved. Property, road district. Property, school district. Full cash value of each tract, parcel, lot or block of land assessed. Full cash value of improvements on each tract, lot or parcel of land assessed. Full cash value of all real property assessed. Road poll. Bridge. Equalized value by county board. Consolidated tax. Special school tax. Special road tax. Municipal tax. Total tax.

Recapitulation

Farm lands, unimproved (acres)..... Grazing lands (acres)
..... Timber lands (acres)..... Mineral lands (acres).....
Improved lands (acres)..... Total acreage..... Aggregate
assessed value of real property, \$..... Aggregate assessed value of
personal property, \$..... Total valuation of all property assessed,
\$..... Total road poll tax, \$.....

Detail List of Personal Property

A schedule of the numbers and amounts of all personal property in the possession or under control of....., belonging to.....on the first day of March, 19...., listed by....., of the town of..... county of....., and State of Washington, as required by the general revenue law now in force in this state. Residence, No.....street; school district No.....; road district No..... (If residing in town or city, give name and number of street.)

ITEMS OF PROPERTY		No.	Assessor's Valuation..
1.	Horses	One year old.....	\$.....
		Two years old.....	\$.....
		Three years old and over.....	\$.....
		Work horses.....	\$.....
		Stallions.....	\$.....
2.	Cattle	One year old.....	\$.....
		Two years old.....	\$.....
		Cows.....	\$.....
		All other cattle two years old and over.....	\$.....
3.	Mules and asses of all ages.....		\$.....
4.	Sheep of all ages.....		\$.....
5.	Hogs of all ages.....		\$.....
6.	Wagons and carriages.....		\$.....
7.	Sewing and knitting machines.....		\$.....
8.	Watches and clocks.....		\$.....
9.	Melodeons and organs.....		\$.....
10.	Pianofortes.....		\$.....
11.	Household and office furniture, full value.....		\$.....
12.	Agricultural tools, implements, machinery.....		\$.....
13.	Gold and silver plate and plated ware.....		\$.....
14.	Diamonds and jewelry and fire arms.....		\$.....
15.	Royalties and patent rights.....		\$.....
16.	Steamboats, sailing vessels, wharf boats, barges, etc.....		\$.....
17.	Goods and merchandise, lumber, saw logs, wood, coal, wool, hides, etc.....		\$.....
18.	Manufacturers' materials and manufactured articles.....		\$.....
19.	Manufacturers' tools, implements and machinery, including engines and boilers.....		\$.....
20.	Moneys of banks (whose capital is not represented by shares of stock), bankers, brokers or stock jobbers.....		\$.....
21.	Credits of banks (whose capital is not represented by shares of stock), bankers, brokers or stock jobbers.....		\$.....
22.	Moneys other than of banks, bankers, brokers or stock jobbers, gold dust or bullion on hand or deposit.....		\$.....
23.	Bonds and stocks (other than bank stock).....		\$.....
24.	Shares of gas, wharf or water stock.....		\$.....
25.	Notes, accounts, warrants and other credits.....		\$.....
26.	Shares of capital stock of insurance or other companies and associations not incorporated by the laws of this state.....		\$.....
27.	Stock and furniture of sample rooms, saloons and eating houses, including billiard, bagatelle and similar tables.....		\$.....
28.	Hay, wheat, oats, corn, barley or other farm products.....		\$.....
29.	The value of all elevators, warehouses and improvements on lands, the title of which is invested in any railroad company.....		\$.....
30.	The value of all improvements on lands held under the laws of the United States.....		\$.....
31.	Shares of stock of insurance or other companies or associations incorporated under the laws of this state.....		\$.....
32.	Gas or water mains. Total number of feet and size.....		\$.....
33.	Gas or water pipe other than mains. Total number of feet and average size.....		\$.....
34.	Telegraph, telephone and electric light lines as per schedule marked "F" in addition to their personal property above listed.....		\$.....
35.	Cable, horse and electric railways as per schedule marked "F" in addition to their personal property above listed.....		\$.....
36.	The value of all other articles of personal property not included in the preceding items.....		\$.....
Total value of all personal property listed by assessor under section 16 of revenue law.....			\$.....
Total exemptions.....			\$.....
Total value of all personal property assessed by assessor under section 16 of revenue law.....			\$.....

Affidavit of Person Listing the Within Property

State of Washington, County of....., ss.

I, do solemnly swear that I am a resident of the county of....., that the within and foregoing detail lists contain full and correct statements of all property subject to taxation in this county which I or any firm of which I am a member, or any corporation, association or company of which I am president, cashier, secretary or managing agent, owned, claimed, possessed or controlled on the first day of March, 19...., at 12 o'clock meridian, and which is not already assessed for said year, and that I have not in any manner whatever transferred or disposed of any property or placed any property out of said county or my possession for the purpose of avoiding any assessment upon the same, or of making this statement.

.....
Residence.....

Subscribed and sworn to before me this.....day of....., 19...

.....
County Assessor.

(L. '97, §16, p. 143; R. & B. Code, §9128.)

Items in above list have been revised.

See supervisory powers of tax commissioner: §3. *supra*.

§53. Assessor May Examine Person Making List Under Oath.

When the assessor shall be of opinion that the person listing property for himself or for any other person, company or corporation, has not made a full, fair and complete list of such property, he may examine such person under oath in regard to the amount of the property he is required to list, and if such person shall refuse to answer under oath, and a full discovery make, the assessor may list the property of such person, or his principal, according to his best judgment and information. (L. '97, §17, p. 146; R. & B. Code, §9129.)

§54. Who May Administer Oath.

Any oath authorized to be administered under this act may be administered by any assessor or deputy assessor, or by any other officer having authority to administer oaths. Any person willfully making a false list, schedule or statement under oath shall be liable as in case of perjury. (L. '97, §57, p. 161; R. & B. Code, §9130.)

§55. Consigned Goods.

Whoever owns, or has in his possession, or subject to his control, any goods, merchandise, grain or produce of any kind, or other personal property within this state, with authority to sell the same, which has been purchased either in or out of this state, with a view to being sold at an advanced price or profit, or which has been consigned to him from any place out of this state for the purpose of being sold at any place within the state, shall be held to be a merchant, and when he is by this act required to make out and deliver to the assessor a statement of his other personal property, he shall state the value of such property pertaining to his business as a merchant. No consignee shall be required to list for taxation the value of any property the product

of this state, nor the value of any property consigned to him from any other place for the sole purpose of being stored or forwarded, if he has no interest in such property nor any profit to be derived from its sale. The stock of nurserymen, growing or otherwise, shall be listed and assessed as merchandise. (L. '97, §18, p. 146; R. & B. Code, §9131.)

§56. "Manufacturer" Defined.

Every person who purchases, receives or holds personal property of any description for the purpose of adding to the value thereof by any process of manufacturing, refining, rectifying, or by the combination of different materials, with a view of making gain or profit by so doing, shall be held to be a manufacturer, and he shall, when required to make and deliver to the assessor a statement of the amount of his other personal property subject to taxation, also include in his statement the value of all articles purchased, received or otherwise held for the purpose of being used, in whole or in part, in any process or operation of manufacturing, combining, rectifying or refining. Every person owning a manufacturing establishment of any kind, and every manufacturer, shall list, as a part of his manufacturer's stock, the value of all engines and machinery of every description used or designed to be used in any process of refining or manufacturing, except such fixtures as have been considered as part of any parcel of real property, including all tools and implements of very kind used or designed to be used for the aforesaid purpose. (L. '97, §19, p. 146; R. & B. Code, §9132.)

§57. Agent of Corporation to Make List.

The president, secretary or principal accounting officer or agent of any company or association, whether incorporated or unincorporated, except as otherwise provided for in this act, shall make out and deliver to the assessor a sworn statement of its property, setting forth particularly—*First*, The name and location of the company or association; *second*, the real property of the company or association and where situated; *third*, the nature and value of its personal property. The real and personal property of such company or association shall be assessed the same as other real and personal property. In all cases of failure or refusal of any person, officer, company or association to make such return or statement, it shall be the duty of the assessor to make such return or statement from the best information he can obtain. (L. '97, §20, p. 147; R. & B. Code, §9133.)

§58. Bank Stock — Where Listed — Valuation — Who Considered Owners.

All the shares of stock in banks whether of issue or not, existing by authority of the United States or of the state, and located within the state, shall be assessed to the owners thereof in the cities or towns, where such banks are located, and not elsewhere, in the assessment of all state, county and municipal taxes imposed and levied in such place whether such owner is a resident of said city or town or not; all such

shares shall be assessed at their full and fair value in money on the first day of March in each year, first deducting therefrom the proportionate part of the assessed value of the real estate belonging to the bank. And the persons or corporations who appear from the records of the banks to be owners of shares at the close of the business day next preceding the first day of March in each year shall be taken and deemed to be the owners thereof for the purposes of this section. (L. '07, §1, p. 61; R. & B. Code, §9134.)

§59. Payment by Corporation.

Every such bank or other corporation shall pay the collector, or other person authorized to collect the taxes of the state, county, city or town in which the same is located, at the time in each year when other taxes assessed in the said state, county, city or town become due, the amount of the tax so assessed in each year upon the shares in such bank or other corporation. If such tax is not so paid, the said bank or other corporation shall be liable for the same. (L. '97, §22, p. 148; R. & B. Code, §9135.)

§60. Tax Lien—Foreclosure.

The shares of such banks or other corporations shall be subject to the tax paid thereon by the corporation or by the officers thereof, and the corporation and the officers thereof shall have a lien on all the shares in such bank or other corporation and on all the rights and property of the shareholders in the corporate property for the payment of said taxes, which lien may be foreclosed by a similar proceeding as under chattel mortgages, and the said tax, with interest thereon at the rate of fifteen per cent. per annum from the day when the tax became due, together with a reasonable attorney's fee, may be recovered as in a civil action brought by the treasurer of such county. (L. '97, §23, p. 148; R. & B. Code, §9136.)

§61. Cashier's List of Shareholders.

The cashier of every such bank shall make and deliver to the assessor of the county in which such bank is located, on or before the fifteenth day of March in each year, a statement verified by the oath of such cashier showing the name of each shareholder, with his residence and the number of shares belonging to him at the close of the business day next preceding the first day of March as the same then appeared on the books of said bank. If the cashier fails to make such statement, said assessor shall forthwith, upon such failure, obtain a list of shareholders, with the residence of and number of shares belonging to each. (L. '97, §24, p. 148; R. & B. Code, §9137.)

§62. List of Foreign and Private Banks.

Foreign banks and private bankers doing business in this state and having no fixed amount of capital paid in and used permanently in the conduct of such business, shall be assessed on an amount equal to a

general average of money used as exhibited by daily or monthly balance sheets during the year preceding the time of rendering such tax list to the assessor. If such bank or banker shall refuse to make such return of capital as above provided, then the assessor shall proceed to make an arbitrary assessment, which shall be as fair and as equitable as he may be able to make from the best information he possesses. (L. '97, §25, p. 149; R. & B. Code, §9138.)

§63. Building and Loan Associations.

Shares held by members shall be exempt from taxation and the association itself shall not be taxable, except that its tangible personal and real property shall be taxed as other tangible personal and real property is taxed. (L. '13, §17, p. 339; R. & B. Code, §3601-17.)

§64. Lands Sold by State Listed to Purchaser.

Property held under a contract for the purchase thereof, belonging to the state, county or municipality, and school and other state lands, shall be considered, for all purposes of taxation, as the property of the person so holding the same. And no deed shall ever be executed until all taxes and municipal charges are fully paid thereon. (L. '97, §26, p. 149; R. & B. Code, §9139.)

§65. Public Lands—Improvements.

The assessor must assess all improvements on public lands as personal property until the settler thereon has made final proof. After final proof has been made, and a certificate issued therefor, the land itself must be assessed, notwithstanding the patent has not been issued. (L. '97, §27, p. 149; R. & B. Code, §9140.)

Harbor area improvements, when exempt: R. & B. Code, §8778.

ASSESSMENT OF OPERATING PROPERTY OF RAILROADS

§66. Tax Commissioner Shall Make Assessment.

The State Tax Commissioner shall make an annual assessment of the operating property of all railroad companies within this state, for the purpose of levying and collecting taxes as hereinafter provided. (L. '07, §1, p. 132; R. & B. Code, §9141.)

§67. Definitions.

For the purposes of this act, the following provisions and definitions are made:

1. The term "commissioner" in this act, without other designation means the State Tax Commissioner.

2. Any person, association, company or corporation, owning or operating a railroad in this state, or owning or operating any station, depot, terminal or bridge for railroad purposes, as owner or lessee or otherwise, shall be deemed a railroad company within the meaning of this act.

3. The term "property of the railroad company" as used in this act, shall include all franchises, right-of-way, road bed, tracks, terminals, rolling stock equipment and all other real and personal property of such company, used or employed in the operation of the railroad, or in conducting its business, and shall include all title and interest in such property, as owner, lessee or otherwise. Real estate not adjoining its tracks, stations or terminals, and real estate not used in operating the railroad, is excepted, and shall be assessed in the same manner as like property of individuals.

4. The railway company operating a railroad in this state shall be the representative of every title and interest in the property of the railroad company, as owner, lessee or otherwise, and notice to the operating company shall be notice to all interests in the railroad property, for the purpose of taxation. The assessment of the property of the railroad company in the name of the owner, lessee or operating company, shall be deemed and held an assessment of all the title and interest in such property of every kind and nature.

5. The term "general property of the state" shall be deemed to include all the real and personal property appearing upon the assessment rolls and tax rolls throughout the entire state, upon which the state, county and local taxes are levied and collected.

6. The word "railroad" or words "railroad company," wherever they occur in this act, shall be considered, for all purposes of assessment and taxation, as including every kind of street railway, suburban railroad, or interurban railroad, person, firm, association, company or corporation, whether its line of railroad be maintained either at the surface, or above or below the surface of the earth, or by whatever power its vehicles are transported. (L. '07, §2, p. 132; R. & B. Code, §9142.)

168. Powers of Tax Commissioner—Witnesses.

The Commissioner shall have access to all books, papers, documents, statements and accounts on file or of record in any of the departments of the state. He shall have like access to all books, papers, documents, statements and accounts on file or of record in counties, towns, cities, villages and assessment districts, and the officers thereof shall, in form prescribed by said Commissioner, make returns to him of all the information called for. Said Commissioner shall have the power, by a summons signed by said Commissioner, and served in a like manner as a subpoena issued from courts of record, to compel witnesses to appear and give evidence, and to produce books and papers. The Commissioner is authorized to administer oaths to witnesses. The attendance of any witness may be compelled by attachment issued out of any superior court upon application to said court by said Commissioner, upon a proper showing that such witness has been duly served with a summons, and has refused to appear before the said Commissioner. In case of the refusal of a witness to produce books, papers,

documents or accounts, or to give evidence on matters material to the hearing, said Commissioner may institute proceedings in the proper superior court, to compel such witness to testify, or to produce such books or papers, and to punish him for the refusal. All summons and process issued by such Commissioner shall be served by the sheriff of the proper county, and such service certified by him to said Commissioner, without any compensation therefor. Persons appearing before said Commissioner in obedience to a summons shall, in the discretion of the Commissioner, receive the same compensation as witnesses in the superior court, to be audited by the State Auditor, on the certificate of said Commissioner. The records, books, accounts and papers of any person, association or corporation owning or operating railroad property to be assessed shall be subject to visitation, investigation and examination by said Commissioner. (L. '07, §3, p. 133; R. & B. Code, §9143.)

§69. Depositions.

The Commissioner, in any matter material to the valuation, assessment or taxation of the property of railroad companies, may cause the deposition of witnesses residing without the state or absent therefrom, to be taken upon notice to the railroad company interested, in like manner as the deposition of witnesses are taken in civil actions in the superior court. (L. '07, §4, p. 134; R. & B. Code, §9144.)

§70. Report of Company—Contents.

Every railroad company operating in this state shall, between the first day of January and the first day of April in each year, under the oath of the president or other chief officer, and the secretary, treasurer, auditor or superintendent of such company, make and file with the Commissioner, in such form as the Commissioner may prescribe, reports containing the following facts:

- (1) The name of the company.
- (2) The nature of the company, whether a person, association, company or corporation, and under the laws of what state or country organized, the date of original organization, date of re-organization, consolidation, or merger, with specific reference to laws authorizing the same.
- (3) The location of its principal office.
- (4) The place where its books, papers and accounts are kept.
- (5) The name and postoffice address of the president, secretary, treasurer, auditor, superintendent, general manager, counsel, directors and all other general officers.
- (6) The name and postoffice address of the chief officer or managing agent of the railroad company in the State of Washington, and of all other general officers residing in this state.
- (7) The total number of shares of capital stock.
- (8) The par value of the shares of capital stock, for the whole system, showing: (1) Amount authorized; (2) amount issued; (3) amount outstanding; (4) the dividends paid thereon.

(9) The market value of the shares of capital stock for the whole system, on the dates and for the periods the Commissioner may request or specify.

(10) If such capital stock has no market value, the actual value on the dates and for the periods designated by the said Commissioner.

(11) The funded debt of the railroad company for the whole system, and a detailed statement of all series of bonds, debentures and other securities, forming part of the funded debt, at par value, with date of issue, date of maturity, rate of interest, and interest paid.

(12) The market value of each series of funded debt for the whole system, on the dates and for the periods designated by said Commissioner; and if the whole, or a part, of such funded debt has no market value, then the actual value for such periods and such dates as the Commissioner may specify.

(13) Such a general description of the real property of the railroad company, owned or operated in the State of Washington, as would be sufficient in a conveyance thereof, under a judicial decree directing a sale for taxes, to vest in the grantee all title and interest in and to said property.

(14) A like description of the personal property, including moneys and credits, held by the company as a whole system, and also the part thereof apportioned to the system in this state.

(15) A statement in detail of all capital stock and bonds or other securities of such railroad company, owned by or held in trust for the company, and the capital stock, bonds, and other securities of other persons, companies or corporations, owned by or held in trust for it, and the par value, and the market or actual value of the same.

(16) The whole length of the railroad system operated by the company, and the length of the line in this state, whether operated as owner, lessee or otherwise. The length of the line owned and the length of the line operated for the whole system in this state shall be separately reported.

(17) The entire gross earnings of the railroad company from operations, income from operation, and income from other sources for the whole system, and in this state, and the disposition made from such income.

(18) The entire gross earnings of such company in the State of Washington, for each and every month, for each calendar year, ending on the 31st day of December.

(19) The annual reports of the board of directors, or other officers to the stockholders of the company, duplicate of the annual reports made to the interstate commerce commission, to the railway commission in this state, and to the railway commissioners or state officers or boards of other states in or through which the line of said railroad is operated.

(20) Such other facts and information as said Commissioner may require, in the form of returns prescribed by him. Blanks for making

the above reports shall be furnished to such companies by said Commissioner except for the copies of the reports required under the provisions of subdivision nineteen of this section. In case any company refuses or neglects to make the reports provided for by this act, or refuses or neglects to furnish any information requested, the Commissioner shall inform himself the best he may on the matters necessary to be known, in order to discharge his duties with respect to the valuation and assessment of the property of such company. (L. '07, §5, p. 134; R. & B. Code, §9145.)

§71. Failure to Report, Effect.

If any railroad company or its officers or agents shall refuse or neglect to make any reports required by this act, or said Commissioner, or shall refuse or neglect to permit an inspection and examination of its records, books, accounts or papers when requested by said Commissioner, or shall refuse or neglect to appear before the Commissioner in obedience to a summons, such company shall be estopped to question or impeach the action or determinations of the Commissioner upon any grounds not affecting the substantial justice of the tax. (L. '07, §6, p. 136; R. & B. Code, §9146.)

§72. Hearings.

The Commissioner, on or before the first day of March and the first day of June, in each year, according to his best knowledge and judgment, shall ascertain and determine the true cash value of the property of each railroad company within this state. Every such company shall be entitled, on its own motion, to a hearing and to present evidence before such Commissioner, at any time between the first day of April and the first day of May, relating to the value of the property of such company, or to the value of the general property in the state. On request in writing for such hearing or presentation, the Commissioner shall appoint a time and place therefor, within the period aforesaid, the same to be conducted in such manner as the Commissioner shall direct. Such hearing shall not impair or affect the right to a further hearing before the State Board of Equalization, as hereinafter provided. The value of property of railroads for assessment shall be made as of the same time, and in like manner, as the value of the general property of the state is ascertained and determined. (L. '07, §7, p. 137; R. & B. Code, §9147.)

§73. Assessment Roll.

The Commissioner shall prepare assessment rolls and place thereon, after the name of each railroad company assessed, the general description of the property of such railroad, which shall include its real estate, right-of-way, tracks, stations, terminals, appurtenances, rolling stock, equipment, franchises and all other real and personal property of said company, which shall be deemed and held to include the entire property and franchises of such railroad company within the state, and all title

and interest therein. For the purpose of determining the true cash value of the property of each company, the Commissioner may, if deemed necessary, view and inspect the property of such company, and shall consider the reports filed in compliance with this act, and the reports and returns of the company filed in the office of any officer of this state, and such other evidence or information as may have been taken or obtained bearing upon the value of the property of the railroad company assessed. In case of railroad companies which own or operate railroads lying partly within and partly without the state, the said Commissioner shall only value and assess the property within this state. In determining the value of the portion within this state, the Commissioner shall take into consideration the value of the entire system, the mileage of the whole system, and of the part within this state, together with such other information, facts and circumstances as will enable him to make a substantially just and correct determination. When the value of the property of the railroad company within this state shall have been ascertained and determined, the amount thereof shall be entered upon said assessment rolls, opposite the name of the company, and shall be and constitute the value of the entire property of such railroad company within this state, for the levy of taxes thereon, subject to revision and correction by the State Board of Equalization as hereinafter provided. Upon the completion of such assessment, the Commissioner shall give notice by mail to each railroad company assessed, of the amount of its assessment as entered upon such rolls. (L. '07, §8, p. 137; R. & B. Code, §9148.)

§74. Sessions.

In making the investigation and holding the hearings provided for in this act, the Commissioner may hold sessions at such times and in such places throughout the state as he may deem proper, or necessary for the convenient performance of his duties, and may adjourn from time to time and from place to place. (L. '07, §9, p. 138; R. & B. Code, §9149.)

§75. Equalization.

The assessment rolls of railroad companies shall, by said Tax Commissioner, be submitted to the State Board of Equalization at its annual meeting held for the purpose of equalizing the assessed valuation of the taxable property of the state; and any railroad company interested shall have the right to appear and be heard as to the assessment of the property of such company, and as to the value and assessment of the general property of the state, and the said Board of Equalization may, on application or of its own motion, correct the valuation or assessment of the property of such company, in such manner as may in its judgment make the valuation thereof just and relatively equal with the valuation of the general property of the state. The assessed valuation of the property of the railroad company as it appears on such

rolls, shall not be increased without notice to the company, by registered letter, that such increase is contemplated, and fixing a time for a hearing in relation thereto. (L. '07, §10, p. 138; R. & B. Code, §9150.)

§76. Apportionment of Value to Counties, Cities, Etc.

On the completion of the equalization of the property of the railroad companies and other property in the state, by the State Board of Equalization, it shall be the duty of the State Board of Equalization to apportion the value of the operating properties of such railroad, to the county or counties through or into which the lines thereof may extend, according to the classification and value thereof, in such proportion to the entire value thereof, as the length of the line in each county may bear to the entire length of line within the state, which valuation, together with a description of the railroad property assessed, giving the name of the company and the length of line in said county, shall be certified by said board, to the county assessor of the proper county: The county assessor shall in like manner distribute the value so certified to him, to the several cities, towns, road districts, school districts and other taxing districts, in his county, entitled to a proportionate value of the operating property of such railroad; and each assessment so apportioned shall be placed upon the tax rolls of said county, and the taxes extended against the same, as against other property in said county, cities, towns, school, road, and other taxing districts. (L. '17, §1, p. 73; R. & B. Code, §9151.)

§77. Assessments—Realty and Personalty.

In making the assessments of the operating property of railroads, and in the apportionment of the values and the taxation thereof, as hereinbefore provided, all land occupied and claimed exclusively as the right-of-way for railroads, with all the tracks, and substructures and superstructures which support the same, together with all side tracks, second tracks, turn-outs, station houses, depots, round-houses, machine shops, or other buildings belonging to the road, used in the operation thereof, without separating the same into land and improvements, shall be assessed and taxed as real property. And the rolling stock and other movable property belonging to any railroad company or corporation shall be considered personal property and shall be assessed and taxed as such: *Provided*, That all the operating property of street railroads shall be assessed and taxed as personal property. (L. '11, §1, p. 62; R. & B. Code, §9152.)

ASSESSMENT OF PROPERTY OF TELEGRAPH COMPANIES

§78. Tax Commissioner to Assess.

The State Tax Commissioner shall make an annual assessment of the property of all telegraph companies within this state for the purpose of levying taxes thereon for state, county and other purposes. (L. '07, §1, p. 243; R. & B. Code, §9171.)

§79. Definitions.

For the purposes of this act the following provisions and definitions are made:

(1) The term "Commissioner" in this act, without other designation, means the State Tax Commissioner.

(2) Any person, co-partnership, association, company or corporation owning or operating any telegraph or cable line in this state with appliances for the transmission of messages and engaged in the business of furnishing telegraph service for compensation as owner, lessee or otherwise shall be deemed, held and known as a telegraph company.

(3) The word "company" in this act, without other designation or qualification, shall mean and include any telegraph company as herein defined. The words "property of a company," without other designation or qualification, shall mean and include the property of any telegraph company.

(4) The term "property of a company" or "property of the company" as used in this act shall include all franchises, right-of-way, poles, wires, cables, devices, appliances, instruments, equipment and all other real and personal property of such company used or employed in the operation of the company or in conducting its business and shall include all title and interest in such property as owner, lessee or otherwise.

(5) The company operating a line or lines in this state, with all property and appliances connected and used therewith in the service, shall be the representative of every title and interest in the property of the company as owner, lessee or otherwise, and notice to the operating company shall be notice to all interests in the property for the purpose of taxation. The assessment and taxation of the property of a company in the name of the owner, lessee or operating company shall be deemed and held an assessment and taxation of all the title and interest in such property of every kind or nature.

(6) The term "general property of the state" shall be deemed to include all real and personal property appearing upon the assessment rolls and tax rolls throughout the state upon which state, county and local taxes are levied and collected with such changes and corrections made by the Commissioner as hereinafter provided. (L. '07, §2, p. 244; R. & B. Code, §9172.)

§80. Powers of Commissioner—Witnesses.

The Commissioner shall have access to all books, papers, documents, statements or accounts on file, or of record in any of the departments of the state. He shall have like access to all books, papers, documents, statements and accounts on file or of record in counties, towns, cities, villages and assessment districts, and the officers thereof shall in form prescribed by said Commissioner make returns to him of all information which may be called for. Said Commissioner shall have the power, by a summons signed by said Commissioner and served in like manner

as a subpoena issued from courts of record, to compel witnesses to attend, give evidence and to produce books and papers. The Commissioner is authorized to administer the oath to witnesses. The attendance of any witness may be compelled by attachment issued by any superior court upon a proper showing that such witness has been duly served with the summons, and has refused to appear before said Commissioner. In case of the refusal of a witness to produce books, papers, documents or accounts, or to give evidence on matters material to the hearing, said Commissioner may institute proceedings in a proper superior court to compel such witness to testify, or to produce such books or papers, and to punish him for the refusal. All summons and process issued by such Commissioner shall be served by the sheriff of the proper county and such service certified by him to said Commissioner, without any compensation therefor. Persons appearing before said Commissioner in obedience to a summons shall, in the discretion of the Commissioner, receive the same compensation as witnesses in the superior court, to be audited by the State Auditor, on the certificate of said Commissioner. The records, books, accounts and papers of any person, association or corporation, owning or operating telegraph property to be assessed, shall be subject to visitation, investigation and examination by said Commissioner, or by such person as he may designate. (L. '07, §3, p. 245; R. & B. Code, §9173.)

§81. Depositions.

The Commissioner, in any matter material to the valuation, assessment or taxation of the property of a company, may cause the depositions of witnesses residing without the state or absent therefrom to be taken, upon notice to the company interested, in like mode as the depositions of witnesses are taken in civil actions pending in the superior court. (L. '07, §4, p. 246; R. & B. Code, §9174.)

§82. Report of Company—Contents.

Every company operating a telegraph line or lines in this state shall annually, between the first day of January and the first day of April in each year, under the oath of the president or other chief officer and the secretary, treasurer, auditor or superintendent of such company, make and file with the Commissioner in such form as said Commissioner may prescribe, reports containing the following facts:

- (1) The name of the company.
- (2) The nature of the company, whether a person, association, company or corporation, and under the laws of what state or county organized, the date of original organization, date of re-organization, consolidation or merger, with specific reference to laws authorizing the same.
- (3) The location of its principal office.
- (4) The name of the place where its books, papers and accounts are kept.

(5) The name and postoffice address of the president, secretary, treasurer, auditor, superintendent, general manager, counsel, directors and all other general officers.

(6) The name and postoffice address of the chief officer or managing agent of the company in Washington and of all other general officers residing in the state.

(7) The total number of shares of capital stock.

(8) The par value of the shares of the capital stock for the whole system, showing separately: (1) Amount authorized. (2) Amount issued. (3) Amount outstanding. (4) Also the dividends paid thereon.

(9) The market value of the shares of capital stock for the whole system, on the dates and for the periods the Commissioner may request or specify, but the average market value as near as may be of said shares shall be given at least for one year ending the 31st day of December preceding.

(10) If such capital stock has no market value, the actual value on the dates and for the periods designated by said Commissioner.

(11) The funded debt of the company for the whole system, and a detailed statement of all series of bonds, debentures or other securities, forming a part of the funded debt at par value, with date of issue, maturity, rate of interest and interest paid.

(12) The market value of each series of funded debt for the whole system on the dates and for the periods designated by said Commissioner, and if the whole or a part of such funded debt has no market value, then the actual value thereof for such dates and periods as said Commissioner may specify, but the average market value as near as may be of each series of funded debt shall be given at least for one year ending the 31st day of December preceding.

(13) Such general description of the real estate of the company owned or operated in Washington as would be sufficient in a conveyance thereof, under a judicial decree, directing a sale for taxes to vest in the grantee all title and interest in and to the said property.

(14) A like description of the personal property, including moneys and credits held by the company as a whole system and the part thereof apporportioned to the line in Washington.

(15) A statement in detail of all capital stock, bonds or other securities of such company owned by, or held in trust for, the company, and the capital stock, bonds or other securities of other persons, companies or corporations owned by, or held in trust for it; and the par value and the market or actual value of the same.

(16) The description and true value and assessed value of real estate within and without the state and the gross and net income therefrom if the company claims any deduction in the value of its property on account thereof.

(17) A detailed description of all capital stock, bonds, mortgages, securities, credits and other personal property, if any, with the value thereof, owned by the company which is not used or employed in the

business and is claimed to be exempt in the valuation of its property for taxation under this act.

(18) Every such company shall also report:

(a) The whole length of the lines of poles, single wire of the entire system and separately in this state.

(b) The length of wire underground and on buildings of the entire system and in this state.

(c) The length of wire and cable submarine for the entire system and in this state.

(d) The number of miles of all wires and cables of the entire system and the miles of all wires and cables in this state.

(e) The number of offices for the entire system and the number of offices in this state.

(f) The number of messages received and transmitted for the entire system and the number received and transmitted in this state.

(19) The entire gross earnings of the company from operation, expenses of operation, net earnings from operation and the income from other sources for the whole system and in Washington, and the disposition made of such net earnings and income.

(20) The annual report of the board of directors or other officers to the stockholders of the company.

(21) Such other facts or information as the company may deem material upon the question of the taxation of its property in this state.

(22) Such other facts and information as said Commissioner may reasonably require in form or returns prescribed by him.

(23) Any company, association or corporation owning all or a majority of the capital stock of the company operating in this state or having practical control of any such company may be required to make report of such facts and information specified in this section as may be deemed necessary by the Commissioner to a correct valuation and assessment of the property of such operating company.

Blanks for making the above reports shall be furnished to such companies by said Commissioner, except for the copies of reports required under the provisions of subdivision 20 of this section. In case any company refuses or neglects to make the reports required by this act, or refuses or neglects to furnish any information requested, the Commissioner shall inform himself the best he may on the matters necessary to be known in order to discharge his duties with respect to the valuation and assessment of the property of such company. (L. '07, §5, p. 246; R. & B. Code, §9175.)

§83. Property Taxed as Personalty.

The property of a company as defined in section 2, subject to taxation under the provisions of this act, is declared to be personal property and the place of assessment and taxation of such property is fixed at the capital of the state. (L. '07, §6, p. 249; R. & B. Code, §9176.)

§84. Failure to Report.

If any company or its officers or agents shall refuse or neglect to make any reports required by this act, or said Commissioner, or shall refuse or neglect to permit an inspection and examination of its records, books, accounts or papers when requested by said Commissioner, or shall refuse or neglect to appear before the Commissioner in obedience to a summons, such company shall be estopped to question or impeach the action or determination of the Commissioner, except upon satisfactory proof of fraud or mistake injurious to the company. No company shall be allowed in any action or proceeding to question the amount or valuation of its property as assessed by the Commissioner unless such company shall have made and filed with such Commissioner a full and complete report of the facts and information prescribed by section 5 of this act and called for by the Commissioner thereunder, provided the refusal or neglect of such company to file the report in time may on application of the company and for good cause shown be excused by the Commissioner on condition that such company shall make a full and complete report of all facts and information mentioned in said section 5 within fifteen days after notice by mail of the amount of the preliminary valuation of the property of such company and shall appear before the Commissioner before the time of the final hearing and make a full disclosure of all property liable to assessment and taxation under this act and show the value of such property to the satisfaction of the Commissioner. (L. '07, §7, p. 249; R. & B. Code, §9177.)

§85. Hearings—Assessment Roll—Etc.

The Commissioner, on or between the first day of April and the first day of July in each year, according to his best knowledge and judgment, shall ascertain and determine the true cash value of the property of each company within the state. Every such company shall be entitled on its own motion to a preliminary hearing and to present evidence before such Commissioner at any time on or between the first and fifteenth days of June relating to the value of the property of such company or to the value of the general property of the state. On request in writing for such hearing or presentation, the Commissioner shall appoint a time and place therefor within the period aforesaid; the same to be conducted in such manner as the Commissioner shall direct. Such preliminary hearing shall not impair or affect the right to the further hearing provided for in section 11. The value of the property of a company for assessment shall be made on the same basis and for the same period of time as near as may be as the value of the general property of the state is ascertained and determined. The Commissioner shall prepare an assessment roll and place thereon after the name of each company assessed, the following general description of the property of such company, to-wit: "Real estate, right-of-way, poles, wires, cables, devices, appliances, instruments, franchises and all other real and personal property of said company," which shall be deemed

and held to include the entire property and franchises of such company within the state, and all title and interest therein. For the purpose of determining the true cash value of the property of each company, appearing on the assessment roll, the Commissioner may, if deemed necessary, view and inspect the property of such company and shall consider the reports filed in compliance with this act, and the reports and returns of the company filed in the office of any officer of this state, and such other evidence or information as may have been taken or obtained bearing upon the true cash value of the property of the company assessed. In case the companies which own or operate lines lying partly within or partly without the state, the said Commissioner shall only value and assess the property within this state. In determining the value of the portion within the state the Commissioner may take into consideration the value of the entire system, the mileage of the whole system and of the part within this state, together with such other information, facts and circumstances as will enable the Commissioner to make a substantially just and correct determination. When the true cash value of the property of a company within this state shall have been ascertained and determined the amount thereof shall be entered upon the assessment roll opposite the name of the company and shall be, and constitute, the assessment of the entire property of such company within this state for the levy of taxes thereon, subject to review and correction, as hereinafter provided. The Commissioner shall thereupon give notice by mail to each company assessed of the amount of its assessment as entered upon such roll. (L. '07, §8, p. 250; R. & B. Code, §9178.)

§86. Sessions.

In making the investigations and holding the hearings provided for in this act, the Commissioner may hold sessions at such times and in such places throughout the state as he may deem proper, or necessary for the convenient performance of his duties, and may adjourn from time to time and from place to place. (L. '07, §9, p. 251; R. & B. Code, §9179.)

§87. Equalization.

The assessment rolls of telegraph companies shall, by said State Tax Commissioner, be submitted to the State Board of Equalization at its annual meeting held for the purpose of equalizing the assessment valuation of the taxable property of the state; and any telegraph company interested shall have the right to appear and be heard as to the assessment of the property of such company, and as to the value and assessment of the general property of the state, and the said Board of Equalization may, on application or of its own motion, correct the valuation or assessment of the property of such company, in such manner as may in its judgment make the valuation thereof just and relatively equal with the valuation of the general property of the state.

The assessed valuation of the property of any telegraph company as it appears on such rolls, shall not be increased without notice to the company by registered letter, that such increase is contemplated, and fixing a time for a hearing in relation thereto. (L. '07, §10, p. 251; R. & B. Code, §9180.)

§88. Apportionment to Counties, Cities, Etc.

Upon the completion of the equalization of the property of the telegraph companies and other property in the state by the State Board of Equalization, it shall be the duty of the State Board of Equalization to apportion the value of the properties of such telegraph companies to the county or counties through or into which the lines thereof may extend according to the value thereof in such proportion to the entire value as the length of the line in each county may bear to the entire length of line within the state computed on a wire mileage basis, which valuation, together with a description of the property assessed, giving the name of the company, the length of line and wire mileage in said county, shall be certified by said board to the county assessor of the proper county. The county assessor shall in like manner distribute the value so certified by him to the several cities, towns, road districts, school districts and other taxing districts in his county entitled to a proportionate value thereof, and each assessment so apportioned shall be placed upon the tax rolls of said county, and the taxes extended against the same as against other property in said county, cities, towns, school, road and other taxing districts. (L. '17, §1, p. 74; R. & B. Code, §9181.)

EQUALIZATION OF ASSESSMENTS

§89. County Board of Equalization—Duties.

The county commissioners, the county assessor and the county treasurer, or a majority of them, shall form a board of equalization of the assessment of the property of the county. They shall meet in open session for this purpose annually on the first Monday in August at the office of the county assessor, who shall act as clerk of said board, and, having each taken an oath fairly and impartially to perform their duties as members of such board, they shall examine and compare the returns of the assessment of the property of the county and proceed to equalize the same, so that each tract or lot of real property and each article or class of personal property shall be entered on the assessment list at its true and fair value, according to the measure of value used by the county assessor in such assessment year, and subject to the following rules:

First.—They shall raise the valuation of each tract or lot of real property which in their opinion is returned below its true and fair value to such price or sum as they believe to be the true and fair value thereof, after at least five days' notice shall have been given in writing to the owner or agent.

Second.—They shall reduce the valuation of each tract or lot which, in their opinion is returned above its true and fair value to such price or sum as they believe to be the true and fair value thereof.

Third.—They shall raise the valuation of each class of personal property which in their opinion is returned below its true and fair value to such price or sum as they believe to be the true and fair value thereof, and they shall raise the aggregate value of the personal property of each individual whenever they believe that such aggregate value is less than the true valuation of the taxable personal property possessed by such individual to such sum or amount as they believe to be the true value thereof, after at least five days' notice shall have been given in writing to the owner or agent thereof.

Fourth.—They shall, upon complaint in writing of any party aggrieved, being a non-resident of the county in which his property is assessed, reduce the valuation of each class of personal property enumerated in section 9128 aforesaid, which in their opinion is returned above its true and fair value, to such price or sum as they believe to be the true and fair value thereof; and, upon like complaint, they shall reduce the aggregate valuation of the personal property of such individuals who, in their opinion, have been assessed at too large a sum, to such sum or amount as they believe was the true and fair value of his personal property.

The county assessor shall keep an accurate journal or record of the proceedings and orders of said board in a book kept for that purpose, showing the facts and evidence upon which their action is based, and the said record shall be published the same as other proceedings of county commissioners, and shall make a true record of the changes of the descriptions and assessed values ordered by the county board of equalization. Having corrected the real and personal assessment rolls in accordance with the changes made by the said county board of equalization, he shall make duplicate abstracts of such corrected values, one copy of which shall be retained in his office, and one copy forwarded to the State Auditor on or before the first Monday in September next following the meeting of the county board of equalization.

The county board of equalization may continue in session and adjourn from time to time during three weeks, and shall remain in session not less than three days, commencing on the first Monday in August: *Provided*, That no taxes, except special taxes, shall be extended upon the tax rolls until the property valuations are equalized by the State Board of Equalization for the purpose of raising the state revenue.

The county assessor shall make a record of all errors in descriptions, double assessments, or manifest errors in assessment appearing on the assessment list at the time of the extension of the rolls, and after duly verifying the same, file said record with the county board of equalization on the third Monday in November next succeeding the annual meeting of the county board of equalization. The county board

of equalization shall reconvene on such day for the sole purpose of considering such errors in description, double assessments, or manifest errors appearing on the assessment list at the time of the extension of the rolls, and shall proceed to correct the same, but said board shall have no authority to change the assessed valuation of the property of any person, or to reduce the aggregate amount of the assessed valuation of the taxable property of the county, except in so far as the same may be affected by the corrections ordered based on the record submitted by the county assessor. (L. '15, §1, p. 343; R. & B. Code, §9200.)

§90. Record of Changes—Abstract of Tax Rolls.

The county auditor shall make due record of the changes of the descriptions and assessed values determined by the county board of equalization, and make corrections accordingly. Having made such corrections of the real and personal lists, or both, as the case may be, he shall make duplicate abstracts of such corrected values, one copy of which he shall file in his office, and one copy he shall forward to the Auditor of State on or before the first Monday in September following each county equalization. The county auditor shall, also, on or before the fifteenth day of January in each year, make out and transmit to the Auditor of State, in such form as may be prescribed, a complete abstract of the tax rolls of the county, showing the number of acres of land assessed, the value of such land, including the structures thereon; the value of town and city lots, including structures; the total value of all taxable personal property in the county; the aggregate amount of all taxable property in the county; the total amount as equalized, and the total amount of taxes levied in the county for state, county, town and all other purposes, for that year. Should the auditor of any county fail to transmit to the State Auditor the first abstract provided for in this section by the time the State Board of Equalization convenes, and if, by reason of such failure to transmit such abstract, any county shall fail to collect and pay to the state its due proportion of the state tax for any year, the State Board of Equalization shall, at its next annual session, ascertain what amount of state tax said county has failed to collect, and the State Auditor shall charge the amount to the proper county and notify the auditor of said county of the amount of said charge; said sum shall be due and payable immediately by warrant in favor of the state on the general county fund of said county. (L. '97, §59, p. 164; R. & B. Code, §9203.)

§91. State Board of Equalization—Powers and Duties.

The State Auditor, the Commissioner of Public Lands and the State Tax Commissioner shall constitute the State Board of Equalization. The State Auditor shall be president of the board, and the State Tax Commissioner shall be secretary thereof. The board shall remain in session not to exceed twenty (20) days; may adjourn from day to day, and

employ such clerical assistance as may be deemed necessary to facilitate its labors: *Provided*, That the expense of such board shall not exceed the sum of seven hundred fifty dollars (\$750.00) in any one year. The said board shall meet annually, on the first Tuesday in September, at the office of the State Tax Commissioner, and shall examine and compare the returns of the assessment of the property in the several counties of the state, and proceed to equalize the same, so that each county in the state shall pay its due and just proportion of the taxes for state purposes for such assessment year, according to the ratio the valuation of the property in each county bears to the total valuation of all property in the state.

First.—They shall classify all property, real and personal, and shall raise and lower the valuation of any class of property in any county to a value that shall be equal and uniform, so far as possible, in every part of the state, for the purpose of ascertaining the just amount of tax due from each county for state purposes.

Second.—The secretary shall keep a full record of the proceedings of the board, and the same shall be published annually by said State Tax Commissioner.

Third.—They shall have authority to adopt the rules and regulations for the government of the board, and to enforce obedience to its orders in all matters in relation to the returns of county assessments, and the equalization of values by said board.

The said Board of Equalization shall apportion the amount of tax for state purposes as required by law to be raised in the state among the several counties therein, in proportion to the valuation of the taxable property therein for the year as equalized by the board, and shall also ascertain the gross amounts justly due from each county for military, state bond interest, and state bond sinking fund taxes, at rates and limitations fixed by law. It shall be the duty of the county assessor in each county when he shall have received the report of the State Auditor, as provided in section 9206, to determine the rates per cent. necessary to raise the taxes required for state purposes as determined by the State Board of Equalization, and place the same on the tax rolls of the county as provided by law. (L. '17, §1, p. 211; R. & B. Code, §9204.)

MISCELLANEOUS STATE LEVIES

State School Levy.

It shall be the duty of the State Board of Equalization, annually, at the time of levying taxes for state purposes, to levy a tax sufficient to produce a sum which, when added to the amount of money derived from interest and other income from the state permanent school fund during the preceding school year, shall equal \$10.00 for each child of school age residing in the state as shown by the last reports of the several county superintendents to the Superintendent of Public Instruction: *Provided*, That said tax shall not exceed five (5) mills on the dollar.

The funds provided by this section shall be known as the current state school fund. (L. '09, §3, p. 321; R. & B. Code, §4600.)

Military Levy.

For the purpose of raising revenue for the organized militia of Washington there is hereby levied, and the proper officers shall collect, a tax of not to exceed thirty one hundredths (30-100) of one mill or so much thereof as may be necessary, upon all property in the state subject to taxation for the present fiscal year and for each fiscal year thereafter. The revenue so raised shall be paid into the state treasury and shall be converted into a special military fund, from which special fund shall be paid the military expenses authorized by the military code of Washington, except as otherwise provided. (L. '17, §126, p. 397; R. & B. Code, §7338.)

Permanent Highway Levy.

For the purpose of raising revenues for the improvement and maintenance of permanent highways under the provisions of this act, the proper state officers shall levy and collect a tax of one and one-half mills upon all property in the state subject to taxation for the year 1913, and for each year thereafter. All moneys derived from such tax shall be paid into the state treasury and credited to a fund to be known as the "permanent highway fund." (L. '13, §5, p. 491; R. & B. Code, §5879-14.)

Public Highway Levy.

For the purpose of raising revenue to construct and repair highways and bridges, the proper state officers shall levy and collect a tax of one and one-fourth mills upon all of the property in the state subject to taxation for the fiscal year beginning March 1, 1913, and for each fiscal year thereafter shall levy and collect a tax of one mill. The fund provided by such levy shall be placed in said public highway fund. (L. '16, §1, p. 231; R. & B. Code, §5898.)

Levy for Institutions of Higher Education.

The State Board of Equalization shall, beginning the fiscal year 1917, and annually thereafter, at the time of levying taxes for state purposes, levy upon all property subject to taxation, a tax of seventy-four one hundredths (74-100) of one mill for the state university fund; forty-five one hundredths (45-100) of one mill for the state college fund; fifteen and one-fifth one hundredths (15 1-5-100) of one mill for the Bellingham normal school fund; thirteen one hundredths (13-100) of one mill for the Cheney normal school fund; and ten and four-fifths one hundredths (10 4-5-100) of one mill for the Ellensburg normal school fund. (L. '17, §1, p. 338.)

Capitol Building Fund Levy.

The State Board of Equalization is hereby authorized and required at its annual meeting to make a levy of one-half mill for capitol building purposes and the moneys derived therefrom shall be paid into a fund hereby created to be known as "capitol building construction fund." (L. '17, §6, p. 777.)

§92. Transcript of Proceedings of State Board.

When the state board complete their equalization, the Auditor of State shall transmit to each county auditor a transcript of the proceedings of the board, within ten days after said board adjourns, specifying the amount to be levied and collected on said assessment books for state purposes for such year, and in addition thereto he shall certify to each county auditor the amounts due to each fund and unpaid

from such county for the seventh preceding year commencing with the tax levied for the year 1892. Every succeeding year thereafter the delinquent state taxes shall be so certified to the county auditors, and this sum shall be added to the amount levied for the current year. The State Auditor shall close the account for each county for the seventh preceding year and charge the amount of such delinquency to the tax levy of the current year. All taxes collected on and after the first day of July last preceding such certificate, on account of delinquent state taxes for the seventh preceding year, shall belong to the county and by the county treasurer be credited to the county current expense fund of the county in which collected. The county auditor shall compute the required per centum on the valuation thereof, as it stands after the same has been equalized by the county board of equalization, and shall extend such taxes in the proper columns of such books: *Provided*, That the rate so computed shall not be such as to raise a surplus of more than five per cent. over the total amount required by the state board. (L. '99, §5, p. 289; R. & B. Code, §9205.)

§93. Transmission to County Assessor After 1911.

When the State Board of Equalization shall have completed their equalization, the State Auditor shall, within ten days after the adjournment of said board, transmit to each county assessor a transcript of the proceedings of the board, specifying the amount to be levied and collected on said assessment books for state purposes for such year. He shall also certify to each county assessor the amounts due to each fund and unpaid from such county for the seventh preceding year, which sums shall be added to the amount levied for the current year. (L. '09, §2, p. 818; R. & B. Code, §9206.)

§94. Levies Certified to County Assessor After 1911.

It shall be the duty of the board of county commissioners of each county, of city and town councils, school directors, town officers, and all other officials, or boards, required by law to levy or assess taxes upon real or personal property, through their chairman and clerk, or secretary, on or before the tenth day of October in each year, to certify to the county assessor the amount of taxes levied upon the real and personal property in the county, or such city, town, school, road, or other taxing district. (L. '09, §3, p. 819; R. & B. Code, §9207.)

LEVY OF TAX

§95. Itemized Statement of Proposed Expenditures and of Receipts.

It shall be the duty of county commissioners, city and town councils, and school directors of school districts lying wholly, or in part, within the limits of any incorporated city or town, on or before the first Monday in September of each year, to make estimates of the amount required to meet the public expense for the ensuing year, and to be raised by taxation in such county, city, town, road, school, or

other taxing district. Such estimates shall be fully itemized, showing under separate heads the amount required for each department, public office, public official, for each public improvement, for the maintenance of each public building, structure, or institution, the salary of each public officer or employe, the maintenance of public highways, roads, streets, bridges, the construction, operation and maintenance of each public utility, and shall contain a full and complete disclosure and statement of the contemplated expenditures for the ensuing year, showing the amount proposed to be expended from each separate fund, and the total amount of public expense. Said statement shall also contain an estimate of the receipts for the ensuing year from sources other than direct taxation, and the amount, or amounts, proposed to be raised by taxation upon the real and personal property of such county, city, town, road, school, or other taxing district. (L. '09, §1, p. 531; R. & B. Code, §9208.)

§96. Time of Making Levy—Notices.

The estimates required in section one (1) of this act, together with a notice that such board of county commissioners, city or town council, or board of school directors, will meet on the first Monday in October for the purpose of making tax levies, as stated in said estimates, and naming the time and place of holding such meeting, shall be published for at least two consecutive weeks following the adoption of such estimates as follows: Estimates of expenditures, required to be disbursed by county commissioners shall be published in the official newspaper of the county, if there be one; if not, then in a newspaper of general circulation in such county. All other estimates shall be published in a newspaper of general circulation in such county, town, school, or other taxing district. (L. '09, §2, p. 531; R. & B. Code, §9209.)

§97. Hearings—Levy of Tax.

It shall be the duty of county commissioners, city and town councils, and of school directors of school districts, lying wholly, or in part, within the limits of any incorporated city or town, to meet on the first Monday in October, and at the time and place designated in said notice, when and where any taxpayer who may appear shall be heard in favor or against any proposed tax levies. When such hearings shall have been concluded, such county commissioners, city or town councils, and school directors, shall proceed to make, determine, and decide the amount of taxes to be levied upon the current assessment rolls. All taxes shall be levied or voted in specific sums, and shall not exceed the amount specified in such published estimates. (L. '09, §3, p. 532; R. & B. Code, §9310.)

§98. Indebtedness Incurred—Void When.

It shall be unlawful for the county commissioners, or any city council or city commission, or any public officer or employe of a county or city, to contract indebtedness or incur any liability in behalf of his

or their county or city during any current fiscal year more than two per centum in excess of the revenues provided for such year at the public hearing held as required by section 9210 of Rem. & Bal. Code unless authorized by a majority vote of the electors of the city or county at a general or special election, and any indebtedness contracted or liability incurred in violation hereof shall be void: *Provided*, That nothing herein contained shall be held to modify or change the limitations prescribed by sections 5590-5 of Rem. & Bal. Code, or by any law limiting the debts of any taxing district to an amount based on a percentage of the assessed valuation thereof. (L. '17, §1, p. 581; R. & B. Code, §9211.)

§99. Applies Only to Cities of 104,000 or Less.

None of the requirements of section 1 of this act shall apply to any city having a population of over one hundred and four thousand, according to the federal census, or to a city having similar current revenue charter provisions. (L. '17, §2, p. 582.)

"Section 1" refers to last preceding section.

LEVY AND EXTENSION

§100. Levy and Rate of Taxes—Delinquent Taxes.

All county taxes shall be levied or voted in specific amounts, and the rates per centum shall be determined from the amount of property as equalized by the county board of equalization each year, except such general taxes as may be definitely fixed by law. The amount of state tax shall be levied by the State Board of Equalization, and the rate be ascertained by the several county auditors on the valuation in their respective counties: *Provided*, That the amount levied in any one year shall not, for general state purposes, exceed three mills on a dollar, property valuation of the entire state. The amount of levy, determined annually by the state board, shall be certified by the Auditor of State to each county auditor on or before the last Monday of September of each year. The county taxes shall be levied by the county commissioners between the first and second Mondays of October of each year. The tax for payment of county current expenses shall be based upon an itemized statement of the estimated county expenses for the ensuing fiscal year, which statement shall be included in the published proceedings of the said board, and no greater levy of county tax shall be made upon the taxable property of any county than will be equal to the amount of such estimated expenses, with an excess of fifteen per cent. of the same. The tax for the payment of county indebtedness shall be based upon the indebtedness of the county, taking into consideration the amount of unpaid taxes, interest and penalty thereon, and all other assets applicable to the payment of such indebtedness: *Provided*, That this shall not be construed to affect any existing provisions of law relating to the levy of taxes for payment of any funded or bonded indebtedness or the interest thereon. The rate per

gument of all taxes, except the state tax and such other taxes, the rates of which may be fixed by law or the county commissioners, shall be calculated and fixed by the county auditor according to the limitations hereinafter prescribed: *Provided*, That all collections made on and after the first day of February, 1898, for delinquent county taxes for the year 1896 and prior years, be credited to the county indebtedness fund, and with the taxes collected from the levy for payment of county indebtedness shall be paid and applied upon the county indebtedness outstanding on said first day of February, 1898, the payment of which is not otherwise provided for by law, and on and after said first day of February, 1898, all salaries, court expenses, and all other current expenses of the county shall be paid out of moneys collected from the levy of taxes for payment of county current expenses: *And provided further*, That all revenues other than taxes accruing to the county after the first day of February, 1898, and payable under laws enacted heretofore into the "general" or "county fund" or "salary fund," shall be paid into said county current expense fund. (L. '97, §62, p. 166; R. & B. Code, §9212.)

§101. Levy—General Road and Bridge Fund—District Funds.

For the purpose of raising revenue for the construction, maintenance and repair of county roads, bridges and wharves the board of county commissioners shall annually at the time for making the levy for general county purposes make additional levies as follows:

(a) A tax of not more than four mills on the dollar on all taxable property in the county, which tax shall be kept in a fund to be known as the "general road and bridge fund," and shall be kept separate and distinct from any other funds of the county.

(b) A tax of not more than ten mills on the dollar on all taxable property in each road district previously established by the board, which tax shall be kept separate and distinct from other funds of the county in a fund for each road district known as "Road District No. county": *Provided*, That the county treasurer of each county shall remit to the city or town treasurer of each incorporated city and town within such county fifteen per cent. of all money collected for the general road and bridge fund in such city or town, and said moneys so remitted shall be expended by the corporate authorities of such city or town on roads and bridges within said city or town connecting with roads leading out into the country known or designated as county roads. (L. '15, §1, p. 545; R. & B. Code, §5590-1.)

§102. Collection and Disbursement.

All of the taxes provided for in this act shall be levied and collected by the same officers and in the same manner as taxes levied for the county current expense fund and shall be disbursed by the same officers and in the same manner as taxes levied for the county current expense fund except that fifteen per cent. of all taxes levied and collected for the general road and bridge fund within the corporate

limits of any incorporated city or town shall be disbursed by the corporate authorities of such city or town as in section 1 of this act provided. (L. '15, §2, p. 545; R. & B. Code, §5590-4.)

"Section 1 of this act" refers to preceding section.

§103a. Taxing District Defined.

The term "taxing district" as used in this act shall be held and construed to mean and include the state and any county, city, town, township, port district, school district, metropolitan park district, or other municipal corporation authorized or having the power to levy taxes now or hereafter existing; and the term "assessed value of property" as used in this act shall be held and construed to mean the aggregate valuation of the property subject to taxation by any taxing district as placed on the last completed and balanced tax rolls of the county next preceding the date of any tax levy. (L. '19, §1, p. 392.)

§103b. Assessed Value of Property defined.

The terms "assessed valuation of taxable property," "valuation of taxable property," "value of taxable property," "taxable value of property," "property assessed" and "value" whenever used in any statute, law, charter or ordinance with relation to the levy of taxes in any taxing district, shall be held and construed to mean "assessed value of property" as hereinabove in section 1 of this act defined. (L. '19, §2, p. 392.)

"Sec. 1" refers to the last preceding section.

§103c.

Whenever any taxing district or the officers thereof shall, pursuant to any provision of law or of its charter or ordinances, levy any tax, the assessed value of the property of such taxing district shall be taken and considered as the taxable value upon which such levy shall be made. (L. '19, §3, p. 392.)

shall not exceed one-tenth of one mill on each dollar of the assessed valuation of the said county. The proceeds of said tax shall, when collected, constitute a circulating school library fund for the payment of all bills created by the purchase of books and fixtures by the county superintendent. (L. '09, §2, p. 320; R. & B. Code, §4593.)

Levy for Horticultural Inspection.

It shall be the duty of the board of county commissioners of each county at the time of making the regular annual tax levy in each year to include a tax upon the taxable property of such county in such an amount as they shall find will produce funds sufficient to meet the expenses of inspecting and disinfecting orchards, etc. * * * which tax shall be known as the "horticultural tax." (L. '15, §13, p. 509; R. & B. Code, §3082-13.)

Levy for Payment of Road Bonds.

The county commissioners must ascertain and levy annually the tax necessary to pay the interest on county road bonds whenever the same becomes due, and a sinking fund to redeem the bonds at their maturity. (L. '89-'90, §5, p. 42; R. & B. Code, §5098.)

Levy for General Bonded Indebtedness.

Ten years before the bonds of the county shall become due, the county commissioners are authorized and required annually, to levy a tax sufficient to liquidate the said bonds at maturity. (L. '89-90, §6, p. 39; R. & B. Code, §5090.)

Levy for Refunding County and City Indebtedness.

There shall be levied each year a tax upon the taxable property of such county or city, as the case may be, sufficient to pay the interest on said bonds as the same accrues, and before five years prior to the maturity thereof an annual sinking fund tax sufficient for the payment of said bonds at maturity, which taxes shall become due and collectible as other taxes. (L. '88, §3, p. 13; R. & B. Code, §5104.)

Levy for Funding Indebtedness in Counties, Cities and Towns.

The corporate authorities of any such county, city or town shall provide annually by ordinance or resolution for the levy and extension on the tax rolls of such county, city or town, and for the collection thereof, of a direct annual tax in addition to all other county, city or town taxes to be levied according to law, which shall be sufficient to meet the interest on all of said bonds promptly as the same matures, and also sufficient to fully pay each series of bonds as the same matures: *Provided*, That such ordinance or resolution shall not be repealed until the levy therein provided for shall be fully paid, or the bonds, both principal and interest, shall be paid or cancelled. (L. '95, §4, p. 467; R. & B. Code, §5115.)

Levy for County Schools.

The county commissioners of the several counties of the State of Washington shall annually, at the time of making the tax levy for county purposes, levy a tax on all the property subject to taxation in their county, sufficient to produce the sum of ten dollars for each child of school age therein, as is shown by the certificate of the county superintendent hereinafter mentioned: *Provided*, That such tax on said property shall in no case exceed five mills on each dollar, at the assessed valuation; such tax to be used for the support and maintenance of the public schools in such county. (L. '09, §5, p. 323; R. & B. Code, §4602.)

Levy for School Districts.

In addition to the school revenues provided by state and county tax, for the support of the common schools of this state, a tax may be levied upon all taxable property of each school district of this state, in the manner provided by law, and the funds thereby created shall be known as the "school district fund." (L. '09, §8, p. 323; R. & B. Code, §4605.)

Levy in districts of the first class: See L. '09, §20, p. 297; R. & B. Code, §4513.

Levy in districts of the second class: See L. '09, §8, p. 299; R. & B. Code, §4521.

Levy in districts of the third class: See L. '09, §12, p. 303; R. & B. Code, §4537.

Bond interest levy, sinking and redemption fund: See L. '11, §2, p. 331; R. & B. Code, §4613.

Special levy to pay indebtedness when no apportionment made to: L. '09, §16, p. 363; R. & B. Code, §4701.

New district levy to pay indebtedness: L. '09, §6, p. 268; R. & B. Code, §4432.

Levy to pay prior indebtedness on consolidation: L. '09, §7, p. 272; R. & B. Code, §4446.

Levy for Public Libraries.—L. '15, §1, p. 27; R. & B. Code, §6971.

Levy for Cemetery Purposes.—L. '57, §3, p. 28; R. & B. Code, §3652.

Levy for Metropolitan Park District.—L. '07, §5, p. 185; R. & B. Code, §5839.

Levy for Townships.—L. '13, §8, p. 445; R. & B. Code, §9403.

Levy for Port Districts.—L. '17, §1, p. 501; R. & B. Code, §8165-4.

Levy for Commercial Waterway District.—L. '11, §33, p. 39; R. & B. Code, §8197a.

Levy for River Improvement.—L. '07, §1, p. 109; R. & B. Code, §8120.

Levy for Maintenance Diking and Drainage District.—L. '09, §31, p. 809; R. & B. Code, §4212.

Levy to Pay Dike District Bonds.—L. '95, §§32, 34, p. 325; R. & B. Code, §§4126 and 4128.

Levy to Pay Drainage District Bonds.—L. '95, §§29, 31, p. 293; R. & B. Code, §§4168 and 4170.

Levy to Liquidate Claims Against Drainage District.—L. '03, §6, p. 90; R. & B. Code, §4282.

Levy for Irrigation Districts, Bonds, Contract, Expense and Maintenance.—L. '15, §12, p. 621; R. & B. Code, §6437.

Levy for Independent Highway Districts.—L. '17, §10, p. 442.

Levy for Water and Power Districts.—L. '13, §17, p. 549; R. & B. Code, §9510-17.

Levy for Agricultural Development Districts.—L. '13, §24, p. 499; R. & B. Code, §3129-24f.

§104. Purposes and Limit of Levy.

For the purpose of raising a revenue for the state, county indebtedness, county current expense, school, road and other purposes, the board shall, at said October session, levy a tax on all taxable property in the county, as shown by the assessment roll, sufficient for such purposes: *Provided*, That state tax shall not exceed the amount levied by the State Board of Equalization; the tax for payment of county indebtedness shall not exceed five mills; the tax for payment of county current expense shall not exceed eight mills; the school tax shall not exceed eight mills, except for districts in cities of 10,000 or more inhabitants, where it shall not exceed ten mills, unless the board of directors thereof shall by unanimous consent of all its members determine upon a greater levy, not exceeding two per cent.; the road tax shall not exceed five mills; the bridge tax shall not exceed three mills, and all other taxes shall be in accordance with the laws of the state. (L. '03, §1, p. 339; R. & B. Code, §9213.)

§105. Auditor to Extend Tax Roll.

The county auditor shall extend the taxes upon the assessment books in the form herein prescribed. The rate per cent. necessary to raise the required amount of the total tax for state, county indebted-

ness, county current expense, road, bridge, school, special school and incorporated cities, and all other county, school, municipal and state purposes, shall be computed on the assessed valuation as equalized by the county board of equalization as a whole, under the head of consolidated tax. The rate per cent. necessary to raise the required amount of any special district tax shall be computed as to the attested valuation of property within such district, as equalized by the county board of equalization; all taxes assessed against any property shall be added together and carried to the total column. In extending any tax, whenever it amounts to a fractional part of a cent greater than five mills, it shall be made one cent, and whenever it amounts to five mills or less than five mills, it shall be dropped. The amount of all taxes shall be entered in the proper columns, as shown by entering the rate per cent. of consolidated tax and such special tax at the head of the proper columns, on the first day of each month the county treasurer shall distribute pro rata, according to the rate of levy for each fund, the amount collected as consolidated tax during the preceding month, and shall certify the same to the county auditor. (L. '05, §1, p. 243; R. & B. Code, §9214.)

Superseded by next section after 1911.

§106. Assessor to Extend Rolls After 1911—Delivery to Auditor.

The county assessor shall extend the tax rolls of his county in the manner required by law, and upon the completion of such tax extension, it shall be his duty to make in each assessment book, tax roll, or list, a certificate in the following form:

I,, assessor of.....county, State of Washington, do hereby certify that the foregoing is a correct list of taxes levied on the real and personal property in the county of.....for the year one thousand nine hundred and.....

Witness my hand this....day of....., 19....

.....
County Assessor.

Delivering said tax rolls to the county auditor on or before the fifteenth day of December, taking his receipt therefor. (L. '09, §4, p. 819; R. & B. Code, §9214½.)

This section effective January, 1911.

§107. Auditor's Certificate.

It shall be the duty of the county auditor to make in each assessment book or list a certificate in the following form, viz.:

I, A..... B....., auditor of.....county, State of Washington, do hereby certify that the foregoing is a correct list of taxes levied on the real and personal property in the county of.....for the year one thousand eight hundred and.....

Witness my hand and seal this....day of.....

.....
County Auditor.

(L. '97, §65, p. 163; R. & B. Code, §9215.)

§108. Assessment Year.

The assessment year contemplated in this act shall commence on the first day of March and end on the last day of February in each year, and the fiscal year contemplated in this act shall commence on January 1st and end December 31st of each year. (L. '97, §66, p. 168; R. & B. Code, §9216.)

§109. Rolls Delivered to Treasurer.

On the first Monday of December next succeeding the date of the levy of taxes the county auditor shall deliver to the county treasurer the assessment books of his county for such assessment year, with his warrant thereto attached, authorizing the collection of said taxes, taking his receipt therefor, and said books shall be preserved as a public record in the office of the county treasurer. The amount of said taxes due upon said books shall be charged to the treasurer in an account to be designated as treasurer's "tax roll account" for....., and said books with the warrants for collection shall be full and sufficient authority for the county treasurer to receive and collect all taxes therein levied: *Provided*, That the county treasurer shall in no case collect such taxes or issue receipts for the same or enter payment or satisfaction of such taxes upon said assessment rolls before the first Monday of said February following. (L. '97, §67, p. 168; R. & B. Code, §9217.)

Superseded in part after 1911 by the next section.

§110. Time for Delivery of Rolls After 1911.

On the first Monday of January next succeeding the date of the levying of taxes, the county auditor shall deliver to the county treasurer the tax rolls of his county, with his warrant thereto attached, and taking his receipt therefor, and charging the county treasurer therewith, and keeping an account thereof in the manner required by law. (L. '09, §5, p. 819; R. & B. Code, §9218.)

This section effective January, 1911.

COLLECTION OF TAXES**§111. Taxes, When Due and Delinquent—Rebate.**

The county treasurer shall be the receiver and collector of all taxes extended upon the tax books of the county, whether levied for state, county, school, bridge, road, municipal or other purposes, and also of all fines, forfeitures or penalties received by any person or officer for the use of his county. All taxes upon real property made payable by the provisions of this act shall be due and payable to the treasurer as aforesaid on or before the thirty-first day of May in each year, after which date they shall become delinquent, and interest at the rate of twelve per cent. per annum shall be charged upon such unpaid taxes from the date of delinquency until paid: *Provided, however*, When the total amount of tax payable by one person is two dollars or more, then if one-half of such taxes be paid on or before said thirty-first day of

May, then the time for payment of the remainder thereof shall be extended and said remainder shall be due and payable on or before the thirtieth day of November following; but if the remaining one-half of such taxes be not paid on or before the thirtieth day of November, then such remaining one-half shall be delinquent, and interest at the rate of twelve per cent. per annum shall be charged thereon from the first day of June preceding until paid: *Provided further*, There shall be an allowance of three per cent. rebate to all payers of taxes who shall pay the taxes on real property in one payment and in full on or before the fifteenth day of March next prior to the date of delinquency. All rebates allowed under this section shall be charged to the county current expense fund and all collections from penalties and interest on delinquent taxes shall be credited to the current expense fund. (L. '17, §1, p. 582; R. & B. Code, §9219.)

§112. Notice of Collection—Treasurer Sole Collector.

On receiving the tax books from the county auditor the treasurer shall post all real property taxes from said assessment books to the treasurer's tax roll or ledger, and shall then give notice by publication in some newspaper having general circulation in the county, once in each of three consecutive weeks, that the tax books have been turned over to him for the collection of taxes thereon, on and after the first Monday in February. He shall, when requested, notify each taxpayer in his county, at the expense of the county, having printed on said notice the name of each tax and the levy made on the same, of the amount of his real and personal property, and the total amount of tax due on the same; and from and after the taking effect of this act the county treasurer shall be the sole collector of all delinquent taxes and all other taxes due and collectible on the tax lists of the county, and all other county officers having tax lists in their possession are hereby directed to deliver up said lists to the treasurer of their respective counties, to the end that such treasurer shall be the sole collector of all taxes levied therein. (L. '97, §69, p. 169; R. & B. Code, §9220.)

§113. Receipt for Taxes—Collection Registers.

The county treasurer, upon receiving any tax, shall give to the person paying the same a receipt therefor, specifying therein the land, city or town lot, or other real and personal property on which the tax so paid was levied according to its description on the treasurer's tax roll and the year for which the tax was levied. Such receipts shall be numbered consecutively for such year and such numbers and amount of taxes paid shall be immediately entered upon the treasurer's tax roll opposite or under each and every piece of property therein for which such receipt was given; it shall contain the name of the party paying, with the amount and date of payment and the description of the property paid on. Such receipt shall be made out with a stub, which shall be a summary of the receipt. He shall post such collections into his

cash or collection register, provided for that purpose, to thus keep an accurate account not only of the gross amount of collections, but also the amount collected upon the consolidated fund and upon each and every separate fund. The treasurer shall also keep a separate register for the purpose of entering therein all collections made on account of delinquent taxes. (L. '97, §70, p. 170; R. & B. Code, §9221.)

§114. Receipt for Taxes—When Part Delinquent.

The owner or owners of property against which there are delinquent taxes, shall have the right to pay the current tax without paying any delinquent taxes there may be against said property: *Provided, however,* That in issuing a receipt for such current tax the county treasurer shall endorse upon the face of such receipt a memorandum of all delinquent taxes against the property therein described, showing the year for which said tax is delinquent and the amount of delinquent tax for each and every year. (L. '05, §2, p. 252; R. & B. Code, §9222.)

§115. Collection of Personal Property Taxes — Notice — Distraint for, Etc.

On and after the first Monday of February succeeding the levy of taxes the county treasurer shall proceed to collect all personal property taxes. He shall give notice by mail to all persons charged with personal property taxes, and if such taxes are not paid within thirty days after said notice, he shall distraint sufficient goods and chattels belonging to the person charged with such taxes, if found within the county, to pay the same, together with all accruing costs with interest, and shall immediately proceed to advertise the same by posting written notices thereof in three public places in the county in which such property has been levied upon, stating the time when and place where such property will be sold, and if the taxes for which such property is distrained, and the costs which accrue thereon, are not paid before the date appointed for such sale, which shall be not less than ten days after the taking of such property, such treasurer shall proceed to sell such property at public auction or so much thereof as will be sufficient to pay such taxes with interest and costs, and if there be any overplus of money arising from the sale of any personal property, the treasurer shall immediately pay any such overplus to the owner of the property so sold, or to his legal representatives: *Provided,* That if any personal property upon which the taxes have been levied but not paid, is about to be removed from the county where the same has been assessed, the county treasurer may demand such taxes without the notice provided for in this section, and if necessary, may distraint and sell sufficient goods and chattels to pay the same. (L. '99, §7, p. 291; R. & B. Code, §9223.)

Sale of property about to be removed or dissipated: §116 *et seq.*, *infra.*

§116. Collection of Personal Property Taxes — Notice — Distraint for, Etc.

On the first Monday in February succeeding the levy of taxes, the county treasurer shall proceed to collect all personal property taxes. He shall give notice by mail to all persons charged with personal property taxes, and if such taxes are not paid on or before the fifteenth day of March of such year, he shall forthwith proceed to collect the same. In the event that he is unable to collect the same in due course, he shall prepare papers in distraint, which shall contain a description of the personal property, the amount of the tax, the amount of accrued interest at the rate of fifteen per cent. per annum from March 15th, and the name of the owner or reputed owner, and shall file the same with the county sheriff, who shall immediately without demand or notice distrain sufficient goods and chattels belonging to the person charged with such taxes to pay the same with interest at the rate of fifteen (15) per cent. per annum from the fifteenth day of March of such year, together with all accruing costs, and shall immediately proceed to advertise the same by posting written notices in three public places in the county in which such property has been levied upon, one of which places shall be at the county court house, such notices to state the time when and place where such property will be sold. If the taxes for which such property is distrained and the interest and cost accruing thereon are not paid before the date appointed for such sale, which shall not be less than ten (10) days after the taking of such property, such sheriff shall proceed to sell such property at public auction, or so much thereof as shall be sufficient to pay such taxes with interest and costs, and shall pay to the treasurer the money so collected at such sale, and if there be any overplus of money arising from the sale of any personal property, the treasurer shall immediately pay such overplus to the owner of the property so sold, or to his legal representative: *Provided*, That whenever it shall become necessary to distrain any standing timber owned separately from the ownership of the land upon which the same may stand, or any fishtrap, pound-net, reef-net, set-net, drag-seine fishing location, which shall be deemed to have been distrained and taken into possession when the said sheriff shall have, at least thirty (30) days before the date fixed for the sale thereof, filed with the auditor of the county wherein such property is located, a notice in writing citing that he has distrained such property, describing it, giving the name of the owner or reputed owner, the amount of tax due with interest, and the time and place of sale. A copy of said notice shall also be sent to the owner or reputed owner at his last known address by registered letter at least thirty (30) days prior to the date of sale: *And provided further*, That if any personal property upon which taxes have been levied, but not paid, is about to be removed from the county where the same has been assessed, the county treasurer may demand such taxes without the notice provided for in this section, and if

necessary may distrain sufficient goods and chattels to pay the same as provided in this act. (L. '15, §1, p. 370; R. & B. Code, §9223a.)

§117. Destruction by Fire—Insurance.

In the event of the destruction of personal property by fire after the fifteenth day of March of any year, the lien of the personal property tax shall attach to and follow any insurance that may be upon said property and the insurer shall pay to the county treasurer from the said insurance money all taxes, interest and costs that may be due. (L. '11, §3, p. 92; R. & B. Code, §9223-1.)

§118. List Sent to Treasurer.

After personal property has been assessed, it shall be unlawful for any person to remove the same from the state until taxes and interest are paid, or until notice has been given to the county treasurer describing the property to be removed and in case of public sales of personal property, a list of the property desired to be sold shall be sent to the treasurer, and no property shall be sold at such sale until the tax has been paid, the tax to be computed upon the consolidated tax levy for the previous year. Any person violating the provisions of this act shall be guilty of a misdemeanor. (L. '11, §4, p. 92; R. & B. Code, §9223-2.)

§119. Return of Non-Collectible Personalty Taxes to Auditor.

If the county treasurer is unable, for the want of goods or chattels whereupon to levy, to collect by distress or otherwise, the taxes, or any part thereof, which may have been assessed upon the personal property of any person or corporation, or an executor, or administrator, guardian, receiver, accounting officer, agent or factor, such treasurer shall file with the county auditor, on the first day of January following, a list of such taxes, with an affidavit of himself or of the deputy treasurer entrusted with the collection of said taxes, stating that he had made diligent search and inquiry for goods and chattels wherewith to make such taxes, and was unable to make or collect the same. The county auditor shall deliver such list and affidavit to the board of county commissioners at their first session thereafter, and they shall cancel such taxes as they are satisfied cannot be collected. (L. '99, §8, p. 291; R. & B. Code, §9224.)

§120. Treasurer Liable for Failure to Collect.

If any county treasurer shall wilfully refuse or neglect to collect any taxes assessed upon personal property, where the same is collectible, or to file the delinquent list and affidavit, as herein provided, he shall be held, in his next settlement with the auditor, liable for the whole amount of such taxes uncollected, and the same shall be deducted from his salary and applied to the several funds for which they were levied. (L. '97, §73, p. 172; R. & B. Code, §9225.)

§121. Delinquent Tax Collectible at Any Time.

The power and duty to levy on property and collect any tax due and unpaid shall continue in and devolve upon the county treasurer and his successors in office after his return to the county auditor, and until the tax is paid; and the warrant attached to the assessment roll shall continue in force and confer authority upon the treasurer to whom the same was issued, and upon his successors in office, to collect any tax due and uncollected thereon. This section shall apply to all assessment rolls and the warrants thereto attached, which have been heretofore issued, upon which taxes may be due and unpaid, as well as those hereafter issued. (L. '97, §74, p. 172; R. & B. Code, §9226.)

§122. Fees and Mileage in Distress and Sale.

The county treasurer or his deputy shall tax the same fees for making distress and sale of goods and chattels for the payment of taxes as are allowed to constables for making levy and sale of property on execution; traveling fees to be computed from the county seat of the county to the place of making the distress. (L. '97, §75, p. 172; R. & B. Code, §9227.)

§123. Treasurer's Settlements and County Auditor's Report.

Immediately after the last day of each month, the county treasurer shall pay over to the State Treasurer the amount collected by him and credited to the various state funds, but every such payment shall be subject to correction for error discovered upon the quarterly settlement next following. The county auditor shall at the same time ascertain and report to the State Auditor by ordinary letter or other written memorandum, the amounts due to the various state funds. If the same be not paid to the State Treasurer before the tenth day of the month he shall then make a sight draft on the county treasurer for such amount. On the first Mondays of January, April, July and October, respectively, of each year, the county treasurer shall make full settlement with the county auditor of his receipts and collections for all purposes from the date of the last settlement up to and including the last day of the preceding month. The county auditor shall, on or before the fifteenth day of the month in which such settlement is made, notify the State Auditor of the result of the quarterly settlement with the county treasurer as above specified. Should any county treasurer fail or refuse to honor such draft or make payment of the amount thereon (except in case of manifest error or other good and sufficient cause) he shall be guilty of non-feasance in office and upon conviction thereof shall be punished according to law. (L. '99, §9, p. 292; R. & B. Code, §9228.)

§124. Treasurer's Annual Report to, and Settlement With, County Auditor.

On the first Monday of January of each year the county treasurer shall balance up the tax rolls in his hands and with which he stands

charged on the roll accounts of the county auditor. He shall then report to the county auditor in full the amount of taxes he has collected and specify the amount collected on each fund. He shall also report the amount of taxes that remain uncollected and delinquent upon the tax rolls, which, with his collection and credits on account of errors and double assessments, should balance his roll accounts as he stands charged. He shall then report the amount of collections on account of interest since the taxes became delinquent, and as added by him to the original amounts when making such collections, and with which he is now to be charged by the auditor, such reports to be duly verified by affidavit. He shall also at the same time submit to the auditor his collection register, showing all taxes collected by him since the last preceding annual settlement of current and delinquent taxes. The county auditor shall thereupon proceed to compare the stub tax receipts of the treasurer with the treasurer's tax rolls and the collection register submitted to him, and shall note if the tax rolls are properly marked opposite each tract or tax with the date and number of the treasurer's receipt that he gave in discharge of any tax, if same is properly entered to the credit of each tract or tax described in such receipt, and if the description, amount, names and numbers and funds agree. The auditor shall also compare such receipts with the treasurer's cash book or collection register, upon which he is required to post them, and if properly credited to the several funds, and also coincides in all respects with the tax rolls. He shall then test the footings upon the treasurer's collection register to see that no errors have been made or frauds perpetrated. He shall then satisfy himself that the collections, of the interest required to be added after taxes have become delinquent has been collected and properly accounted for, and if so to charge the treasurer with the same. If the treasurer's receipts in all respects are correct and true, and the collections fully and properly accounted for on the same, the auditor shall enter the credits and debits upon the treasurer's roll accounts and properly balance the same up to date. (L. '99, §10, p. 293; R. & B. Code, §9229.)

§125. Lien of Taxes.

All taxes and levies which may hereafter be lawfully imposed or assessed shall be and they are hereby declared to be a lien respectively upon the real estate upon which they may hereafter be imposed or assessed, which liens shall include all charges and expenses of and concerning the said taxes which, by the provisions of this act, are directed to be made. The said lien shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation or responsibility to or with which said real estate may become charged or liable. (L. '97, §78, p. 174; R. & B. Code, §9230.)

§126. Lien, How Satisfied.

Any person being the owner or having an interest in an estate or claim to real estate against which taxes shall have been unpaid may

pay the same and satisfy the lien at any time before the execution of a deed to said real estate. The person or authority who shall collect or receive the same shall give a certificate that such taxes as have been so paid to the person or persons entitled to demand such certificate. (L. '97, §79, p. 174; R. & B. Code, §9231.)

§127. Former Sales, How Enforced.

All lots, tracts and parcels of land heretofore sold to counties for delinquent taxes, which taxes are due and remaining unpaid at the date of the approval of this act, or for the collection of which suit has been instituted, but no judgment ordering such property sold for said taxes has been rendered, as shown by the register of unpaid taxes on file in the offices of the several county treasurers, shall be deemed to be delinquent; and payment of such unpaid taxes, together with penalty, interest, costs and expenses, shall be enforced under the provisions of this act. (L. '97, §80, p. 174; R. & B. Code, §9232.)

§128. Tenant or Other Person May Pay Tax for Owner—Recovery of Same.

When any tax on real estate is paid by or collected of any occupant or tenant, or any other person, which, by agreement or otherwise, ought to have been paid by the owner, lessor or other party in interest, such occupant, tenant or other person may recover by action the amount which such owner, lessor or party in interest ought to have paid, with interest thereon at the rate of ten per cent. per annum, or he may retain the same from any rent due or accruing from him to such owner or lessor for real estate on which such tax is so paid; and the same shall, until paid, constitute a lien upon such real estate. (L. '97, §81, p. 175; R. & B. Code, §9233.)

§129. Lienors May Pay Taxes—Tax on Part of Tract.

Any person who has a lien by mortgage or otherwise upon any real property upon which the taxes have not been paid, may pay such taxes and the interest, penalty and costs thereon; and the receipt of the county treasurer shall constitute an additional lien upon such land, to the amount therein stated; and the amount so paid and the interest thereon at the rate specified in the mortgage or other instrument, shall be collectible with, or as a part of, and in the same manner as the amount secured by the original lien. Any person desiring to pay taxes upon any part or parts of real estate heretofore or hereafter assessed as one parcel, or tract, may do so by applying to the county treasurer, who must carefully investigate and ascertain the relative or proportionate value said part bears to the whole tract assessed, on which basis the assessment must be divided and tax collected accordingly: *Provided*, Where the assessed valuation of the tract to be divided exceeds two thousand dollars, a notice by registered mail must be given to the several owners interested in said tract, if known, and if no protest against said division be filed with the county treasurer within

twenty days from date of notice the county treasurer shall duly accept payment and issue receipt on apportionment as by him made. In cases where protest is filed to said division, appeal shall be made to the county commissioners at their next regular session for final division, and the county treasurer shall accept and receipt for said taxes as determined and ordered by county commissioners. Any person desiring to pay on an undivided interest in any real property may do so by paying to the county treasurer a sum equal to such proportion of the entire taxes charged on the entire tract as interest paid on bears to the whole. (L. '99, §10, p. 294; R. & B. Code, §9234.)

§130. When Lien Attaches.

The taxes assessed upon real property shall be a lien thereon from and including the first day of March in the year in which they are levied until the same are paid, but as between a grantor and grantee such lien shall not attach until the first Monday of February of the succeeding year. The taxes assessed upon personal property shall be a lien upon all the real and personal property of the person assessed, from and after the date upon which such assessment is made, and no sale or transfer of either real or personal property shall in any way affect the lien for such taxes upon such property. (L. '03, §3, p. 74; R. & B. Code, §9235.)

§131. Itinerant Merchants, How Taxed.

Whenever any person, firm or corporation shall, subsequent to the first day of March of any year, bring or send into any county, any stock of goods or merchandise to be sold or disposed of in a place of business temporarily occupied for their sale, without the intention of engaging in permanent trade in such place, the owner, consignee, or person in charge of the said goods, or merchandise, shall immediately notify the county assessor, and thereupon the assessor shall at once proceed to value the stock of goods and merchandise at its true value, and upon such valuation the said owner, consignee, or person in charge shall pay to the collector of taxes a tax at the rate assessed for state, county and local purposes in the taxing district in the year then current. And it shall not be lawful to sell or dispose of any such goods or merchandise as aforesaid in such taxing district until the assessor shall have been so notified as aforesaid and the tax assessed thereon paid to the collector. Every person, firm or corporation bringing into any county of this state goods or merchandise after the first day of March shall be deemed subject to the provisions of this section. (L. '99, §12, p. 295; R. & B. Code, §9236.)

The proviso to this section was declared void in *Nathan vs. Spokane County*, 35 Wash. 28, and is therefore omitted.

Assessment of property removed, generally: §40, *supra*.

§132. Forfeiture for Failing to Notify.

That in case any such owner, consignee or person in charge of such stock of goods and merchandise as is mentioned in the foregoing

section, shall fail or neglect to notify the proper assessor, or to pay the said tax as herein required, or shall proceed to sell or dispose of such stock, or any portion thereof, before the payment of the tax levied on account thereof, the owner of such goods or merchandise shall forfeit to such taxing district a sum equal to twice the amount of tax assessable as aforesaid on account of such stock. Such forfeiture may be recovered in the same manner as delinquent personal property tax in any court having jurisdiction to the amount thereof, and in such action the said penalty shall be preferred before all other debts or claims. Any mistake in the name of the owner of the said goods or merchandise shall not affect the right to recover such penalty. (L. '97, §85, p. 176; R. & B. Code, §9237.)

§183. Persons Filing Plats Shall Pay Additional Tax.

Any person filing a plat subsequent to March 1st in any year and prior to the date of the collection of taxes, shall deposit with the county treasurer a sum equal to an increase of twenty-five per cent. of the amount of the tax for the previous year on the property platted. The treasurer's receipt for said amount shall be taken by the auditor as evidence of the payment of the tax. The treasurer shall appropriate so much of said deposit as will pay the taxes on the said property when the tax rolls are placed in his hands for collection, and in case the sum deposited is in excess of the amount necessary for the payment of the said taxes, the treasurer shall return, to the party depositing, the amount of said excess, taking his receipt therefor, which receipt shall be accepted for its face value on the treasurer's quarterly settlement with the county auditor. (L. '09, §1, p. 704; R. & B. Code, §7834.)

§184. Duty of Treasurer in Cases of Fraud or Omission in Returns.

If the county treasurer has reason to believe or is informed that any person has given to the county assessor a false statement of his personal property, or that the county assessor has not returned the full amount of personal property required to be listed in his county, or has omitted or made erroneous return of any property which is by law subject to taxation, or if it shall come to his knowledge that there is personal property which has not been listed for taxation for the current year, he shall prepare a record setting out the facts with reference to the same and file such record with the county board of equalization at its meeting on the third Monday in April, and for this purpose it is authorized and empowered to issue compulsory process and to require the attendance of any person having knowledge of the articles or value of the property erroneously or fraudulently returned, and to examine such person on oath in relation to the statement return of assessment, and the board of equalization shall in all such cases notify every such person affected before making a finding, so that such person may have an opportunity of showing that his statement or the return of the assessor is correct.

The county treasurer shall also make a record, setting forth the facts relating to such manifest errors in description, double assessments, clerical errors in extending the rolls, and such manifest errors in the listing of property which do not involve a re-valuation of property such as the assessment of property exempted by law from taxation or the failure to deduct the exemption allowed by law to the head of a family as shall come to his attention after the rolls shall have been turned to him for collection.

The county board of equalization shall re-convene on the third Monday in April for the sole purpose of considering such matters as shall appear in the record filed with it by the county treasurer, and shall only correct such matters as set forth in such record, but it shall have no power to change or alter the assessment of any person, or change the aggregate value of the taxable property of the county, except in so far as it is necessary to correct the errors hereinbefore mentioned. The board shall make findings of the facts upon which it bases its decision on all matters submitted to it, and when so made the assessment and levy shall have the same force as made in the first instance, and the county treasurer shall proceed to collect the taxes due on the rolls as modified. (L. '15, §2, p. 345; R. & B. Code, §9238.)

§135. No Change in Valuations or Commuting of Tax.

The boards of county commissioners shall at no time have any authority to change the valuation of the property of any person or to release or commute in whole or in part the taxes due on the property of any person. (L. '15, §3, p. 247; R. & B. Code, §9238-1.)

§136. Re-Assessment in Case of Error.

If any tax heretofore or hereafter levied on any property liable to taxation is prevented from being collected for any year or years, by reason of any erroneous proceeding, or other cause, the amount of such tax which such property should have paid shall be added to the tax on such property for the next succeeding year, and if any tax is adjudged void for want of form or manner of procedure on the part of the taxing officers, the county commissioners shall cause such property to be placed on the assessment and tax roll of the current year, to be collected as other taxes of that year are collected: *Provided*, There shall be if necessary a re-listing, re-assessment and a re-levy of the proper tax in the manner and by the person now authorized by law to list property and levy and assess a tax: *Provided further*, That such re-listing, re-levying and sale shall take place within five years from the date such tax would have been delinquent, had such property been properly listed, assessed and tax levied thereon: *Provided further*, That if the question is raised in the courts as to the legality of such tax then said five years shall not commence to run until such question is finally determined by such court or courts. (L. '97, §87, p. 178; R. & B. Code, §9239.)

§137. Realty Exemptions to Be Listed.

At the time of making the assessment of real property the assessor shall enter each description of property exempt under the provisions of section five of this act, and value and list the same in the manner and subject to the same rule as he is required to assess all other property, designating in each case to whom such property belongs, and for what purpose used, to entitle it to exemption, and he shall require from every person claiming such exemption proof of the right to such exemption. (L. '97, §88, p. 178; R. & B. Code, §9240.)

§138. Failure of Duty by County Officers—Penalty.

Every county auditor, county assessor and county treasurer who in any case refuses or knowingly neglects to perform any duty enjoined on him by this act, or who consents or connives at any evasion of its provisions whereby any proceeding herein provided for is prevented or hindered; whereby any property required to be listed for taxation is unlawfully exempted, or the valuation thereof is entered on the tax roll at less than its true cash value shall, for every such neglect, refusal, consent or connivance, forfeit and pay to the state not less than two hundred nor more than one thousand dollars, at the discretion of the court, to be recovered before any court of competent jurisdiction upon the complaint of any citizen who is a taxpayer; and the county attorney shall prosecute such suit to judgment and execution. (L. '97, §89, p. 178; R. & B. Code, §9241.)

§139. Officers Allowed Costs in Civil Actions.

Whenever a civil action is commenced against any person holding the office of county treasurer, county auditor, or any other officer, for performing or attempting to perform any duty authorized or directed by any statute of this state for the collection of the public revenue, such treasurer, auditor or other officer may, in the discretion of the court before whom such action is brought, by an order made by such court and entered in the minutes thereof, be allowed and paid out of the county treasury, reasonable fees of counsel and other expenses for defending such action. (L. '97, §90, p. 179; R. & B. Code, §9242.)

§140. Assessor Shall Obtain Lists of Public Lands Sold.

The assessor of each county shall, on or before the first day of March of each year, obtain from the Commissioner of Public lands, and from the local land offices of the state, lists of public lands sold or contracted to be sold during the previous year in his county, and certify them for taxation, together with the various classes of state lands sold during the same year, and it shall be the duty of the Commissioner of Public Lands to certify a list or lists of all public lands sold or contracted to be sold during the previous year, on application of the assessor of any county applying therefor. (L. '97, §91, p. 179; R. & B. Code, §9343.)

§141. Blanks and Forms to Be Prescribed by State Auditor, Etc.

The Auditor of State shall prescribe the forms of all blanks and books required under the provisions of this act, and, except as hereinafter provided, shall have all detail lists, schedules, assessment and tax books to be used in connection with the assessment and collection of the public revenue printed and, when necessary, bound at the expense of the state, and furnished in sufficient size and quantities to the several counties as may be required: *Provided*, That in preparing tax rolls the State Auditor shall follow, substantially, the following form: [See Form A. This form is on file in the office of the State Auditor.] *And provided further*, That counties may provide their own assessment and tax books and blanks, the expense of such books and blanks to be paid by the county. In which case the form of the assessment or tax roll may be substantially as follows: [See Form B. This form is on file in the office of the State Auditor, from whom copies may be obtained.] And in that event, the county assessor shall list the property upon the assessment or tax roll in this section provided for, and said assessment or tax roll, together with the detail lists, shall be delivered to the county board of equalization, in the same manner and under the same certificate hereinbefore required for the detail lists, and the county board of equalization shall equalize the values of, and the county auditor shall extend the taxes levied upon the equalized valuation of said property, upon said rolls in the manner provided for in the proviso in section 43 of this act, and such equalization and extension shall be deemed to be in lieu of and take the place of the equalization and extension herein otherwise provided for to be made upon the detail lists. The detail and assessment lists and blanks shall be in readiness for delivery to the assessor on the first Monday of March in each year. The State Auditor shall decide all questions that may arise in reference to the true construction or interpretation of this act, or any part thereof, in connection with the advice and opinion of the Attorney General of the state, and such decision shall have force and effect until annulled by the judgment or decree of a court of competent jurisdiction. (L. '97, §92, p. 179; R. & B. Code, §9244.)

State tax commissioner shall prescribe forms of books and blanks: §2, *supra*.

Blanks shall be procured by counties at their own expense: L. '99, p. 184.

§142. Personalty Tax Charged to Realty—Use of Characters and Figures.

When it becomes necessary, in the opinion of the county treasurer, to charge the tax on personal property against real property, in order that such personal property tax may be collected, such county treasurer shall select for that purpose some particular tract or lots of real property owned by the person owing such personal property tax, and in his tax roll and certificate of delinquency shall designate the particular tract or lots of real property against which such personal property tax is charged, and such real estate shall be chargeable therewith. In all

proceedings relative to the levy, assessment or collection of taxes, and any entries required to be made by any officer or by the clerk of the court, letters, figures and characters may be used to denote townships, ranges, sections, parts of sections, lots or blocks, or parts thereof, the year or the years for which the taxes were due, and the amount of taxes, assessments, penalties, interest and costs. Whenever the abbreviation "do." or the character ".,," or any similar abbreviations or characters shall be used in any such proceedings, they shall be construed and held as meaning and being the same name, word, initial, letters, abbreviations, figure or figures, as the last preceding such "do." and ".,," or other similar characters. (L. '97, §93, p. 180; R. & B. Code, §9245.)

§143. Removal of Personal Property to Other County.

If any person, firm or corporation shall remove from one county to another in this state personal property which has been assessed in the former county for a tax which is unpaid at the time of such removal, the treasurer of the county from which the property is removed shall certify to the treasurer of the county to which the property has been removed a statement of the tax together with all delinquencies and penalties. (L. '99, §1, p. 43; R. & B. Code, §9246.)

§144. Delinquent Personal Property Taxes Certified to Other County.

The treasurer of any county of this state shall have the power to certify a statement of taxes and delinquencies of any person, firm, company or corporation or of any tax on personal property, together with all penalties and delinquencies, which statement shall be under seal and contain a transcript of the warrant of collection and so much of the tax roll as shall affect the person, firm, company or corporation or personal property to the treasurer of any other county of this state, wherein any such person, firm, company or corporation has any real or personal property. (L. '99, §2, p. 43; R. & B. Code, §9247.)

§145. Collection and Payment of Proceeds to County Where Assessed.

The treasurer of any county of this state receiving the certified statement provided for in sections one and two of this act, shall have the same power to collect the taxes, penalties and delinquencies so certified as he has to collect the personal taxes levied on personal property in his own county. And as soon as the said taxes are collected they shall be remitted, less the cost of collecting same, to the treasurer of the county to which said taxes belong, by the treasurer collecting them and he shall return a certified copy of the certified statement to the auditor of the county to which the taxes belong, together with a certified statement of the amount remitted to the said treasurer. (L. '99, §3, p. 44; R. & B. Code, §9248.)

§146. Sale of Property About to Be Removed From State.

Whenever in the judgment of the assessor or the county treasurer personal property is being removed or is about to be removed without the limits of the state, or is being dissipated or about to be dissipated, the treasurer shall immediately distrain sufficient of said property to pay the taxes upon all the property being removed or about to be removed, is being dissipated or about to be dissipated, together with all accruing costs with interest, and shall advertise and sell said property as provided in section 7 of chapter CXLI of the Laws of 1899. (L. '07, §1, p. 32; R. & B. Code §9249.)

§147. Computation of Tax.

If said personal property is being removed or is about to be removed from the limits of the state, is being dissipated or about to be dissipated at any time subsequent to the first day of March of any year, and prior to the levy of taxes thereon the tax upon such property so distrained shall be computed upon the rate of levy for state, county and local purposes for the preceding year. (L. '07, §2, p. 32; R. & B. Code §9250.)

DELINQUENCY AND FORECLOSURE**§148. Treasurer to Carry Delinquent Taxes to Current Rolls.**

That the county treasurer of each county shall carry forward to the current tax roll a memorandum of all delinquent taxes on each and every description of property, and enter the same opposite the property upon which the said taxes are delinquent, in a column provided for that purpose, showing the amounts for each year. (L. '05, §1, p. 252; R. & B. Code, §9251.)

§149. Certificates of Delinquency—Guaranty of.

On the first business day after the expiration of the eleven months after the taxes charged against any real property are delinquent, the board of county commissioners shall determine whether it will be for the best interest of the county to carry or further carry the delinquent taxes on the books of the county or to permit certificates of delinquency for the same to be sold to any person, and should it be deemed advisable to permit the sale of certificates of delinquency they shall pass a resolution to that effect and publish a copy of the same in the next issue of the official newspaper of the county and on the first day of the month next following, the treasurer shall have the right and it shall be his duty, upon demand and payment of the taxes and interest, to make out and issue a certificate or certificates of delinquency against such property and such certificate or certificates shall be numbered and have a stub which shall be a summary of the certificate and shall contain a statement: (1) Description of the property assessed. (2) Year or years for which assessed. (3) Amount of tax and interest due. (4) Name of owner, or reputed owner, if known. (5) Rate of interest the certificates

shall bear. (6) The time when a deed may be had, if not sooner redeemed. (7) When a certificate of any preceding year is outstanding and unredeemed, it shall be stated in subsequent certificates issued and the principal sum due with date of issue. (8) A guaranty of the county or municipality to which the tax is due that if for any irregularity of the taxing officers this certificate be void, then such county or municipality will repay the holder the sum paid thereon with interest at the rate of six per cent per annum from the date of the issuance: *Provided*, That nothing herein contained shall prevent the running of interest during the said period of twelve months from the date of delinquency, at the rate of interest provided by law on delinquent taxes: *Provided further*, That all certificates of delinquency sold to persons shall be registered by the county treasurer in a book provided for that purpose, in which shall also be recorded the name and address of the purchaser of each certificate of delinquency. Thereafter at any time before the expiration of three years from the original date of delinquency of any tax included in a certificate of delinquency issued to a person, the owner of the property may pay to the county treasurer the amount of taxes due for one or more subsequent years, with delinquent interest, if any, to the date of payment, and if the same shall have been paid by the holder of the certificates of delinquency the county treasurer shall forward the amount of payment or payments made by such owner to the holder of the certificate of delinquency at his registered address. The payment of taxes for such subsequent year or years shall thereby extend the time of foreclosure of the particular certificate of delinquency one year for each subsequent year's taxes so paid. (L. '17, §2, p. 583; R. & B. Code, §9252.)

§150. Interest on—Effect of Certificates.

Certificate of delinquency shall bear interest from the date of issuance till redeemed, at the rate of twelve per cent per annum, and shall be sold to any person applying therefor, upon the payment of the value in principal and interest thereof: *Provided*, That when, from the failure of the taxing officers to do or perform any act in listing or assessing property, or in issuing such certificates, the same is declared void and the same is redeemed by the county or municipality issuing the same, such rate of interest shall be six per cent per annum.

Certificates of delinquency shall be *prima facie* evidence that—

1. The property described was subject to taxation at the time the same was assessed;
2. The property was assessed as required by law;
3. The taxes or assessments were not paid at any time before the issuance of the certificate;
4. Such certificate shall have the same force and effect as a judgment execution and sale of and against the premises included therein. (L. '17, §3, p. 585; R. & B. Code, §9253.)

§151. Foreclosure—Summons.

Any time after the expiration of three years from the original date of delinquency of any tax included in a certificate of delinquency, the holder of any certificate of delinquency may give notice to the owner of the property described in such certificate that he will apply to the superior court of the county in which such property is situated for a judgment foreclosing the lien against the property mentioned herein. Such notice shall contain—

(1) The title of the court, the description of the property and the name of the owner thereof, if known, the name of the holder of the certificate, the date thereof, and the amount for which it was issued, the year or years for the delinquent taxes for which it was issued, the amount of all taxes paid for prior or subsequent years, and the rate of interest on said amount.

(2) A direction to the owner summoning him to appear within sixty days after service of the summons, exclusive of the day of service, and defend the action or pay the amount due, and when service is made by publication a direction to the owner, summoning him to appear within sixty days after the date of the first publication of the summons, exclusive of the day of said first publication, and defend the action or pay the amount due.

(3) A notice that, in case of failure so to do, judgment will be rendered foreclosing the lien of such taxes and costs against the land and premises named.

(4) The summons shall be subscribed by the holder of the certificate of delinquency, or by some one in his behalf, and residing within the State of Washington, and upon whom all process may be served.

(5) A copy of said notice shall be delivered to the county treasurer. Thereafter when any owner of real property or person interested therein seeks to redeem as provided in section 17 of this act, the treasurer shall ascertain the amount of costs accrued in foreclosing said certificate and include said costs as a part of the redemption to be paid. (L. '01, §1, p. 384; R. & B. Code, §9254.)

Foreclosure of tax on bank stock: §60, *supra*.

§152. Service of Summons.

Summons shall be served in the same manner as summons in a civil action is served in the superior court. (L. '97, §97, p. 182; R. & B. Code, §9255.)

§153. Prosecuting Attorney Must Furnish Forms and Bring Actions If Requested.

The county prosecuting attorney shall furnish to holders of certificates of delinquency, at the expense of the county, forms of applications for judgments, forms of summons and form of publication notices when the same are required, and shall prosecute to final judgment all actions brought by holders of certificates under the provisions of this

act for the foreclosure of tax liens, when requested so to do by the holder of any certificate of delinquency: *Provided*, Said holder has duly paid to the clerk of the court the sum of two dollars for each action brought as per section 119: *Provided further*, That nothing herein shall be construed to prevent said holder from employing other and additional counsel, or prosecuting said action independent of and without assistance from the prosecuting attorney, if he so desires, but in such cases, no other and further costs or charge whatever shall be allowed than the costs provided in this section and section 119 of this act: *And provided, also*, That in no event shall the county prosecuting attorney collect any fee for the services herein enumerated. (L. '08, §1, p. 338; R. & B. Code, §9256.)

§154. Certificates to County After Five Years—Foreclosure.

After the expiration of five years from the date of delinquency, when any property remains on the tax-rolls for which no certificate of delinquency has been issued, the county treasurer shall proceed to issue certificates of delinquency on said property to the county, and shall file said certificates when completed with the clerk of the court, and the treasurer shall thereupon, with such legal assistance as the county commissioners shall provide in counties having a population of thirty thousand or more, and with the assistance of the county prosecuting attorney in counties having a population of less than thirty thousand, proceed to foreclose in the name of the county, the tax liens embraced in such certificates, and the same proceedings shall be had as when held by an individual: *Provided*, That summons may be served or notice given exclusively by publication in one general notice, describing the property as the same is described on the tax-rolls. Said certificates of delinquency issued to the county may be issued in one general certificate in book form including all property, and the proceedings to foreclose the liens against said property may be brought in one action and all persons interested in any of the property involved in said proceedings may be made co-defendants in said action, and if unknown may be therein named as unknown owners, and the publication of such notice shall be sufficient service thereof on all persons interested in the property described therein. The names of the person or persons appearing on the treasurer's rolls as the owner or owners of said property for the purpose of this chapter shall be considered and treated as the owner or owners of said property, and if upon said treasurer's rolls it appears that the owner or owners of said property are unknown, then said property shall be proceeded against, as belonging to an unknown owner or owners as the case may be, and all persons owning or claiming to own, or having or claiming to have an interest therein, are hereby required to take notice of said proceedings and of any and all steps thereunder. The publication of the summons or notice required by this section shall be made by the county treasurer in the official newspaper of the county: *Provided*, The price charged by any such news-

paper for such publication, for the whole number of issues, shall not exceed in any case the price stated in the contract of the county with such newspaper for county printing, and that, if such publication cannot be made in said newspaper at said price, the county treasurer may cause such publication to be made in any other newspaper printed, published and of general circulation in the county, at a cost for the whole number of issues not to exceed in any case the maximum rate for county printing fixed by contract for such year. (L. '17, §1, p. 417; R. & B. Code, §9257.)

§155. Interested Person May Pay Before Execution of Deed.

Any person owning an interest in lands or lots upon which judgment is prayed, as provided in this act, may in person or by agent pay the taxes, assessment, penalties, interest and costs due thereon to the county treasurer of the county in which the same are situated, at any time before the execution of the deed; and for the amount so paid he shall have a lien on the property liable for taxes, assessments, penalties, interest and costs for which judgment is prayed; and the person or authority who shall collect or receive the same shall give a receipt for such payment, or issue to such person a certificate showing such payment. (L. '97, §99, p. 183; R. & B. Code, §9258.)

§156. Redemption—Penalty and Interest.

Real property upon which certificates of delinquency have been issued under the provisions of this chapter, may be redeemed at any time before the issuance of tax deed, by payment, in legal money of the United States, to the county treasurer of the proper county, for the benefit of the owner of the certificate of delinquency against said property, the amount for which same was sold, together with interest at twelve per cent per annum thereon from date of issuance of said certificate of delinquency until paid. The person redeeming such property shall also pay the amount of all taxes, assessments, penalties, interest and costs accruing after the issuance of such certificate of delinquency, and paid by the holder of said certificate of delinquency or his assignee, together with twelve per cent interest on such payment from the day the same were made. No fee shall be charged for any redemption after the passage of this act. Tenants in common or joint tenants shall be allowed to redeem their individual interest in real property for which certificates of delinquency have been issued under the provisions of this chapter, in the manner and under the terms specified in this section for the redemption of real property other than that of insane persons and minor heirs. Any redemption made shall inure to the benefit of the person having the legal or equitable title to the property redeemed, subject, however, to the right of the person making the same to be reimbursed by the person benefited. If the real property of any minor heir, or any insane person, be sold for non-payment of taxes or assessments, the same may be redeemed at any

time after sale and before the expiration of one year after such disability has been removed upon the terms specified in this section on the payment of interest at the rate of twelve per cent per annum on the amount for which the same was sold, from and after the date of sale, and in addition the redemptioner shall pay the reasonable value of all improvements made in good faith on the property, less the value of the use thereof, which redemption may be made by themselves or by any person in their behalf. (L. '17, §4, p. 585; R. & B. Code, §9259.)

§157. Hearing and Judgment in Foreclosure — Sale and Form of Notice—Deed.

The court shall examine each application for judgment foreclosing tax lien and if defense (specifying in writing the particular cause of objection) be offered by any person interested in any of said lands or lots to the entry of judgment against the same, the court shall hear and determine the matter in a summary manner, without other pleadings, and shall pronounce judgment as the right of the case may be; or said court may, in its discretion, continue such individual cases, wherein defense is offered, to such time as it may be necessary, in order to secure substantial justice to the contestants therein; but in all other cases said court shall proceed to determine the matter in a summary manner as above specified. In all judicial proceedings of any kind for the collection of taxes, assessments and penalties, interest and costs thereon, all amendments which by law can be made in any personal action pending in such court, and no assessments of property or charge for any of said taxes shall be considered illegal on account of any irregularity in the tax lists or assessment rolls or on account of the assessment rolls or tax lists not having been made, completed or returned within the time required by law, or on account of the property having been charged or listed in the assessment or tax lists without name or any other name than that of the owner, and no error or informality in the proceedings of any of the officers connected with the assessment, levying or collection of the taxes, shall vitiate or in any manner affect the tax or assessment thereof, and any irregularities or informality in the assessment rolls or tax lists or in any of the proceedings connected with the assessment or levy of such taxes or any omission or defective act of any officer or officers connected with the assessment or levying of such taxes, may be, in the discretion of the court, corrected, supplied and made to conform to the law by the court. The court shall give judgment for such taxes, assessments, penalties, interest and cost as shall appear to be due upon the several lots or tracts described in said notice of application for judgment or complaint, and such judgment shall be a several judgment against each tract or lot or part of a tract or lot for each kind of tax or assessment included therein, including all penalties, interest and costs, and the court shall order and direct the clerk to make out and enter an order for the sale of such real property against which judgment is made, or vacate and set aside

the certificate of delinquency or make such other order or judgment, as in the law or equity may be just. Said order shall be signed by the judge of the superior court and attested by the clerk thereof, and a certified copy of said order, together with the list of the property therein ordered sold shall be delivered to the county treasurer, and shall be full and sufficient authority for him to proceed to sell said property or so much of each tract or lot as may be necessary for said sum as set forth in said order and to take such further steps in the matter as are provided by law: *Provided, however,* That before such sale shall be held, the county treasurer shall notify the record owner of such real estate of the pending sale, or in case of unknown owner shall post a notice of same in some public place at the county court house. The county treasurer shall, immediately after receiving the order and judgment of the court, proceed to sell said property as provided in this act. All sales shall be made on Saturday between the hours of nine o'clock in the morning and four o'clock in the afternoon and shall continue from day to day (Sundays excepted) during the same hours until all lots or tracts are sold, after first giving notice of the time and place where such sale is to take place for ten days successively, by posting notice thereof in three public places in such county, one of which shall be in the office of said treasurer. Said notice shall be substantially in the following form:

Tax Judgment Sale

Public notice is hereby given, that pursuant to a real estate tax judgment of the superior court, in the county of....., in State of Washington, and an order of sale duly issued by said court, entered the.....day of....., in proceedings for foreclosure of tax liens upon real estate, as per provisions of law, I shall on the.....day of....., at..... o'clock....., at the front door of the court house in the city of..... and county of....., State of Washington, sell the following described lands or lots, or so much of each of them as shall be sufficient to satisfy the full amount of taxes, assessments, penalties, interest and costs adjudged to be due thereon as follows, to-wit: (Description of property.)

In witness whereof, I have hereunto affixed my hand and seal this..... day of.....,

.....
Treasurer of.....County,
State of Washington.

The person at such sale offering to pay the amount on each tract or lot for the least quantity thereof shall be the purchaser of such quantity, which shall be taken from the easterly side of such tract or lot, and the remainder thereof shall be discharged from the lien, except when said easterly side of such tract or lot abuts upon or is the natural outlet to the public highway; in which event, such quantity shall be taken from the northerly and southerly side of such tract or lot at the option of the purchaser at such sale: *Provided,* That no county officer shall directly or indirectly be a purchaser of such property at such sale. In determining such piece or parcel or such tract or lot, a line

is to be drawn northerly and southerly, or easterly and westerly as the case may be, parallel to the boundary of the tract or lot on the side from which the portion is sold under this proceeding and far enough therefrom to make the requisite quantity. The treasurer may include in one notice any number of separate tracts or lots. The county treasurer shall execute to the purchaser of any piece or parcel of land a tax deed. The deed so made by the county treasurer, under the official seal of his office shall be recorded in the same manner as other conveyances of real estate, and shall vest in the grantee, his heirs and assigns the title to the property therein described, without further acknowledgment or evidence of such conveyance, and shall be substantially in the following form:

State of Washington, County of....., ss.

This indenture, made this.....day of....., between....., as treasurer of.....county, State of Washington, party of the first part, and....., party of the second part:

Witnesseth, That, whereas, at a public sale of real estate held on the.....day of....., pursuant to a real estate tax judgment entered in the superior court in the county of....., on the.....day of....., in proceedings to foreclose tax liens upon real estate and an order of sale duly issued by said court,.....duly purchased in compliance with the laws of the State of Washington, the following described real estate, to-wit: (Here place description of real estate conveyed) and that said.....has complied with the laws of the State of Washington necessary to entitle (him, her or them) to a deed for said real estate.

Now, therefore, know ye, that I,, county treasurer of said county of....., State of Washington, in consideration of the premises and by virtue of the statutes of the State of Washington, in such cases provided, do hereby grant and convey unto..... his heirs and assigns, forever, the said real estate hereinbefore described.

Given under my hand and seal of office this.....day of....., A. D.,

.....
County Treasurer.

(L. '09, §1, p. 620; R. & B. Code, §9260.)

§158. Appeal—Appeal Bond—Procedure.

Appeals from the judgment of the court may be taken to the supreme court at any time within thirty days after the rendition of said judgment by giving notice thereof orally or in open court at the time of the rendition of the judgment, or by giving written notice thereof at any time thereafter, and within thirty days from the date of the rendition of such judgment, and the party taking such appeal shall execute, serve and file a bond payable to the State of Washington, with two or more sureties, to be approved by the court, in an amount to be fixed by the court, conditioned that the appellant shall prosecute his said appeal with effect, and will pay the amount of any taxes, assessments, penalties, interest and costs which may be finally adjudged against the real estate involved in the appeal by any court having juris-

diction of the cause, which bond shall be so served and filed at the time of the service of said notice of appeal, and the respondent may, within five days after the service of such bonds, object to the sureties thereon, or to the form and substance of such bond, in the court in which the action is pending, and if, upon hearing of such objections to said bond, it is determined by the court that the sureties thereon are insufficient for any reason, or that the bond is defective for any other reason, the court shall direct a new bond to be executed with sureties thereon, to be justified before the court as in bail upon arrest but no appeal shall be allowed from any judgment for the sale of land or lot for taxes, and no bond given on appeal as herein provided shall operate as a supersedeas, unless the party taking such appeal shall before the time of giving notice of such appeal, and within thirty days herein allowed within which to appeal, deposit with the county treasurer of the county in which the land or lots are situated, an amount of money equal to the amount of the judgment and costs rendered in such cause by the trial court. If in case of an appeal, the judgment of the lower court shall be affirmed, in whole or in part, the supreme court shall enter judgment for the amount of taxes, interest and costs, with damages not to exceed twenty per cent, and shall order that the amount deposited with the treasurer as aforesaid, or so much thereof as may be necessary, be credited upon the judgment so rendered, and execution shall issue for the balance of said judgment, damages and costs. The clerk of the supreme court shall transmit to the county treasurer of the county in which the land or lots are situated a certified copy of the order of affirmance, and it shall be the duty of such county treasurer upon receiving the same to apply so much of the amount deposited with him as aforesaid, as shall be necessary to satisfy the amount of the judgment of the supreme court, and to account for the same as collected taxes. If the judgment of the superior court shall be reversed and the cause remanded for a rehearing, and if, upon a rehearing, judgment shall be rendered for the sale of the land or lots for taxes or any part thereof, and such judgment be not appealed from as herein provided, the clerk of such superior court shall certify to the county treasurer the amount of such judgment, and thereupon it shall be the duty of the county treasurer to certify to the county clerk the amount deposited with him as aforesaid, and the county clerk shall credit the same judgment with the amount of such deposit, or so much thereof as will satisfy the judgment, and the county treasurer shall be chargeable and accountable for the amount so credited as collected taxes. Nothing herein shall be construed as requiring an additional deposit in case of more than one appeal being prosecuted in said proceeding. If, upon a final hearing, judgment shall be refused for the sale of the land or lots for the taxes, penalties, interest and costs, or any part thereof, in said proceedings, the county treasurer shall pay over to the party who shall have made such deposit or his legally authorized agent or representative, the amount of the deposit, or so much thereof

as shall remain after the satisfaction of the judgment against the land or lots in respect to which such deposit shall have been made. (L. '03, §4, p. 74; R. & B. Code, §9261.)

§159. Forfeitures—Subsequent Certificates—Exception.

Every purchaser of a certificate of delinquency shall before applying for judgment, pay all taxes that have accrued on the property included in said certificate since the issuance of said certificate or any prior taxes that may remain due and unpaid on said property and any purchaser of delinquent certificates that shall suffer a subsequent tax to become delinquent as a subsequent certificate of delinquency to issue on the same property included in his certificate, such first purchaser shall forfeit his rights thereunder to the subsequent purchaser, and such subsequent purchaser shall at the time of obtaining his certificate redeem said first certificate of delinquency outstanding by depositing with the county treasurer the amount of said first certificate with interest thereon to the date of said redemption and the amount so paid in redemption shall become a part of said subsequent certificate of delinquency and draw interest at the rate of twelve per cent per annum from the date of payment. Said holder of a certificate of delinquency permitting a subsequent certificate to issue on the same property, shall, on notice from the county treasurer, surrender said certificate of delinquency on payment to him of the redemption money paid by the subsequent purchaser: *Provided*, That this section shall not apply to counties or municipalities. (L. '17, §4, p. 586; R. & B. Code, §9262.)

§160. Books as Evidence—Treasurer to Turn Over Moneys to Successor.

The books and records belonging to the office of county treasurer, certified by said treasurer, shall be deemed *prima facie* evidence to prove the issuance of any certificate, the sale of any land or lot for taxes or assessments, the redemption of the same or payment of taxes or assessments thereon. The county treasurer shall, at the expiration of his term of office, pay over to his successor in office all moneys in his hands received for redemption from sale for taxes on real estate. (L. '97, §108, p. 189; R. & B. Code, §9263.)

§161. Erroneous Sales.

Whenever it shall be made to appear to the satisfaction of a county treasurer that any tract or lot was sold which was not subject to be taxed or upon which taxes or assessments have been paid previous to the sale, he shall make an entry opposite to such tracts or lots in the sale or redemption record that the same was erroneously sold, and such entry shall be *prima facie* evidence of the fact therein stated. (L. '97, §109, p. 189; R. & B. Code, §9264.)

§162. Redemption Releases Property.

The receipt of the redemption money of any tract or lot by any purchaser, or by the county treasurer for the benefit of such purchaser

or the return of the certificate of delinquency for cancellation, shall operate as a release of all the claims to said tract under or by virtue of the issuance of said certificate of delinquency and the county treasurer upon the receipt of any such redemption money, shall immediately endorse upon the proper records the fact that such taxes, penalties, interest and cost have been paid and the property therein described redeemed by said payment, and shall deliver to the person redeeming the same a certificate of redemption therefor. (L. '99, §22, p. 303; R. & B. Code, §9265.)

§163. Publication as Costs.

In case any person shall be compelled to publish a notice in a newspaper under the provisions of this act, then, before any person who may have a right to redeem lands or lots from sale shall be permitted to redeem, he shall pay to the officer who by law is authorized to receive such redemption money the amount paid for publishing such notice, for the use of the person compelled to publish such notice, as aforesaid, the fee of such publication. (L. '97, §112, p. 190; R. & B. Code, §9266.)

§164. Deed as Evidence.

Deeds executed by the county treasurer, as aforesaid, shall be *prima facie* evidence in all controversies and suits in relation to the right of the purchaser, his heirs and assigns, to the real estate thereby conveyed of the following facts:

First.—That the real estate conveyed was subject to taxation at the time the same was assessed, and had been listed and assessed in the time and manner required by law.

Second.—That the taxes or assessments were not paid at any time before the issuance of the deed.

Third.—That the real estate conveyed had not been redeemed from the sale at the date of the deed.

Fourth.—That the real estate was sold for taxes, assessments, penalties and costs, as stated in the deed.

Fifth.—That the grantee in the deed was the purchaser, or assignee of the purchaser.

Sixth.—That the sale was conducted in the manner required by law. And any judgment for the deed to real estate sold for delinquent taxes rendered after the passage of this act, except as otherwise provided in this section, shall estop all parties from raising any objections thereto, or to a tax title based thereon, which existed at or before the rendition of such judgment, and could have been presented as a defense to the application for such judgment in the court wherein the same was rendered, and as to all such questions the judgment itself shall be conclusive evidence of its regularity and validity in all collateral proceedings, except in cases where the tax or assessments have been paid,

or the real estate was not liable to the tax or assessment. (L. '97, §114, p. 190; R. & B. Code, §9267.)

See R. & B. Code, §162, limitation on actions to cancel tax deed.

See R. & B. Code, §786, and notes, limitations of actions affecting tax deeds.

See R. & B. Code, §955, action to enjoin collection of taxes.

See R. & B. Code, §1261, certified copy of tax deed as evidence.

See R. & B. Code, §8956, authentications under seal of treasurer.

See R. & B. Code, §3957, validating prior deeds without seal.

See R. & B. Code, §8745, and notes, conveyances of real estate.

§165. Procedure as to Taxes of Former Years.

All lots, tracts and parcels of land upon which taxes remain due and unpaid at the date of the approval of this act, except the taxes for the year 1898, shall be deemed to be delinquent under the provisions of this act, under [and] the same proceedings may be had to enforce the payment of such unpaid taxes, with penalty, interest and cost, and payment enforced and liens foreclosed under and by virtue of the provisions of this act. For purposes of foreclosure under this act, the date of delinquency shall be construed to mean the date when the taxes first became delinquent: *Provided*, That on all certificates of delinquency issued for the taxes of 1895 and prior years, proceedings for foreclosure under the provisions of this act may commence on and after December 1, 1900, and not sooner; and on certificates of delinquency for 1895, and prior years, held by the county, proceedings must be commenced on or before the first day of January, 1902, by the several county treasurers under the provisions of this act. At all sales of property for which certificates of delinquency are held by the county if no other bids are received, the county shall be considered a bidder for the full area of each tract or lot to the amount of all taxes, penalties, interest and costs due thereon, and where no bidder appears, acquire title thereto as absolutely as if purchased by an individual under the provisions of this act; "all bidders except the county at sales of property for which certificates of delinquency are held by the county shall pay the full amount of taxes, penalties, interests and costs for which judgment is rendered, together with all taxes, interest, [and] costs for all subsequent years due on said property at the date of sale." (L. '01, §24, p. 386; R. & B. Code, §9268.)

§166. Fees.

1. The treasurer shall upon the issuance of a certificate of delinquency collect fifty cents. 2. For making a deed, to include not more than ten tracts or lots, including all services rendered, including sales and posting notices, three dollars. 3. The clerk of the court shall upon filing application for judgment and for all services rendered to and including judgments, collect two dollars. 4. The clerk of the court shall collect from each contestant at time of filing such contest, five dollars. (L. '99, §26, p. 304; R. & B. Code, §9269.)

§167. Property Deeded to County Not to Be Assessed.

All property deeded to the county under the provisions of this act shall be stricken from the tax rolls as county property and exempt from taxation and shall not be again assessed or taxed while the property of the county. (L. '99, §27, p. 304; R. & B. Code, §9270.)

§168. Proceeds of Sale of Property Disposed Of.

No claims shall ever be allowed against the county from any municipality, school district, road district or other taxing district for taxes levied on property acquired by the county by tax deed under the provisions of this act, but all taxes shall at the time of deeding said property be thereby cancelled: *Provided*, That the proceeds of any sale of any property acquired by the county by tax deed shall be justly apportioned to the various funds existing at the date of the sale, in the territory in which such property is located, according to the tax levies of the year last in process of collection. (L. '99, §28, p. 304; R. & B. Code, §9271.)

§169. Sale of Property Acquired by Counties—Publication of Notice, Etc.

Real property hereafter or heretofore acquired by the several counties of the State of Washington for taxes shall be subject to sale by order of the board of county commissioners of the several counties of this state at any time after the counties shall have received a deed therefor, when in the judgment of the board of county commissioners they deem it for the best interests of the county to sell the same, and when the board of county commissioners desires to sell any property so acquired, they shall enter an order upon their records directing the county treasurer to sell such portions of such property as they may determine to sell from time to time, and it shall be the duty of the county treasurer upon receipt of such order to publish a notice of the sale of such property in a weekly newspaper printed and published in the county where the land is situated for three consecutive publications: *Provided*, That in counties where there is no newspaper published, the treasurer of such county shall cause such notice to be published in some newspaper in the state of general circulation in such county having no resident newspaper, and the property to be sold shall be set forth and described in said notice, together with the time and place and terms of sale, which said sale shall be made at the door of the county court house in the county in which the land is situated between the hours of nine o'clock a. m., and four o'clock p. m., and all sales so made shall be for cash to the highest and best bidder at such sale, and sales to be made under the provisions of this act may be adjourned from day to day by the county treasurer by public announcement made from the treasurer at the time and place designated in the notice of such sale, or at the time and place to which said sale may be adjourned, and the county treasurer shall make and execute under

his hand and seal to the purchaser of the property at such sale a deed: Provided further, That all sales now being made under existing laws shall be completed according to the laws in existence and in force prior to the passage of this act. (L. '03, §1, p. 73; R. & B. Code, §9272.)

§170. Deed of Treasurer—Form of.

The county treasurer shall issue a deed in the following form for all lots or parcels of real estate sold under the provisions of the act:

State of Washington, County of..... ss.
This indenture, made this....day of....., 19...., between....., as treasurer of.....county, State of Washington, the party of the first part, and....., party of the second part:

Witnesseth, That, whereas, at a public sale of real estate held on the....day of....., A. D. 19...., pursuant to an order of the board of county commissioners of the county of....., State of Washington, duly made and entered, and after having first given due notice of the time and place and terms of said sale, and, whereas, in pursuance of said order of the said board of county commissioners, and of the laws of the State of Washington, and for and in consideration of the sum of.....dollars, lawful money of the United States of America, to me in hand paid, the receipt whereof is hereby acknowledged, I have this day sold to.....the following described real estate, and which said real estate is the property of.....county, and which is particularly described as follows, to-wit:

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....., the said.....being the highest and best bidder at said sale, and the said sum being the highest and best sum bid at said sale:

Now, therefore, know ye that I,, county treasurer of said county of....., State of Washington, in consideration of the premises and by virtue of the statutes of the State of Washington, in such cases made and provided, do hereby grant and convey unto..... heirs and assigns, forever, the said real estate hereinbefore described, as fully and completely as the said party of the first part can by virtue of the premises convey the same.

Given under my hand and seal of office this.....day of..... A. D. 19....

.....
County Treasurer.
By....., Deputy.

(L. '03, §5, p. 76; R. & B. Code, §9273.)

§171. Lease of Mining Claims.

The commissioners of any of the counties of the State of Washington which have acquired, or which may hereafter acquire, mining claims or properties through the non-payment of taxes may, when they

deem it most advantageous for the county, lease, to the highest and best bidder at public auction with or without an option to purchase, said mining claims or properties or any part thereof, instead of selling the same at public sale: *Provided*, Said lease shall require the payment of royalties on all ore or minerals taken from said mineral claims or properties in such amount and upon such terms and conditions as said commissioners shall deem for the best interest of said county. At least thirty days' notice of the time and place where said lands will be offered for lease shall be given by the commissioners by two publications in some weekly newspapers published in the county where such lands are situated. (L. '07, §1, p. 53; R. & B. Code, §9274.)

§172. Terms of Lease.

When said commissioners, in their discretion, decide to lease said claims or properties as provided in section 1, they shall enter an order to that effect upon their records and shall fix the duration and terms and conditions of said lease, and in case an option to purchase is given shall fix the purchase price, which shall not be less than the total amount of the taxes, interest and penalties due at the time the property was acquired by the county, and may provide that any royalties paid shall apply and be credited on the purchase price, and said lease or lease and option shall be signed and executed on behalf of said county by said commissioners, or a majority of them. (L. '07, §2, p. 53; R. & B. Code, §9275.)

§173. Conveyance.

Upon payment of the full purchase price, in cases where an option to purchase is given, a conveyance shall be executed to the purchaser by the chairman of the board of county commissioners. Such conveyance shall refer to the order of the board authorizing such leasing with the option to purchase, and shall be deemed to convey all the estate, right, title and interest of the county in and to the property sold; and such conveyance, when executed, shall be conclusive evidence of the regularity and validity of all proceedings hereunder. (L. '07, §3, p. 53; R. & B. Code, §9276.)

§174. Taxes Paid by Mistake—Reimbursement.

If any property owner shall pay taxes on the property of another by mistake of any kind, and the owner of such property fails or refuses, after thirty days' demand, to reimburse such payor before the date on which the delinquency certificates are issued, as provided in this act, the payor, or his assignee, may surrender the tax receipt given for such tax payment to the county treasurer and take a certificate of delinquency in lieu thereof, on payment of the accrued interest thereon. (L. '97, §120, p. 193; R. & B. Code, §9277.)

§175. Assignment of Certificates by County.

Certificates of delinquency issued to counties shall be assignable to individuals by the county treasurer on demand and payment of the full

amount due thereon and said assignee shall have the same rights and proceed in the same manner as if said certificate had been originally issued to him. (L. '99, §30, p. 305; R. & B. Code, §9278.)

§176. Assignment by Owner.

Certificates of delinquency shall be assignable in law and an assignment thereof shall rest in the assignee or his legal representative all the right and title of the original purchaser. (L. '99, §31, p. 305; R. & B. Code, §9279.)

ASSESSMENT AND COLLECTION OF TAXES IN CITIES AND TOWNS

FIRST CLASS

§177. Assessment.

It shall be the duty of the county assessor in each county in which there is a city of the first class, as soon as the county and state boards of equalization have finally fixed the valuation of the property in such county for state and county taxation in each year, to certify to the city comptroller of each city of the first class in such county a summary of the valuation of all real estate and personal property in such city, or subject to taxation therein, as shown by the assessment roll of such county, as finally fixed by the said boards, and also a list of all residents of such city liable to pay a poll tax. It shall be the duty of the county assessor in making up his assessment roll for the county to place the property within the limits of any such city subject to taxation therein in as compact a form as practicable on said roll, so that the city taxes may be extended in the same manner as state and county taxes are extended, and that portion of said assessment roll embracing persons and property subject to taxation in such city shall constitute also the assessment roll of such city of the first class for the levy and collection of the taxes thereof. When by reason of a change in the boundaries of any such city or otherwise, the rate of taxation is required to differ in different districts thereof, the real and personal property in each district shall be properly segregated for that purpose, and such segregation shall duly appear in the summary certified as aforesaid. (L. '93, §1, p. 167; R. & B. Code, §9280.)

§178. Council to Fix Rate of Levy.

The city council of each city of the first class shall within thirty days after receiving the certificate of the county assessor, as provided in the preceding section, by ordinance in each year fix the rate of taxes to be levied and levy the taxes upon all taxable property, both real and personal, in such city, or subject to taxation therein, as shown by said roll, needed to raise sufficient revenue to carry on the different departments of municipal government thereof for one year, which year shall be the fiscal year (to be designated in the ordinance) fixed by the charter of such city, and shall be either the current or ensuing fiscal

year as required by such charter, or, in the absence of a charter requirement, as such ordinance shall provide. Any other general taxes authorized by the charter of such city to be levied with the annual tax levy may be included in such levy. (L. '93, §2, p. 117; R. & B. Code, §9281.)

§179. Extension on Rolls by County Auditor.

The city council shall cause the city clerk to certify a copy of the ordinance making such levy to the county auditor, or other officer authorized to extend state and county taxes, who shall extend the same upon the general assessment roll of such county in the same manner and at the same time that he extends the levy for state and county purposes, and shall in turn certify the same to the county treasurer, who shall proceed to collect such taxes in the same manner as in the case of state and county taxes. All city taxes may be extended in one column without distinguishing the various funds or purposes for which the same are levied, and a copy of the ordinance making the levy for such city shall be recorded in full in each book making up the assessment roll. (L. '93, §3, p. 168; R. & B. Code, §9282.)

§180. County Treasurer Shall Collect.

The county treasurer of each county in which there is or shall be a city of the first class is hereby constituted *ex-officio* collector of taxes of such city, and before entering upon the duties of his office he shall execute in favor of such city and file with the clerk thereof a good and sufficient bond, the penal sum to be fixed by the city council, such bond to be approved by the mayor of such city or other authority thereof by whom the bond of the city treasurer is required to be approved. All special assessments and special taxation for local improvements assessed on property benefited shall be collected by the city treasurer except as otherwise provided by this act. (L. '95, §1, p. 407; R. & B. Code, §9283.)

§181. County Treasurer Shall Turn Over Taxes.

All such city taxes collected shall belong to such city and the county treasurer shall, on or before the tenth day of each month, turn over all such taxes so collected for the previous month to the city treasurer, and take a receipt therefor in duplicate, and at the same time he shall certify to the city comptroller the amounts of taxes so collected and turn over and deliver with such certificate one copy of the receipt of the city treasurer therefor. The county treasurer shall also render to the city comptroller, on or before the tenth day of each month, between the first day of January and the first day of May a statement of all taxes collected for such city during the preceding month. (L. '05, §1, p. 298; R. & B. Code, §9284.)

§182. Delinquent Taxes.

All taxes of any such city assessed under the provisions of this act becoming delinquent shall be collected and enforced by the same

officers and in the same manner as delinquent county and state taxes are now or may hereafter be collected and enforced. Any real property sold to the county for state, county and city taxes shall be held by the county for the common benefit of the county and city in proportion to the equitable interest of each in the taxes, costs and expenses for which the same were sold. All provisions of law relating to discount on state and county taxes and penalties, interest and costs thereon and the time when the same become due, payable or delinquent shall apply to city taxes levied under authority of this act. (L. '93, §6, p. 169; R. & B. Code, §9285.)

§183. Taxes Heretofore Delinquent.

All delinquent taxes now or hereafter owing to any city not levied as provided in this act shall be collected and enforced in the manner provided by the charters of the respective cities by which the same were levied. (L. '93, §7, p. 169; R. & B. Code, §9286.)

§184. But One Roll—Local Assessments.

The assessment roll of the county made as herein provided shall be deemed and held to be also the assessment roll of any city of the first class therein, and in cases where the charter of any such city requires delinquent assessments for local improvements, or any special taxes or assessments whatever to be entered on the annual tax roll of such city, the city treasurer shall from time to time certify the same, together with the accumulated penalties and interest thereon, to the county treasurer, who shall enter the same on the general county assessment roll against the property so taxed or assessed in a separate column head, "Delinquent local assessment, city of.....," in the manner directed by such charter, and the same shall be a part of the tax due on such property and with interest shall be collected as other taxes, separate account being kept thereof, and if not paid within the time fixed for the payment of other taxes, shall be collected as other taxes are collected, together with the additional charges, penalties and interests authorized to be charged and collected on other delinquent taxes; and all other proceedings shall be taken thereon as if the same were originally a part of the general tax assessed against such property. (L. '93, §8, p. 169; R. & B. Code, §9287.)

§185. Equalization—Membership of Board.

This act shall supersede all conflicting provisions of law or charter of cities of the first class relating to the assessment, equalization and collection of general taxes for municipal purposes: *Provided*, That in counties having cities of the first class the city council thereof shall select a committee of three members of such council to act with the board of county commissioners as a board of equalization, and shall have the powers and perform the duties concerning the equalization of assessments in their respective cities that are given to the county boards of equalization by the general revenue laws of the state. The

city council may provide for the compensation of the members of the committee for the time they are actually engaged as members of the board of equalization. (L. '95, §3, p. 408; R. & B. Code, §9288.)

§186. City Shall Pay for Clerk Hire.

Each city shall pay the county one thousand dollars per annum for clerk hire. (L. '95, §4, p. 409; R. & B. Code, §9289.)

SECOND, THIRD AND FOURTH CLASSES

§187. Assessment.

All taxes levied for municipal purposes by municipal corporations of the second, third and fourth class, and by cities of equal population but existing under special legislative charters, may be assessed and collected in the manner hereinafter provided, whenever such municipal corporation shall by ordinance provide that assessment and collection of taxes shall be so made. A copy of which said ordinance shall be delivered to the county assessor and to the county treasurer: *Provided*, That nothing in this chapter shall be held to prevent any such municipal corporation from providing by ordinance a general system for the assessment and collection of its taxes: *Provided*, That penalties and interest on delinquent taxes shall not exceed those provided by the general revenue laws. (L. '07, §1, p. 55; R. & B. Code, §9290.)

Cities of third and fourth class may impose poll taxes: L. '05, p. 140. R. & B. Code, §7766.

§188. County Assessor Shall Assess.

For the purpose of assessment of all property in said municipal corporations the county assessor of the county wherein such corporation is situated shall be *ex-officio* assessor. (L. '93, §2, p. 171; R. & B. Code, §9291.)

§189. County Treasurer Is Collector.

For the purpose of collection of all taxes levied by said municipal corporations for municipal purposes, the county treasurer of the county wherein such corporation is situated shall be *ex-officio* tax collector. (L. '93, §3, p. 171; R. & B. Code, §9292.)

§190. Assessment Roll.

The assessment of said property shall be made by said assessor at the same time and in the same manner, and the property shall be listed and described in its proper order as to numerical arrangement on the rolls as the assessment is made and entered of the other property in the county. Said property shall be listed in its proper numerical order on the general assessment rolls of the county, and the assessor shall note on such rolls the fact that such property is situated in the town of..... (stating the name), and said assessment roll shall be prepared with a column wherein to enter the amount of tax levied by such municipal corporation. (L. '93, §4, p. 171; R. & B. Code, §9293.)

§191. Equalization—Membership of Board.

Said assessment shall be equalized by the county and state board of equalization in the same manner as other assessments are equalized: *Provided*, That in counties having a city of the second class situated therein, the city council of such city shall select a committee of three members of such council to act with the board of county commissioners as a board of equalization with respect to all property situated within such city, and the board of equalization so constituted shall have the powers and perform the duties concerning the equalization of assessments within such city of the second class that are given to the county boards of equalization by the general revenue laws of the state. The city council may provide for the compensation of the members of the committee for the time they are actually engaged as members of the board of equalization. (L. '07, §2, p. 56; R. & B. Code, §9294.)

§192. County Auditor Shall Notify Town Clerk of Equalization.

As soon as the county auditor has completed the changes ordered by the State Board of Equalization, he shall forthwith notify the clerk of said corporation of the total assessed valuation of the property situated in such corporation as equalized by said state board, and the proper officers of such corporation shall forthwith proceed to fix and determine their levy for municipal purposes for such year, which levy shall immediately be certified to said county auditor, under the hand and seal of the clerk of said corporation. The county auditor shall thereupon extend said tax upon the property shown by such assessment roll to be within such corporation as fixed by such levy, at the same time and in the same manner as he extends the general county and state taxes, and deliver said roll to the county treasurer. (L. '05, §1, p. 269; R. & B. Code, §9295.)

County assessor to extend rolls since 1911: see §106, *supra*.

§193. County Treasurer Shall Collect.

The county treasurer, upon the receipt of such roll, shall proceed to collect and receipt for the municipal taxes thereon extended at the same time and in the same manner as he proceeds in the collection of the other taxes on such rolls. (L. '93, §7, p. 173; R. & B. Code, §9296.)

§194. Collections to Be Paid Over.

The county treasurer shall make a certified return at the end of each month to the treasurer of such corporation of the amounts collected by him on account of such taxes from the time he shall commence the collection thereof until the whole tax collected shall be paid over. (L. '93, §8, p. 173; R. & B. Code, §9297.)

§195. Delinquency.

All municipal taxes when so levied by any such municipal corporations, either upon personal or real property, shall become due and collectible, and shall be declared delinquent at the same time and in

the same manner as state and county taxes. (L. '95, §2, p. 339; R. & B. Code, §9298.)

§196. Penalties and Collection.

All delinquent municipal taxes of any such municipal corporations when assessed in the manner provided in this act shall be subject to the same penalty and be collected in the same manner, and in the same action and by the same officers, as the state and county taxes levied against said property. (L. '95, §3, p. 339; R. & B. Code, §9299.)

ACTIONS TO ENJOIN COLLECTION OF TAX, ETC.

§197. Injunction, Taxes to Be Paid.

Hereafter no action or proceeding shall be commenced or instituted in any court of this state to enjoin the sale of any property for taxes, or to enjoin the collection of any taxes, or for the recovery of any property sold for taxes, unless the person or corporation desiring to commence or institute such action or proceedings shall first pay, or cause to be paid, or shall tender to the officer entitled under the law to receive the same, all taxes, penalties, interest and costs justly due and unpaid from such person or corporation on the property sought to be sold or recovered. (L. '88, §1, p. 43; R. & B. Code, §955.)

§198. Payment Must Be Pleaded.

That in all actions to enjoin the sale of any property for taxes, in all actions to enjoin the collection of any tax, and in all actions for the recovery of any property sold for taxes, the complainant must state and set forth specially in his complaint the tax that is justly due, with penalties, interest and cost, the tax alleged to be illegal, and point out the illegality thereof, that the taxes for that and previous years have been paid; and when the action is for the recovery of lands or other property sold for taxes against the person or corporation in possession thereof that all taxes, penalties, interest and costs paid by the purchaser at tax sale, his assignees or grantees have been fully paid or tendered, and payment refused. (L. '88, §2, p. 43; R. & B. Code, §956.)

§199. Above Provisions Additional.

That the provisions of this act shall be construed as imposing additional conditions upon the power of the court or judge in granting injunctions to those already imposed, and of imposing additional conditions upon the complaint in actions for the recovery of property sold for taxes. (L. '88, §3, p. 43; R. & B. Code, §957.)

LIMITATIONS ON INDEBTEDNESS

§200. Indebtedness—Limit.

No taxing district shall for any purpose become indebted in any manner to an amount exceeding one and one-half per centum of the last assessed valuation of the taxable property in such taxing district,

without the assent of three-fifths of the voters therein voting at an election to be held for that purpose, nor in cases requiring such assent shall the total indebtedness at any time exceed five per centum of the last assessed valuation of the taxable property in such taxing district: *Provided*, That no part of the indebtedness allowed in this act shall be incurred for any purpose other than strictly county, city, town, school district, township, port district, metropolitan park district or other municipal purposes: *Provided further*, That any city or town, with such assent, may be allowed to become indebted to a larger amount, but not exceeding five per centum additional, determined as herein provided, for supplying such city or town with water, artificial light and sewers, when the works for supplying such water, light and sewers shall be owned and controlled by the city or town: *Provided further*, That nothing herein contained shall be held to extend the debt limitations now imposed by law or any city charter on the powers of any taxing district. (L. '17, §1, p. 587.)

§201. Indebtedness—How Computed—Assets.

Whenever it shall be necessary to compute the indebtedness of a taxing district for bonding or any other indebtedness purpose, taxes levied for the current year shall not be considered an asset, but shall be deemed for such purposes to have already been pledged and expended for the purposes for which they were levied; nor shall any money in the treasury of said taxing districts, levied and collected for the purpose of carrying on the current business of such taxing district, be considered as such asset, but shall be deemed likewise as having been pledged and set apart for the purposes for which the money was levied and collected: *Provided, however*, That all taxes levied for the payment of bonds, warrants or other public debts of such taxing district, shall be deemed a competent and sufficient asset of the taxing district to be considered in calculating the constitutional debt limit or the debt limit prescribed by this act for any taxing district: *Provided*, That the provisions of this section shall not apply in computing the debt limit of a taxing district in connection with bonds authorized pursuant to a vote of the electors at an election called prior to March 1, 1917. (L. '17, §2, p. 588.)

§202. Takes Effect, When.

All orders, authorizations, allowances, contracts, payments or liabilities to pay, made or attempted to be made in violation of this act, shall be absolutely void and shall never be the foundation of a claim against a taxing district: *Provided*, That the limitations imposed by this act shall not apply to debts contracted by any taxing district prior to March 1, 1917. (L. '17, §3, p. 589.)

"This act" refers to two preceding sections.

§203. Taxing District Defined.

The term "taxing district" as herein used shall be held to mean and embrace all counties, cities, towns, townships, port districts, school

districts, metropolitan park districts or other municipal corporations which now, or may hereafter exist.

The term "the last assessed valuation of the taxable property in such taxing district" as used herein shall be held to mean and embrace the aggregate assessed valuation for such taxing district as placed on the last completed and balanced tax rolls of the county next preceding the date of contracting the debt or incurring the liability. (L. '17, §4, p. 589.)

PRIVILEGE TAX ON EXPRESS COMPANIES

§204. Express Companies Defined.

That any person or persons, joint stock association or corporation, wherever organized or incorporated, engaged in the business of conveying to, from or through this state, or any part thereof, money, packages, gold, silver plate or any articles by express service as distinguished from the ordinary freight lines of transportation of merchandise and property in this state, shall be deemed to be an express company. (L. '07, §1, p. 79; R. & B. Code, §9161.)

§205. Annual Statement.

Every express company, as defined in section one hereof, doing business in this state, shall annually, between the first and thirtieth day of April, after passage of this act, under oath of the person constituting such company, if a person, or under oath of the president, treasurer, superintendent or chief officer in this state, of such association or corporation, if an association or corporation, make and file with the State Tax Commissioner a statement, in such form as the Commissioner may prescribe, containing the following facts:

First.—The name of the person, or persons, association or corporation.

Second.—Under the laws of what state or country organized.

Third.—The location of its principal office.

Fourth.—The name and postoffice address of the president, secretary, auditor, treasurer, superintendent and general manager.

Fifth.—The name and postoffice address of the chief officer, or managing agent of the company in this state.

Sixth.—The entire receipts (including all sums earned or charged, whether actually received or not) for business done within this state, including its proportion of gross receipts for business done by such company within this state in connection with other companies.

Seventh.—Such other facts and information as the said Commissioner may require in the form of return prescribed by him. Blanks for making the above statement shall be prepared and furnished any express company by the said Commissioner. (L. '07, §2, p. 79; R. & B. Code, §9162.)

§206. Tax Commissioner Shall Ascertain Gross Receipts.

The State Tax Commissioner shall proceed to ascertain and determine, on or before the first Monday in July, the entire gross receipts

of each of said express companies for business done within the State of Washington for the year next preceding the first day of April, and the amount so ascertained shall, in such instances, be held and deemed to be the gross receipts of such express company for business done within the State of Washington for the year under consideration. (L. '07, §3, p. 80; R. & B. Code, §9163.)

§207. Hearings.

Adjournment may be made from time to time until the business before the Commissioner is finally disposed of. In case of failure or refusal of any express company to make the statement required by law, or furnish the Commissioner any information requested by him, the Commissioner shall inform himself as best he may on the matters necessary to be known in order to discharge his duty. And at any time after the first Monday in June, and before the gross receipts of any express company for business done within the State of Washington are determined, any person, company or corporation interested shall have the right, on written application, to appear before the Commissioner and be heard in the matter of such determination. After the determination of the amount of the gross receipts of any express company for business done in the State of Washington and before the certification of the State Tax Commissioner of such amount, the Commissioner may, on the application of any person, company or corporation interested, or on his own motion, review and correct his findings, in such manner as may seem to him to be just and proper. (L. '07, §4, p. 80; R. & B. Code, §9164.)

§208. Penalty for Failure to File Statement.

In case any express company shall refuse, fail or neglect to make and file the statement or schedule, as provided for in this act, such company shall be subject to a penalty of five hundred dollars (\$500.00), and an additional penalty of one hundred dollars (\$100.00) for each day's omission after the thirtieth day of April to file its statement, said penalty to be recovered by action in the name of the state, and, on collection, paid into the state treasury to the credit of the general fund of the state. The Attorney General, on request of the State Tax Commissioner, shall institute such action against any such person or persons, joint stock company or corporation so delinquent in any court of competent jurisdiction in this state. (L. '07, §5, p. 80; R. & B. Code, §9165.)

§209. Witnesses.

The State Tax Commissioner shall have power to require the president, secretary, treasurer, receiver, superintendent, managing agent, or other officer, or employe, or agent, of any express company, or any person, joint stock company or corporation, engaged in the express business, to attend before the Commissioner, and bring with him for the inspection of the Commissioner, any books or papers, of such person or

persons, joint stock company or corporation, in his possession, or under his control, and to testify under oath, touching any matter relating to the organization or business of such person or persons, joint stock company, or corporation. The Commissioner is authorized and empowered to administer such oath. Any officer, employe or agent, who shall refuse to attend before the Commissioner when requested so to do, or shall refuse to bring with him and submit for the inspection of the Commissioner, any books, records or papers in his possession, custody or control, or shall refuse to answer any questions put to him by the Commissioner, touching the organization or business of such person, persons, joint stock company or corporation, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined not more than five hundred dollars (\$500.00) nor less than one hundred dollars (\$100.00). (L. '07, §6, p. 81; R. & B. Code, §9166.)

§210. Five Per Cent. Tax.

The State Tax Commissioner shall on the first Monday in August, annually, enter the amount of gross receipts of express companies doing business in this state, for the year then next preceding the first day of April, as determined as provided for in section three of this act in a book provided for that purpose. It shall be the duty of the State Treasurer, annually, to collect from each such express company, doing business in this state, a sum in the nature of an excise or privilege tax, to be computed by taking five per centum of the amount fixed by the State Tax Commissioner as the gross receipts of such express company for business done within the State of Washington for the year next preceding the first day of April, as determined and certified by the State Tax Commissioner: *Provided*, Nothing contained in this act shall exempt or relieve any express company from the assessment and taxation of their tangible property in the manner authorized and provided by law. All taxes collected under the provisions of this act shall be credited to the state general fund. (L. '07, §7, p. 81; R. & B. Code, §9167.)

§211. Actions to Collect Tax.

If any express company fails or refuses to pay the said tax as provided for in section seven before the thirtieth day of September, annually, the State Treasurer shall proceed to collect the tax, together with interest, at the rate of fifteen per centum per annum, by suit instituted by the Attorney General, whose duty it shall be, upon the request of the State Treasurer, or upon request of the State Tax Commissioner, to prosecute any and all proceedings for the collection of such tax. (L. '07, §8, p. 82; R. & B. Code, §9168.)

PRIVILEGE TAX ON PRIVATE CAR COMPANIES.

§212. Private Car Companies Defined.

Any person or persons, joint stock companies or corporations, wherever organized or incorporated, engaged in the business of operating or running cars for the purpose of transporting any articles of

merchandise, during the transportation thereof on or over any railroad line or lines in whole or in part within this state, such line or lines not being owned or leased by such person or persons, joint stock company or corporation, shall be deemed a private car company within the meaning of this act. (L. '07, §1, p. 46; R. & B. Code, §9153.)

§213. Annual Statement.

Every private car company, as defined in section one hereof, doing business in this state, shall annually, between the first and thirtieth day of April, after passage of this act, under oath of the person constituting such company, if a person, or under oath of the president, treasurer, superintendent or chief officer in this state, of such association or corporation, if an association or corporation, make and file with the State Tax Commissioner a statement, in such form as the Commissioner may prescribe, containing the following facts:

First.—The name of the person, or persons, association or corporation.

Second.—Under the laws of what state or country organized.

Third.—The location of its principal office.

Fourth.—The name and postoffice address of the president, secretary, auditor, treasurer, superintendent and general manager.

Fifth.—The name and postoffice address of the chief officer, or managing agent of the company in this state.

Sixth.—The entire receipts (including all sums earned or charged, whether actually received or not) for business done by such company within this state, including its proportion of gross receipts for business done by such company within the state in connection with other companies.

Seventh.—Such other facts and information as the said Commissioner may require in the form of return prescribed by him. Blanks for making the above statement shall be prepared and furnished any private car company by the said Commissioner. (L. '07, §2, p. 46; R. & B. Code, §9154.)

§214. Tax Commissioner Shall Ascertain Gross Receipts.

The State Tax Commissioner shall proceed to ascertain and determine, on or before the first Monday in July, the entire gross receipts of each of said private car companies for business done within the State of Washington for the year next preceding the first day of April, and the amount so ascertained by the said Commissioner shall, in such instances, be held and deemed to be the gross receipts of such private car company for business done within the State of Washington, for the year under consideration. (L. '07, §3, p. 47; R. & B. Code, §9155.)

§215. Hearings.

Adjournments may be had from time to time until the business before the Commissioner is finally disposed of. In case of failure or refusal of any private car company to make the statement required by

law, or furnish the Commissioner any information requested by him, the Commissioner shall inform himself as best he may on the matters necessary to be known in order to discharge his duty. And at any time after the first Monday in June, and before the gross receipts of any private car company for business done within the State of Washington are determined, any person, company or corporation interested shall have the right, on written application, to appear before the Commissioner and be heard in the matter of such determination. After the determination of the amount of the gross receipts of any private car company for business done in the State of Washington and before the certification of the State Tax Commissioner of such amount, the Commissioner may, on the application of any person, company or corporation interested, or on his own motion, review and correct his finding in such manner as may seem to him to be just and proper. (L. '07, §4, p. 47; R. & B. Code, §9156.)

§216. Failure to File Statement—Penalty.

In case any private car company shall refuse, fail or neglect to make and file the statement or schedule, as provided for in this act, such company shall be subject to a penalty of five hundred dollars (\$500.00), and an additional penalty of one hundred dollars (\$100.00) for each day's omission after the thirtieth day of April to file its statement, said penalty to be recovered by action in the name of the state, and on collection, paid into the state treasury to the credit of the general fund of the state. The Attorney General, on request of the State Tax Commissioner, shall institute such action against any such person or persons, joint stock company or corporation so delinquent in any court of competent jurisdiction in this state. (L. '07, §5, p. 48; R. & B. Code, §9157.)

§217. Production of Books—Penalty for Refusal to Testify.

The State Tax Commissioner shall have power to require the president, secretary, treasurer, receiver, superintendent, managing agent, or other officer or employe, or agent, of any private car company or any person, joint stock company or corporation, engaged in the private car business, to attend before the Commissioner, and bring with him for the inspection of the Commissioner, any books or papers, of such person or persons, joint stock company or corporation, in his possession, or under his control, and to testify under oath touching any matter relating to the organization or business of such person or persons, joint stock company or corporation. The Commissioner is authorized and empowered to administer such oath. Any officer, employe or agent who shall refuse to attend before the Commissioner, when requested so to do, or shall refuse to bring with him and submit for the inspection of the Commissioner any books or papers in his possession, custody or control, or shall refuse to answer any questions put to him by the Commissioner, touching the organization or business of such person,

persons, joint stock company or corporation, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined not more than five hundred dollars (\$500.00) nor less than one hundred dollars (\$100.00). (L. '07, §6, p. 48; R. & B. Code, §9158.)

§218. Seven Per Cent. Tax.

The State Tax Commissioner shall on the first Monday in August, annually, enter the amount of gross receipts of private car companies doing business in this state, for the year then next preceding the first day of April, as determined as provided for in section three of this act, in a book provided for that purpose. It shall be the duty of the State Treasurer, annually, to collect from each such private car company, doing business in this state, a sum in the nature of an excise or privilege tax, to be computed by taking seven per centum of the amount fixed by the State Tax Commissioner as the gross receipts of such private car company for business done within the State of Washington for the year next preceding the first day of April, as determined and certified by the State Tax Commissioner: *Provided*, Nothing contained in this act shall exempt or relieve any private car company from the assessment and taxation of their tangible property in the manner authorized and provided by law. All taxes collected under the provisions of this act shall be credited to the state general fund. (L. '07, §7, p. 49; R. & B. Code, §9159.)

§219. Actions to Collect.

If any private car company fails or refuses to pay the said tax as provided for in this act before the thirtieth day of September, annually, the State Treasurer shall proceed to collect the tax, together with interest, at the rate of fifteen per centum per annum, by suit instituted by the Attorney General, whose duty it shall be, upon request of the State Treasurer, or upon request of the State Tax Commissioner, to prosecute any and all proceedings for the collection of such tax. (L. '07, §8, p. 49; R. & B. Code, §9160.)

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LAWS

⑦

RELATING TO THE

ASSESSMENT, COLLECTION, ETC.,

OF

PROPERTY AND INHERITANCE TAXES,

AS SAME APPEARED SUBSEQUENTLY

TO

THE LEGISLATURE OF 1921

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BUREAU OF PROPERTY TAXES

SAN JUAN, P. R.

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INTRODUCTION.

This compilation contains:

(1) Section 1 of an act entitled "An Act to amend Chapter II, Title IX, of the Political Code, and to repeal certain sections of the Penal Code, and for other purposes," approved March 9, 1905, as amended by another Act of March 12, 1908, hereinafter mentioned as (d).

(2) Section 49 of an act entitled "An Act establishing a system of local government and reorganizing municipal services," approved July 31, 1919, and amended May 12, 1920, and July 12, 1921.

(3) Section 2 of Act No. 70 of April 13, 1916, as amended by Section 49 of "An Act establishing a system of local government and reorganizing municipal services," approved July 31, 1919, approved May 12, 1920.

(4) Chapter I and III of Title IX of the Political Code, corrected in accordance with the amendments therein supposed to be made by the following laws, passed subsequently to the year 1902, during which was published said Code:

- (a) An Act to amend Title IX of the Political Code, and for other purposes, approved March 10, 1904.
- (b) An Act to amend Chapter II, Title IX, of the Political Code, and to repeal certain sections of the Penal Code, and for other purposes, approved March 9, 1905.
- (c) An Act to amend Title IX of the Political Code and an act entitled "An Act to amend Chapter II, Title IX, of the Political Code, and to repeal certain sections of the Penal Code, and for other purposes," approved March 9, 1905, Sections 1824 and 1825 of the Civil Code and Article 218 of the Mortgage Law, and for other purposes, approved March 14, 1907.
- (d) An Act to amend Section 1 of an act entitled "An Act to amend Chapter II, Title IX, of the Political Code, and to repeal certain sections of the Penal Code, and for other purposes," approved March 9, 1905, approved March 12, 1908.
- (e) An Act to amend Title IX, Section 295, of the Political Code as amended by Acts of the Legislative Assembly of

- Porto Rico of March 10, 1904, and March 14, 1907, and for other purposes, approved March 9, 1910.
- (f) An Act to amend Title IX, Section 342, of the Political Code, as amended by Acts of March 10, 1904, and March 14, 1907, approved March 10, 1910.
 - (g) An Act to amend Title IX, Chapter I, Section 348, of the Political Code, "Assessment of Property," as amended by Act of March 14, 1907, approved March 10, 1910.
 - (h) An Act to amend Sections 295, 297, 298 and 320 of the Political Code, approved September 3, 1910.
 - (i) An Act to amend Section 355 of the Political Code regarding the taxation and regulation of insurance companies, and for other purposes, approved March 7, 1912.
 - (j) An Act to amend Paragraph (E) in Section 291 of the Political Code, approved March 14, 1912.
 - (k) An Act to amend Section 353, paragraph 2, of the Political Code, so as to impose upon foreign corporations the same legal restrictions as are imposed upon domestic corporations, and to provide for the prevention of their engaging in business without proper registration and license, approved March 6, 1913.
 - (l) An Act to amend Chapter III of Title IX of the Political Code of Porto Rico, approved April 13, 1916.
 - (ll) An Act to provide additional revenues for The People of Porto Rico, to fix the rate of the general property tax for municipalities, to provide for the payment into the Insular Treasury of certain excess revenues of municipalities, to amend the Political Code, to provide for the revision and equalization of the present assessment of property, and for other purposes, approved April 13, 1916.
 - (m) An Act to amend section 330 of the Political Code of Porto Rico, and for other purposes, approved September 25, 1917.
 - (n) An Act to amend section 343, Chapter I, Title IX, of the Political Code, as amended by acts of March 10, 1904, and March 14, 1907, and for other purposes, approved December 3, 1917.
 - (o) An Act to amend Section 5, Article I, and Sections 3 and 12, Article II, of an act entitled "An Act to provide additional revenues and to authorize and regulate the importation, manufacture and sale of intoxicating drinks and

drugs for medicinal, sacramental, industrial and scientific purposes, and to amend Sections 12 and 23 of Chapter II, of an Act entitled 'An Act to amend Chapter II, Title IX, of the Political Code and to repeal certain Sections of the Penal Code, and for other purposes,' approved March 9, 1905, and to repeal Act No. 48, approved April 13, 1916, and for other purposes," approved December 5, 1917; and to amend paragraph 9, Section 1 of an Act entitled "An Act to amend an act entitled 'An Act to amend an act entitled "An Act to amend Chapter II, Title IX, of the Political Code of Porto Rico, and to repeal certain sections of the Penal Code, and for other purposes," approved March 9, 1905, and March 9, 1911,' " approved March 13, 1913; and to amend Article 288, Chapter I, Title IX of the Political Code.

(p) An Act to amend section 302 of an act relative to the levying and collecting of taxes, approved March 9, 1905, and amended by subsequent laws, approved May 31, 1919.

(q) An Act to amend section 331 of the Political Code, approved May 6, 1919.

(5) Some other laws or parts of laws, now in force, having a more or less direct relation to the assessment and collection, etc., of property taxes.

**LAWS RELATING TO THE ASSESSMENT, COLLECTION, ETC.,
OF PROPERTY AND INHERITANCE TAXES, AS SAME
APPEARED SUBSEQUENTLY TO THE LEGIS-
LATURE OF 1921.**

AN ACT

TO AMEND CHAPTER II, TITLE IX, OF THE POLITICAL CODE, AND TO REPEAL CERTAIN SECTIONS OF THE PENAL CODE, AND FOR OTHER PURPOSES, APPROVED MARCH 9, 1905.

Section 1.¹—That for and during the fiscal year beginning the first day of July nineteen hundred and eight, and ending the thirtieth day of June, nineteen hundred and nine, and in every succeeding fiscal year, unless otherwise provided by the Legislative Assembly of Porto Rico, there shall be levied and collected, for the purpose of providing insular and municipal revenues, by the Insular Government, a tax of ten one-hundredths of one per cent and by the municipalities a tax of not exceeding ninety one-hundredths of one per cent upon the value of all real and personal property in Porto Rico, and of all personal property of persons residing in Porto Rico, to be ascertained as hereinafter provided, not hereinafter exempted from taxation. The proceeds of this tax and the taxes upon property heretofore levied for insular and general municipal purposes for the fiscal years ending June thirtieth, nineteen hundred and two, nineteen hundred and three, nineteen hundred and four, nineteen hundred and five, nineteen hundred and six, nineteen hundred and seven and nineteen hundred and eight, including all surcharges, shall be covered into the Insular Treasury. The Treasurer shall pay monthly, pursuant to law, upon the warrant of the Anditor, countersigned by the Governor of Porto Rico, of each dollar collected on account of each municipality, to the treasurer of each local school board the sum of twenty-five cents, to the treasurer of each municipality, to be covered into the "Road Fund," the sum of eight cents, and the balance to the treasurer of the municipality; *Provided*, That the proportionate amount to be covered into the road fund by the municipality of San Juan shall be five cents instead of eight cents and shall be used for construction and repair of municipi-

¹As amended by Act of March 12, 1908, (d) in the Introduction. This section was first approved in 1905 to substitute section 385 of the Political Code, amended by Act of March 10, 1904, (a) in the Introduction.

pal roads and streets in Santurce; *Provided, however,* That nothing herein contained shall prevent the Treasurer of Porto Rico from retaining from moneys due municipalities, local school boards, or other local corporations, any sums required, or that may be hereafter required by law, or by ordinance duly enacted by any municipality, school board, or other local corporation, to be retained by him for the purpose of meeting obligations incurred by them.

NOTE.—“An Act Establishing a system of local government and reorganizing municipal services,” approved July 31, 1919, and as amended in succeeding years impliedly amends the present section in some of its provisions.

[No. 60.]

AN ACT

TO AMEND SECTIONS 9, 10, 13, 14, 17, 26, 28, 29, 31, 33, 35, 40, 42, 47, 48, 49, 50 AND 71 OF “AN ACT ESTABLISHING A SYSTEM OF LOCAL GOVERNMENT AND REORGANIZING MUNICIPAL SERVICES,” APPROVED JULY 31, 1919, AND AMENDED MAY 12, 1920.

• • • • •
 Section 49.—That the municipal revenues shall consist of—

(a) The revenues and proceeds from municipal property;

(b) The proceeds of any tax on real and personal property in the municipal district levied under proper authorization of the Legislative Assembly; *Provided,* That such property is not exempt from taxation by the laws of the United States or by any law enacted by the Legislative Assembly;

(c) Any surcharge of the tax on taxable property of the municipality, provided it shall be so decided by two-thirds of the municipal assembly; or, where this is not possible, either because some offices are vacant, or because some of its members fail to attend the meetings, or for any other reasons, said ordinances may be adopted by a majority of its members. These ordinances, whether adopted by two-thirds of the members of the municipal assembly or by a majority thereof, shall require the approval of the Executive Council of Porto Rico. The aforesaid surcharge shall not exceed one (1) per cent, computing therein any additional tax at present or hereafter authorized; *Provided,* That the said ordinances shall be posted to the public for a term of not less than twenty days, and published twice in one week in a paper of large circulation before they are submitted to the Executive Council.

LAWS RELATING TO THE ASSESSMENT, COLLECTION, ETC.

Said surcharge shall be devoted solely to the redemption of loans heretofore or hereafter contracted; to the development of elementary education; to the construction of municipal or inter-municipal roads, aqueducts, electric plants, sewerage systems, hospitals or their maintenance, cemeteries, asylums for the aged and orphans, tuberculosis sanatoriums, asylums for the insane and reform schools, market places, docks and bulkheads, schoolhouses and houses for teachers, agricultural farms; houses for sale on long terms to workmen, dikes to prevent inundations, public laundries and buildings for municipal offices; paving, asphaltting and planting of trees on streets, and erection of villages. Said property surtax shall be collected by the Treasurer of Porto Rico, a certified copy of the ordinance adopted by the municipal assembly to serve as authorization for the purpose. This surtax shall be levied on the basis of the assessment made by the Department of Finance, for collection solely during the following fiscal year, except in cases of loans, when it shall be in force for the time necessary until payment if the principal and interest shall have been covered. In all cases, the surcharge shall not be collected in the same fiscal year in which it was levied by the municipal assembly; *Provided*, That the municipal ordinance levying any additional taxes, including the tax known as school tax, on the assessment of property shall be received by the Treasurer of Porto Rico on or before the fifteenth day of March; *Provided*, That from and after the fiscal year 1921-1922 if any municipality fails to levy in any fiscal year, for the payment of loans with interest contracted by said municipality in accordance with law, any special tax authorized by any act of the Legislature, said special tax shall be understood to be levied, and it is hereby directed that the same shall be considered as levied to be effective in said fiscal year at the same rate as governed in the preceding year, without need of further legislation by the municipality concerned; and the Treasurer of Porto Rico shall collect such special tax in the usual manner; *And provided, further*, That from and after the fiscal year 1921-1922 if any municipality fails for any reason to enact the proper ordinance for the levying in any fiscal year of the tax known as school tax, said tax shall be understood to be levied, and it is hereby directed that the same be considered as levied to be effective in said fiscal year, at the same rate as governed in the preceding year, and the Treasurer of Porto Rico shall collect such special tax in the usual manner.

Approved, July 13, 1921.

[No. 10.]

AN ACT

TO AMEND SECTION 2 OF ACT No. 70 OF APRIL 13, 1916, AS AMENDED BY SECTION 49 OF "AN ACT ESTABLISHING A SYSTEM OF LOCAL GOVERNMENT AND REORGANIZING MUNICIPAL SERVICES," APPROVED JULY 31, 1919.

* * * * *

Section 2.—That for and during the fiscal year beginning the first day of July, 1919, and ending the 30th day of June, 1920, and for every succeeding fiscal year, unless otherwise provided by the Legislative Assembly of Porto Rico, the rate of the regular general property tax prescribed in an act approved March 12, 1908, entitled "An Act to amend Chapter II, Title IX, of the Political Code, and to repeal certain sections of the Penal Code, and for other purposes," approved March 9, 1905, to be collected by the Treasurer of Porto Rico on behalf of the municipalities shall be eighty hundredths of one per centum for municipalities of the first class, and ninety hundredths of one per centum for municipalities of the second and third class, and the tax to be collected by the Treasurer of Porto Rico for the benefit of the Insular Treasury shall be twenty hundredths of one per centum in municipalities of the first class and ten hundredths of one per centum in municipalities of the second and third class independently of any additional tax which for special purposes shall have been heretofore or may hereafter be levied."

Approved May 12, 1920.

POLITICAL CODE.

REVENUES.

CHAPTER I.

ASSESSMENT OF PROPERTY.

Section 285.—(Repealed by Act of March 9, 1905, (b) in the Introduction.)

Section 286.—That it shall be the duty of the Treasurer of Porto Rico to make a revision of the assessment of property in Porto Rico, for purposes of taxation, and to assess all property subject to taxation not heretofore assessed, as need for such revision and assessment arises. Such revision of the assessment and the assessment of property not heretofore assessed shall be made solely in accordance with the provisions of this Title.

Section 287.¹—That for the purpose of directing the work of the assessment of property, the preparation of the tax-rolls and tax-receipts corresponding thereto, and the collection of the taxes provided for in Chapters 1 and 3 of this Title, there shall be in the Office of the Treasurer a Chief of the Bureau of Property Taxes, who, in addition to the duties and powers elsewhere conferred upon him, shall have all the powers conferred upon internal-revenue agents and upon assessors; and, for the purpose of inspecting and enforcing the payment of taxes provided for in Chapter 2 of this Title there shall be in the Office of the Treasurer a Chief of the Bureau of Excise Taxes, who, in addition to the duties and powers elsewhere conferred upon him, shall have all the powers conferred upon internal-revenue agents and upon assessors.

Section 288.²—The Treasurer shall establish convenient assessment districts for the assessment and revision of the assessment of property for purposes of taxation and shall also establish convenient inspection districts for the inspection of the payment of the property, excise and inheritance taxes; and, for the purpose of securing proper assessment, and inspection in the field of the payment of said taxes, the Treasurer is authorized to appoint two internal-revenue

¹As amended by Act of March 14, 1907, (c) in the Introduction; previously amended by Act of March 10, 1904, (a) in the Introduction.

²As amended by Act of March 1, 1918, (e) in the Introduction; previously amended by Act of March 10, 1904, (a) in the Introduction.

agents at large and such number of internal-revenue agents as may be provided by law. Such agents shall receive such salaries as may be fixed by law and shall in addition be reimbursed for all necessary traveling expenses incurred while actually engaged in authorized travel; *Provided*, That a per diem of two dollars shall be allowed in lieu of actual cost of subsistence (board and lodging) while so traveling, to such internal-revenue agents and assessors as may be assigned to the different internal-revenue districts, and a per diem of two dollars to the internal-revenue agent and assessor at large.

NOTE.—The amount of \$2.00 per diem has been increased to \$3.00 by Act of Appropriations for the years 1919–20 and succeeding fiscal years.

Section 289.¹—It shall be the duty of the Treasurer to cause to be prepared the necessary books, blanks, and other forms required for prosecuting the work of revising and keeping complete the assessment of property as provided for by this Title, and to publish such instructions as may be necessary for the guidance of taxpayers and for the instruction of internal-revenue agents and other officers charged with the duty of assessing or revising the assessment of property; and to cause to be prepared complete schedules for the assessment of all kinds of property which is or may be subject to taxation under the laws of Porto Rico, to which schedules he may add such interrogatories as he may deem proper for the purpose of securing a full disclosure of all such property. The work of the revision of assessment and the assessment of property not heretofore assessed shall be done by the internal-revenue agents provided for by this Title who shall be detailed for such duty by the Treasurer, and when so detailed such agents shall be known as assessors and shall have and exercise the powers conferred in this Title upon officers designated as assessors; and whenever the term assessors is used in this Title, or in any regulations, schedules or forms issued in compliance with this Title, reference is had to internal-revenue agents designated to act as such assessors. The internal-revenue agents provided for by this Title, and acting as such, shall, also, as directed by the Treasurer, investigate and report upon all cases of delinquency in the payment of taxes, and all complaints made by taxpayers regarding the amount, payment or other conditions of their taxes; and, when so ordered by the Treasurer, shall serve writs, levy attachments, and superintend the execution and sale of the property of delinquents in the manner provided herein, and shall assist the

¹ As amended by Acts of March 10, 1904, and March 14, 1907, (a) and (c) in the Introduction.

collectors in the performance of such duties. They shall have free access to the records of the registrars of property, shall report on all alienations of property subject to taxation, and shall appraise and report on the estates of decedents and secure the full payment of the inheritance tax on legacies.

Section 290.¹—That all property not expressly exempted from taxation shall be assessed and taxed. For the purposes of the assessment and collection of taxes, real property shall be deemed to be synonymous with immovables, as defined in Sections 333, 334 and 335 of the Civil Code; *Provided, however,* That machinery, vessels, instruments or implements not fixed to the building or soil shall not be deemed to be real property. Personal property shall include such machinery, vessels, instruments or implements not fixed to the building or soil, livestock, money, whether in the possession of the owner thereof or held by or on deposit with some other person or institution, bonds, stocks, certificates in unincorporated syndicates or partnerships, patent-rights, trade-marks, franchises, concessions, and all other matters and things capable of private ownership and not included within the meaning of the term "real property," but shall not include book-credits, promissory notes nor other personal credits.

Section 291.²—The following property shall be exempted from taxation:

(a) Property of persons whose total property is assessed for less than one hundred dollars.

(b) Property of the United States and property exempted from taxation by the laws of the United States; property of The People of Porto Rico, except as provided in Section 296 of this Title; property of any municipal district or other local division devoted entirely to public use, even though such property should be a source of revenue to such municipal district or local division.

(c) The indebtedness owed by any taxable person, association or corporation, to the extent and in the manner prescribed in Sections 296 and 297 of this Title.

(d) Shares of capital or stock in institutions, corporations, or companies organized under the laws of Porto Rico when the property of such corporations is exempt or when such shares are taxable to said institutions, corporations or companies themselves, to the extent and in the manner prescribed in Section 316 of this Title.

(e) Every building used and set apart exclusively for religious

¹ As amended by Act of March 10, 1904, (e) in the Introduction.

² As amended by Acts of March 10, 1904, and March 24, 1912. (a) and (j) in the Introduction.

worship, and the pews and furniture within the same; every building set apart for masonic lodge or used for educational, literary, scientific, or charitable purposes, and the furniture, appliances, and apparatus appurtenant thereto; and every tract of land, not exceeding five *cuerdas* in extent, upon which such building or buildings is or are situated; *Provided*, That such grounds and buildings are not leased or otherwise used with a view to the pecuniary profit of either the lessor or lessee.

(f) Cemeteries, tombs, and the rights of burial, so long as the same shall be dedicated for the burial of the dead and no dividends or profits derived therefrom, except in the case of dividends or profits derived from cemeteries owned by municipalities.

(g) Fish in the possession of the fishermen by whom caught.

(h) The growing crops and products of the land actually owned by and still in the hands of the producer.

(i) The professional tools or working tools of mechanics, or artisans, moved or worked exclusively by hand.

(j) Household furniture, wearing apparel, and provisions and fuel kept for the use and consumption of the person to whom they belong. But nothing in this Title contained shall be held to exempt agricultural machinery, or the furniture or utensils and provisions of hotels, restaurants and eating-houses except as provided for in the preceding paragraphs.

(k) All educational and professional books and private libraries.

(l) All family pictures.

(m) Non-interest bearing mortgage bonds and other obligations used exclusively as guarantees or securities for the proper performance of official duties; liens and *censos* the interest on which does not exceed five (5) per cent per annum, provided the same are specially devoted to carry out testamentary will applying them to charitable or educational purposes. But all property hereby exempted from assessment, in so far as it is real property shall be duly listed, valued and described as is other property; and the Treasurer shall keep a record showing for each piece of real property so exempted its description and estimated value, and by whom it is owned, the reason for its exemption from taxation, and such other information as the Treasurer may deem desirable.

NOTE.—See Section 3 of the Organic Act exempting from taxation all bonds issued by the Government of Porto Rico, or by its authority; and "An Act to protect new industries, etc.," approved March 31, 1919, which is inserted in this booklet.

Section 292.—Partners in mercantile or other business, whether residing in the same or in different places, shall be jointly taxed under their partnership name in the place where their business is carried on for all the personal property employed in such business, including ships, vessels, boats, and lighters. If partners have places of business in two or more assessment districts, they shall be taxed in each of such places for the proportion of property employed therein. When so jointly taxed each partner shall be liable for the whole tax.

Section 293.—Commission merchants and all persons dealing and trading on commission, assignees authorized to sell, and persons having in their possession property belonging to another, subject to taxation in the assessment district where said property is found, shall, for purposes of taxation be deemed the owners of the property in their possession.

Section 294.—So much of the property of any manufacturer, merchant or tradesman as may consist of stocks of material or merchandise shall be listed separately and assessed upon its average market value during the year next preceding the time of assessment; and the assessor may in assessing such stocks require of such manufacturer, merchant or tradesman to produce the last inventory thereof, and if in the judgment of the assessor the same is not correct, or if such time has elapsed since the inventory was taken that it shall have ceased to be reliable as to the value thereof, and such merchant or tradesman should not produce a new inventory within ten days thereafter, or if the assessor does not consider the last inventory to be reliable, then the assessor shall appraise the said stock by personal examination.

Sección 295.¹—That the assessment of property, as the same appears on the taxroll last prepared, shall, after it has been corrected, amended and revised, as herein provided for, constitute the assessment roll for the next fiscal year. That as soon after January 15 of each year as is possible it shall be the duty of the assessor of each assessment district to fill out an assessment schedule showing in detail each separate piece of real property and improvements thereon, and in as great detail as is practicable all personal property subject to taxation within the same municipality belonging on January 15 to each taxable person whose property has not been previously assessed or whose property, in the opinion of the assessor, should be

¹ As amended by Act of September 2, 1910, (A) in the Introduction; previously amended by Acts of March 10, 1904, March 14, 1907, and March 2, 1910; (a), (c) and (e) in the Introduction.

re-valued or re-assessed for purposes of taxation, or the re-valuation of which has been requested by the owner thereof or by the municipal authorities of the municipal district in which said property is located, or by any citizen of Porto Rico. Where the same person owns taxable property in more than one municipality, separate schedules shall be made out for each municipality. The assessor may deliver such blank schedule or schedules, to which may be attached such interrogatories as he deems necessary in order to secure discovery of taxable property and its value, to any taxable person in his district, or to any adult member of his household or business establishment, and require said taxable person to issue and make the proper receipt for such schedule and return the same to him, properly filled out, within a period not to exceed ten days, and it shall be the duty of said taxable person to make upon said schedule or schedules a complete return and full valuation of all the real and personal property owned, held or possessed by him and liable to taxation, and return the same to said assessor within the period of time hereinbefore appointed. Every partnership, concern, trustee, administrator, guardian, agent, and every person having any manner of title, either legal or equitable, or having possession of, holding or claiming in any manner, anything required to be returned in said form or schedule shall be held subject to the provisions of this Title and shall be required to make return upon said schedule as herein provided. Whenever property is owned, held or possessed by more than one person as administrator, executor, trustee, or in any other fiduciary or representative capacity, any one of them may make the oath required by Section 300 of this Title, and every schedule of co-partnership property shall be sworn to by, at least, one member of the co-partnership. The assessor, however, shall not be bound in any manner by the list of property or the value placed thereon as thus returned by a tax-payer, but shall proceed upon the information thereby obtained, and such other information as he may be able to obtain, to assess the property at its actual value, without looking to a forced sale, according to his best information and belief.

NOTE.—The Joint Resolution number 19 approved April 13, 1916, ordered a revision of all property for the fiscal year 1917-18.

Section 296.—Property in litigation to which The People of Porto Rico is not a party shall be assessed to the person in possession thereof. If such property be on deposit with any administrative, judicial or municipal official it shall be assessed to such official, who shall dis-

pose of a sufficient quantity thereof to pay the taxes thereon unless the taxes thereon be paid by some person possessing, acquiring or claiming a right, interest or title therein, in which case as to the amount paid such payment shall constitute in favor of such payor a prior lien on the property as against all claimants except The People of Porto Rico. Property commonly reputed to belong to The People of Porto Rico shall be assessed in the name of the usufructuary thereof, if such there be, but such assessment shall not be held to impair the right, title or interest of The People of Porto Rico against all other property of such usufructuary. If the owner or claimant of any property not listed by another person is unknown, the assessor shall value and assess that property with a proper description thereof to "Owner Unknown."

Section 297.¹—That all personal property within or without Porto Rico shall be assessed to the owner thereof in the municipality in which he resides on the fifteenth day of January, except that such personal property as goods, wares, merchandise and other stock-in-trade; machinery employed in any branch of manufacturing or business, including machines leased or operated under a stipulation providing for the payment of a royalty; horses and other livestock, and all other personal property having a permanent location within a municipality shall be assessed to the owner in the municipality in which it is thus situated; and that shares of banks doing business in Porto Rico shall be assessed to their owners in the municipality where the banks are situated, as hereinafter provided.

Section 298.¹—That all real property shall be assessed in the municipality in which the real property lies to the person who is either the owner or in possession thereof on the fifteenth day of January, and the person appearing of record on the fifteenth day of January, shall be held to be the true owner thereof. No deduction shall be allowed on account of any debt secured by mortgage, *censo*, conditional sale (*venta con pacto de retro*), contract or other obligation upon said real property; except, however, where a mortgage, *censo*, conditional sale (*venta con pacto de retro*), contract or other obligation by which a debt is secured upon real property has been executed subsequently to January 31, 1901, and prior to the passage of the Act of March 10, 1904, and the obligation to pay the taxes thereon rests upon the mortgagee or holder of said mortgage, *censo*,

¹ As amended by Act of September 3, 1910, (A) in the Introduction; previously amended by Act of March 10, 1904, (a) in the Introduction.

conditional sale (*venta con pacto de retro*), contract or other obligation, then said mortgage, *censo*, deed of trust, contract or other obligation shall continue to be deemed and treated as an interest in the property affected thereby, and shall be assessed and taxed to said mortgagee or holder of said mortgage, *censo*, deed of trust, contract or other obligation, and the value of the property affected by such mortgage, *censo*, deed of trust, contract, or other obligation, less the value of such security, shall be assessed and taxed to the owner thereof in the municipal district or other local division in which the property is situated; and the taxes so levied shall be a lien upon the property and security and may be paid by either party to such security, but if paid by the owner of the property said taxes shall constitute a payment upon the debt and to the extent of such payment a full discharge thereof.

Section 299.¹—That it shall be the duty of every person owning property liable to taxation under the laws of Porto Rico which has not been assessed for taxation, or which has escaped assessment or taxation for any fiscal year, to report the same to the assessor of his assessment district, or to the Treasurer of Porto Rico. Wilful failure on the part of the owner of such property to make return thereof, as herein provided, shall be deemed a misdemeanor, punishable, upon conviction thereof, by a fine not exceeding one hundred (100) dollars.

Section 300.¹—Every person liable to taxation under this Title shall, at the time of returning the list or schedule provided for in Section 295 to said assessor, take or subscribe an oath to the following effect:

“I, _____, being duly sworn, say that to the best of my knowledge, information and belief the foregoing statement contains a full, true and complete list of all property held or belonging to me (or to me as a partner, or in my possession as trustee, administrator, guardian committee of a lunatic, or agent) in the municipality of _____, and that all such property has been fully and fairly described and its true condition and value represented; and that all interrogatories relating thereto have been fully and truthfully answered; that I have in no case sought to mislead said assessor as to the quantity or quality of said property; that I have not, directly or indirectly, converted or exchanged

¹ As amended by Act of March 14, 1907, (c) in the Introduction; previously amended by Act of March 10, 1904, (a) in the Introduction.

any of my property for the purpose of evading the assessment thereof for taxation into non-taxable property or securities of any kind.

“-----
 “Subscribed and sworn to before me this ----- day
 of -----, 191---.

“-----
 “Assessor.”

Section 301.—(Repealed by Act of March 10, 1904, (a) in the Introduction.)

Section 302.¹—That it shall be the duty of assessors, when making any change in the existing assessment of the property of any taxpayer, or whenever the property of a taxpayer for previously assessed is assessed, or whenever making any change in the list and assessment of property as returned by a taxpayer where such taxpayer has been called upon to fill in his schedule showing his property subject to taxation, to serve a written or printed notice of such action, which he shall serve upon said taxpayer by delivering a copy thereof to said taxpayer, or to any member of his family, or attendant of legal age, or to the person in charge of said property, or, if it is not possible to make service in such way, by transmitting such copy by registered mail to such owner or person in charge of the property.

Such assessors shall also serve like notice with a description of the property assessed, on the mayor of the municipality in which said property is situated, and should it be located in several municipalities, on the mayor of each one of them. The mayor shall report such assessment to the municipal council for its decision as to whether the assessment appears to them fair or unfair.

If the owner or person in charge of the property assessed, or the mayor by virtue of the resolution of his respective municipal council fails to take an appeal from said assessment to the permanent Board of Review and Equalization, the assessment shall be final.

Section 303.²—That whenever the Treasurer of Porto Rico shall learn that any real property liable to taxation has been omitted from the assessment of property of any taxpayer for any fiscal year

¹As amended by Act of May 31, 1918, (p) in the Introduction; previously amended by Act of March 14, 1907, (c) in the Introduction, and by Act of March 10, 1904, (a) in the Introduction.

²As amended by Act of March 14, 1907, (c) in the Introduction; previously amended by Act of March 10, 1904, (a) in the Introduction.

or years, beginning with the fiscal year 1901-02, he shall immediately cause the same to be assessed for the years for which such property has failed of assessment and to add such property to the tax-rolls for such years and proceed to the collection of the taxes corresponding to the same, and all surcharges accruing on account of such taxes not having been paid promptly, in the same manner as he collects other taxes provided for by this Title; *Provided, however,* That where such property has failed to be assessed and taxed through no wilful default of the owner the Treasurer of Porto Rico shall have power, in his discretion, to remit the surcharge in whole or in part. In all cases where property, real or personal, has been assessed for any fiscal year or years, but such assessment has been made in other than the name of the true owner or possessor thereof, or has been so made as to be void, the Treasurer of Porto Rico shall cancel such assessment, eliminate the same from the tax-rolls, and withdraw and cancel the tax-receipts or bills corresponding to the same; and shall proceed to re-assess such property and correct the tax-rolls accordingly, and collect the taxes in so far as may be pending payment corresponding to such re-assessment in the same manner as is herein in this Section provided for the assessment and collection of taxes on real property that had improperly failed of assessment.

Section 304.¹—That any person who wilfully fails to fill out and return the assessment schedule, when so required by an assessor, within the period of ten days after the delivery of the same, shall be deemed guilty of a misdemeanor, punishable, upon conviction thereof, by a fine not exceeding five hundred dollars.

Section 305.—In listing or valuing the property of persons who have made no return of the same, as provided in Section 299 and 304 of this Title, the assessor is authorized to examine, under oath or affirmation, any person who he may believe has knowledge of the amount and value of said property; but for the taking or administering of said oath or affirmation no charge shall be made.

Section 306.²—That the Treasurer of Porto Rico, the Chief of the Bureau of Property Taxes, and the several assessors, are hereby authorized to administer the required oath or affirmation to any person, or persons, listing and valuing their property for the taking of which oath or affirmation no charge shall be made. Any of said officials who shall make any charge for administering such oath or

¹ As amended by Act of March 10, 1904, (e) in the Introduction.

² As amended by Act of March 14, 1907, (c) in the Introduction: previously amended by Act of March 10, 1904, (e) in the Introduction.

affirmation shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding five hundred (500) dollars.

Section 307.—As fast as the assessment or revision of the assessment of property as herein provided is made, or at such intervals of time as may be fixed by the Treasurer, each assessor shall promptly transmit the completed schedules to the Treasurer, who shall cause the same to be examined, arranged and delivered to the permanent Board of Review and Equalization, as provided in Section 308 of this Title.

Section 308.¹—For the purposes of revising the assessment or re-assessment of real and personal property as provided by this Title, and for the purpose of passing upon all claims made by taxpayers in respect to the assessment of their properties, there shall be a permanent board of review and equalization, composed of the Treasurer of Porto Rico, the Secretary, and the Commissioner of the Interior, and two other persons, citizens of Porto Rico, versed in matters pertaining to the value of property in Porto Rico. Said two persons shall be appointed by the Governor, by and with the consent of the Executive Council, on or before the first day of May of each year, shall hold office for one year, or until their successors are appointed and qualified, and shall receive such compensation as may be fixed by the Governor, but not to exceed ten dollars for each day's attendance at the meetings of the board, and actual cost of transportation necessarily incurred. Each of the members of said board shall take an oath, fairly and impartially to pass upon questions coming before them according to law. Any four of them shall constitute a quorum. The Treasurer shall be *ex-officio* chairman of said board.

Section 309.¹—Any person aggrieved by the action of the assessor in relation to the valuation of his property may make written complaint thereof to the said Board of Review and Equalization, which complaint shall consist of a specific statement of the particular errors complained of, with such facts as may lead to their correction; *Provided, however,* That no such complaint or claim shall be considered by said board unless it is presented within fifteen days after the aggrieved taxpayer has been notified by the assessor, as herein provided, of the assessment or re-assessment of his property; *Provided, also,* That no statements or arguments in behalf of such complaint or appeal shall be considered except those presented by the aggrieved person himself or his duly accredited agent.

¹ As amended by Act of March 10, 1904, (a) in the Introduction.

Section 310.—The said Board of Review and Equalization shall hear the appeal and determine anew any questions arising before the board which relate to the liability of the property to assessment, or to the amount thereof, and, upon recording such determination, shall correct the assessment books or schedules in accordance with their decision, or shall order such correction to be made by the Treasurer, if said books or schedules be in his possession. Said board shall have power to abate, lessen or increase the valuations made in any schedule returned to it, whether any complaint has been made in relation thereto or not, and to decide all other complaints in respect to the assessment of taxes and to correct all errors as they may be brought to its attention; *Provided, however,* That no increase shall be made in the valuation of property of any person unless such person shall have been given at least five days' notice of the intention to make such increase, in the manner provided for in Section 302 of this Title. The decision of the board in all matters coming before it shall be final. In executing the duties imposed upon it by this Title the said board may examine, on oath or affirmation, any person or persons who may have knowledge of or information concerning the value of property subject to taxation, and any member of said board may administer the oath or affirmation.

Section 311.—Every appeal decided by said board and every valuation changed by said board shall be recorded in a book provided by the Treasurer for such purpose, together with the date upon which such decision was made or such change recorded, and the appellant or owner of the property whose valuation has been changed or whose rights have been affected by said decision shall be notified of the same in writing, and entry shall be made in said record of the action of the board that the notices required by this Section to be sent to taxpayers have been given or posted, which entries shall be conclusive evidence of the giving or posting of the notices required.

Section 312.—(Repealed by Act of March 10, 1904, (a) in the Introduction.)

Section 313.—The said Board of Review and Equalization shall deliver to the Treasurer all the books, schedules, records and papers which may have been received or used by said board in its work of correction and revision. During the progress of said work of correction and revision the Treasurer shall furnish said board with the clerical assistance, books, and stationery necessary for the proper execution of the duties of said board.

Section 314.¹—That when the schedules containing the assessments have been duly examined, verified, corrected and revised, as hereinbefore provided, the Treasurer of Porto Rico shall cause the same, or the tax-rolls corresponding thereto, to be securely bound in book form, with appropriate titles and indices, if necessary. No book shall contain the schedules, or tax-rolls, of more than one assessment district, and when endorsed and signed by the Treasurer of Porto Rico as Chairman of the Board of Review and Equalization said bound schedules, or tax-rolls, shall constitute the assessment book of the district to which it relates, in accordance with which the tax provided by law shall be levied and collected; and shall be conclusively presumed by all courts and tribunals to be valid and shall not be set aside or changed except by way of the correction of manifest error; *Provided*, That the Treasurer of Porto Rico, as Chairman of the Board of Review and Equalization, shall endorse and sign upon each assessment book as corrected in accordance with the decisions of said board a statement to the effect that the same is the assessment book for the district to which it relates, and said assessment book shall, when so endorsed, constitute the assessment of property for purposes of taxation for the fiscal year beginning on the first day of July.

Section 315.¹—That it shall be the duty of the assessor in making the assessment, or in revising the existing assessment, to list each piece or parcel of real estate separately, and to give each its assessed value, together with a description of it, and the name and address of its owner, insofar as such information can be obtained. Where the real property embraces both land and improvements, the assessed value of the land and of the improvements shall be given separately. The tax that is assessed for the current fiscal year, and for the three prior fiscal years, against each piece or parcel of real property, including any improvements that may be thereon, or that may be subsequently placed thereon, shall constitute the first lien thereon, and shall be prior to all other liens whatsoever on said property, whether the said liens attach before or after the lien of said taxes; *Provided*, That said lien on each farm, parcel of land or real estate, shall be only for the taxes due on such farm, parcel of land or real estate, and improvements thereon. Every notice of attachment for delinquent taxes, whether real or personal, shall have the effect of a judgment against all of the property of the delinquent

¹As amended by Act of March 14, 1907, (c) in the Introduction; previously amended by Act of March 10, 1904, (a) in the Introduction.

attached, and every lien herein created shall have the force and effect of an execution duly levied. In all cases where real estate is embargoed and sold for the payment of taxes the Treasurer of Porto Rico shall notify all persons having a mortgage or other lien on said property of record of such sale and in such notice shall state the date of the sale, the amount for which the property was sold, and such other facts as he may deem advisable.

Section 316.¹—The real property and all interest in real property of institutions, corporations and companies incorporated under the laws of Porto Rico and of corporations, joint-stock and limited liability companies not incorporated in Porto Rico but engaged in the transaction of business therein, shall be assessed in the assessment district in which said real property is situated; *Provided, however,* That for purposes of taxation the real property of railroad and railway companies whose lines touch or extend through more than one municipal district or local division shall not be held to include the rolling stock, roadbed, bridges and tunnels of said railroad and railway companies. Whenever so notified, the president, director or other chief officer of every such institution, corporation or company shall furnish to the assessor of the assessment district in which such corporation or company shall own or possess any real property or any interest in real property, a true statement and valuation of such real property, interest in or debt secured by such real property, and such statement and valuation shall be accompanied by the sworn declaration of said president, director or other chief officer, similar to the oath or affirmation provided in Section 300 of this Title, that the same is a true and complete list and full and fair valuation of all the real property and of every interest in real property in said assessment district that is owned, held or possessed by said institution, corporation or company. The assessor shall assess said property or interest, and send duplicate certificates of such valuation and assessment to the Treasurer of Porto Rico and to such president, director and other chief officer. If the valuation made by said president, director or other chief officer shall have been increased by the assessor, said institution, corporation or company shall have the right of appeal to the permanent Board of Review and Equalization accorded to individuals by this Title.

Section 317.¹—The personal property of institutions, corporations and companies incorporated under the laws of Porto Rico, other than banking institutions having a share capital; shall be assessed

¹ As amended by Act of March 10, 1904. (a) in the Introduction.

to such institutions, corporations and companies by the Treasurer of Porto Rico in the manner provided by this Section. The actual present value of the capital of such corporations shall be ascertained by the Treasurer of Porto Rico from the sworn declarations of the president, directors or other chief officers of such corporations as required by Section 319, and from such other reliable information as the Treasurer may have or secure, and the present actual value shall in no case be less than the value of the capital stock and bonds plus the surplus and undivided earnings of said institutions, corporations and companies, nor less than the market value of the real and personal property of said institutions, corporations and companies, including in personal property all rights, franchises and concessions. From the valuation thus obtained shall be deducted the total valuation of real property of said corporations, as ascertained in accordance with the provisions of Section 316, and the remainder shall be deemed to represent the personal property of said corporations for purposes of taxation.

Section 318.—If the total valuation of the capital of any such institution, corporation or company, as reported by the president, director or other chief officer thereof, shall be increased by the Treasurer, the Treasurer shall notify said president, director or other chief officer thereof and said institution, corporation or company shall have a right of appeal from such valuation to the board of review and equalization; *Provided*, Said institution, corporation or company shall file a notice of protest with said board within fifteen days of the sending of said notification.

Section 319.¹—Whenever so notified, the president, director or other chief officer of every institution, corporation and company incorporated under the laws of Porto Rico, and every corporation, joint-stock and limited liability company not incorporated in Porto Rico, but engaged in the transaction of business therein; shall deliver to the Treasurer of Porto Rico the duplicate statement of real property and interest in real property, hereinbefore mentioned, together with a list and valuation of all other property owned, held or possessed by said institution, corporation or company: such property shall be listed in detail and the said list shall contain, in addition to the true and complete answers to such interrogatories as the Treasurer may propound, a statement of the capital, (and of the par and market value of the shares of the capital, if said capital be divided into shares), the value of plant and machinery owned, the amount

¹ As amended by Act of March 10, 1904, (a) in the Introduction.

of bonds issued, their market value, and the respective names and residences of the holders of said bonds; the surplus and undivided earnings, all interest, shares or proportions in any ship or vessel, whether such ship or vessel be in or out of port; the gross and net earnings during the last business year; the amount of deposits (if moneys or other valuables be received on deposit); all money, and the nature and value of all franchises and concessions owned, held or possessed by said institutions, corporations or companies. The said president, director or other chief officer, at the time of returning said lists and valuations to the Treasurer, shall make and subscribe an oath of the truth and completeness of said lists and valuations, in substance the same as the oath or affirmation required from private owners of property in Section 300 of this Title; and the said lists or valuations shall be upon blank forms of schedules to be furnished by the Treasurer.

Section 320.¹—The assessment of every corporation, joint-stock and limited liability company not incorporated in Porto Rico but engaged in the transaction of business therein, other than banks and banking institutions having a share capital, shall be made in the manner provided by this Title for the assessment of the property of institutions, corporations and companies incorporated under the laws of Porto Rico; *Provided, however,* That in the determination of the actual present value of the capital of such corporations only such part of the capital of such corporations shall be considered and assessed as is employed in the transaction of business in Porto Rico; but the amount of such capital shall in no case be less than the value of the real and personal property of such corporation or company situated in Porto Rico, including in such personal property all franchises or concessions granted said corporation or company under the laws of Porto Rico. All obligations imposed upon institutions, corporations and companies incorporated under the laws of Porto Rico, or upon their officers, to fill in and return schedules, under sworn statements or otherwise, shall apply equally to corporations, joint-stock and limited liability companies not incorporated in Porto Rico, and their officers. All the shares of stock in banks and banking institutions, whether of issue or not, existing by authority of the United States or of any State of the United States, or of Porto Rico, or otherwise and located and doing business within Porto Rico, shall be assessed by the Treasurer of Porto Rico to the owners thereof in

¹ As amended by Act of September 3, 1910, (A) in the Introduction: previously amended by Act of March 10, 1904, (4a) in the Introduction.

the municipal districts where such banks are located, and not elsewhere. In the assessment of all Insular and municipal taxes that have been or may hereafter be, duly imposed by law in such municipality, whether such owners are residents of said municipality or not, all such shares shall be assessed at their fair market value on the fifteenth day of January, first deducting therefrom the proportionate part of the value of real estate belonging to the bank and the persons or corporations who appear from the records of the bank to be owners of shares at the close of business on the day next preceding the fifteenth day of January of each year shall be taken and deemed to be the owners thereof for the purposes of this section. Every such bank shall pay to the Treasurer of Porto Rico, at the time in each year when other taxes assessed in the municipality become due, the amount of the tax so assessed in such year upon the shares in such bank. If such tax is not paid, the bank shall be liable for the same, and the said tax, with the penalties provided for in Section 330 of this Title, may be recovered by the Treasurer of Porto Rico in the same manner as the payment of other delinquent taxes is enforced. The shares of such bank shall be subject to the tax paid thereon by the bank, or by the officers thereof, and the bank and the officers thereof shall have a lien on all the shares in such bank and on all the rights and property of share holders in the corporate property, for the payment of said taxes. The cashier of every such bank shall make and deliver to the Treasurer of Porto Rico, on or before the fifteenth day of January of each year, a statement, verified by the oath of such cashier, showing the name of each share holder with his residence and the number of shares belonging to him at the close of business on the day next preceding the fifteenth day of January as the same then appeared on the books of said bank. All obligations imposed upon institutions, corporations and companies other than banks incorporated under the laws of Porto Rico, or upon their officers, to fill in and return schedules, render sworn statements or otherwise, shall apply equally to banks as described in this Section and their officers.

Section 321.¹—The value of the rolling stock and roadbed, including bridges and tunnels, of railroad and railway companies whose lines touch or extend through more than one municipal district or other local division shall be assessed by the Treasurer of Porto Rico as a special category of the property of such railroad and railway companies, at their value for railway purposes, and shall for the

¹ As amended by Act of March 10, 1904, (a) in the Introduction.

purposes of municipal or other local taxation be distributed among such municipal districts or other local divisions in proportion to the mileage of said railroad or railway companies therein, and in the sworn lists and valuations hereinbefore required the president, director or other chief officer of said railroad or railway company shall specify the value of the rolling stock, roadbed and mileage of the road in the several municipal districts or other local divisions through which it passes. It shall be the duty of the Treasurer of Porto Rico to see that the proper municipal or local taxes are charged and collected thereon, and, in ascertaining the value of the capital shares of such railroad or railway company, the Treasurer shall subtract from the total value of such shares the assessed value of the real property and the value of the rolling stock and roadbed of such railroad or railway company.

Section 322.¹—Insular, municipal and local taxes upon capital, shares and property of the institutions, corporations and companies included within the meaning of this Title and upon shares in banks engaged in business in Porto Rico, shall be payable at the office of the Treasurer, who shall pay, pursuant to law, the proportion of such municipal and local taxes due, to the proper officers of the respective municipal districts or local divisions; and said institutions, corporations and companies are hereby authorized to retain the proportionate taxes upon capital shares from the earnings or dividends accruing to the owners thereof, or to cancel a proportion of said shares sufficient to pay said taxes. Insular, municipal and local taxes upon such institutions, corporations and companies shall be due in semi-annual instalments, and all penalties for delinquency and the liability to attachment, seizure and sale of property hereinafter provided shall apply to such institutions, corporations and companies in the same manner as to private individuals.

Section 323.¹—(Paragraph 1.) Any person, and any agent or officer, of any institution, corporation or company who shall give or return a false or fraudulent list, schedule or statement as required by this Title; or who shall wilfully fail or refuse to take and subscribe to any of the oaths, affidavits or affirmations required by this Title; or who shall wilfully refuse to answer any interrogatory which the Treasurer, the assessor, or any member of the board of review and equalization is by this Title authorized to propound, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars, or by im-

¹ As amended by Act of March 10, 1904, (s) in the Introduction.

prisonment at hard labor for a term not exceeding one year, or both, at the discretion of the court.

(Paragraph 2.) If any assessor shall wilfully fail or neglect to obtain from any person by him assessed any oath, affidavit or affirmation required by this Title to be administered, he shall forfeit and pay to The People of Porto Rico the sum of twenty dollars for each case of such wilful omission and neglect, which shall be retained by the Treasurer out of the salary or remuneration of the said assessor, and the Treasurer shall account, pursuant to law, for moneys so retained. If any clerk appointed under this Title, or any assessor or member of a board of review shall wilfully neglect to perform the duties of his office, or shall corruptly receive any fee, reward, emolument or advantage whatsoever intended to influence his conduct or the performance of this duty under this Title, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment for a term not less than six months nor more than five years, or by a fine not less than one hundred nor more than one thousand dollars, or both, at the discretion of the court.

Section 324.¹—No change shall be made in the assessment of any property during any fiscal year because of its transfer or other alienation; except that if real estate is divided by sale upon petition for partition or otherwise after a tax has been levied thereon, and such division has been duly recorded in the registrar's office, the assessor, at any time before said real estate may have been sold for payment of taxes, upon the written request of the owners of any portion thereof, shall apportion the assessment, and the Treasurer of Porto Rico shall apportion said taxes, and the costs and interest accruing thereon, upon the said parcels thereof in proportion to the value of each, and only the portion of said taxes, interests and costs so apportioned upon any such parcel shall continue to be a lien upon it, and the owner shall be liable only for the tax apportioned upon the parcel owned, in part or in whole, by him. Assessors shall send notices of the request for such apportionment by mail to every person interested in said real estate whose address is known to them. A person aggrieved by any action of the assessor in making such apportionment may appeal to the permanent Board of Review and Equalization, in like manner as in case of complaint against original assessment or re-assessment, and the decision of the said

¹ An amended by Acts of March 10, 1904, and March 14, 1907. (a) and (c) in the Introduction.

board upon such appeal shall be final. In all cases where property has been transferred subsequent to the date at which the bill or receipt for taxes on such property has been made out and placed in the hands of the collector for collection, or where such transfer has taken place prior to such date, but the notice of such transfer was not received by the Treasurer of Porto Rico in time to make the bill or receipt for taxes in the name of the new owner, the taxes shall be paid in the name of the person appearing upon said bill or receipt for taxes, but the new owner may pay the taxes called for by said bill or receipt and require the collector of internal revenue to make note on the back of the bill or receipt to the effect that the tax-bill was paid by him.

Section 325.—Every deed of transfer of real property, or interest therein, and every mortgage or other security for debt secured by real property, made on and after the first day of April, nineteen hundred and one, by any registrar of property, shall be separately and specially recorded by the proper registrar of property, without compensation, in a special transfer book to be furnished by the Treasurer, which shall contain the date and consideration of the transfer or grant; the name and residence of the grantee; the name and residence of the grantor; the name and residence of the person to whom said real property, interest in or debt secured by real property is assessed and taxed, and reference to the archives or records of such registrars in which the said property is more fully described. The said transfer book or transcripts therefrom shall be transmitted to the Treasurer whenever he may so direct.

Section 326.¹—Property taxes on real and personal property, when imposed by municipal districts or other local divisions, shall be assessed upon the valuation of property as herein provided.

Section 327.—The Treasurer shall have authority to issue all such regulations, orders and instructions as may be required for carrying out the provisions of this Title, and such regulations, orders and instructions, when duly issued, shall have all the force of law.

Section 328.²—The Treasurer shall compute, upon the assessed valuation of the property of each person as recorded in the assessment books, the amount of insular and municipal taxes owing by such person, and the said amount shall be entered, with sufficient particularization and description of the person and property taxed,

¹ As amended by Act of March 10, 1904, (a) in the Introduction.

² As amended by Acts of March 10, 1904, and March 14, 1907, (a) and (c) in the Introduction.

upon suitable books of record. The Treasurer shall deliver, in due time, to the respective collectors such tax receipts or tax rolls as may be necessary, and charge said collectors therewith. The possession of such tax receipts or tax rolls for the taxes due upon any property shall be sufficient warrant, on the part of any collector, for the collection of said taxes and for the seizure and sale of said property in the manner hereinafter provided, if said taxes be not paid within the period of time provided in Section 335 of this Title.

Section 329.¹—That for the collection of taxes imposed by this Title, the sale of internal-revenue stamps, and the collection of such other taxes and the performance of such other duties as may be authorized by the Treasurer of Porto Rico, the Treasurer of Porto Rico is authorized to create such number of collection districts, not to exceed sixty-six in all, as may be necessary for said purposes, and to appoint for each of said districts a collector, who shall receive such compensation as may be fixed by law and who shall give bond to the Treasurer of Porto Rico for the benefit of The People of Porto Rico in such amount as the Treasurer of Porto Rico may fix, said bond to be approved as to form and execution by the Auditor, and as to sufficiency of surety by the Treasurer of Porto Rico. Said bonds shall be given to cover the liability of such collectors for all revenues and moneys collected and received by them.

Section 330.²—The taxes imposed on real and personal property shall be payable semiannually in advance on the first day of July and January of each year. Such taxes shall become delinquent if not paid within sixty days after date on which the same become due, and the collectors shall collect upon all such delinquent taxes an additional sum of one-half of one per cent of the amount thereof for each month or fraction thereof for which said taxes are so delinquent; *Provided*, That when collectors shall not have the tax receipts in their possession on the first day of July of each year, in such cases the aforesaid term of sixty days shall be counted from and after the date on which the receipts shall be in their possession and notice given to that effect.

Section 331.³—That no demand for taxes shall be necessary, but it shall be the duty of every person subject to taxation to attend at

¹ As amended by Act of March 14, 1907, (c) in the Introduction.

² As amended by Act of September 25, 1917; previously amended by Act of March 14, 1907 (m) and (c) in the Introduction.

³ As amended by Act of May 6, 1919, (e) in the Introduction; previously amended by Acts of March 14, 1907, and of March 10, 1904, (c) and (a) in the Introduction.

the office of the proper collector and pay his taxes in full, for which purpose notices shall be posted in the most frequented public places of the towns not later than the first day of the month that said semi-annual tax is to be collected. Taxes shall be received at the offices of such collectors on all days from eight antemeridian to twelve o'clock meridian, and from one-thirty postmeridian to four-thirty postmeridian, except Saturdays after twelve meridian, Sundays and legal holidays; *Provided, however,* They shall remain open on Saturdays until twelve meridian; *And provided further,* That the collectors may close their offices when it is necessary for them to absent themselves therefrom in order to serve notices upon taxpayers and take other steps for the enforcement of the payment of taxes and they have been expressly directed by the Treasurer of Porto Rico to do so.

Section 332.—In settlement of the estates of bankrupts and decedents, the taxes owing by such estates shall be preferred before all other debts. No executor or administrator of the estate of a decedent shall divide or distribute such estate until all the taxes due thereon are paid, and no registrar shall record any instrument of award or partition of the property of any decedent upon which the current taxes have not been paid; and administrators, executors or registrars of property violating this Section shall be liable to The People of Porto Rico for all taxes not collected because of such violation. It shall be the duty of the receiver or other assignee of the estate of any bankrupt or insolvent person to pay out of the estate of such bankrupt or insolvent person all taxes due therefrom to the extent of the value of said estate. No bankrupt shall be discharged and no assignee shall receive any discharge, compensation or commission until said taxes shall have been so paid.

Section 333.¹—Any person having a lien upon property may pay the taxes and surcharges thereon at any time after said taxes have become delinquent, and the same shall be added to his or her lien and be recovered with the rate of interest borne by the lien. A tenant or lessee of real property may pay the taxes and surcharges thereon at any time after the same may have become delinquent and may deduct the same from his rent.

Section 334.²—Within thirty days after the date at which taxes become delinquent, each collector shall prepare a list of delinquent

¹ As amended by Act of March 10, 1904, (a) in the Introduction.

² As amended by Acts of March 10, 1904, and March 14, 1907, (a) and (c) in the Introduction.

taxpayers within his district, showing for each the assessment of the property upon which taxes are due and unpaid and the amount of taxes due thereon, and shall append to such list a notice stating that, unless said delinquent taxes, together with the interest provided for by Section 330 are paid within a period of twenty days from the date of said notice, the property of said taxpayer will be attached and sold in the manner hereinafter provided. One copy of said list, with notice attached shall be sent by the collector to the Treasurer, and one copy published, and posted in the form and place provided for by Section 331 of this Title.

Section 335.¹—If any person neglects or refuses to pay his or her taxes within the period prescribed in Section 334 of this Title, the collector, or any other duly deputized agent of the Treasurer, shall, after the written consent of the Treasurer shall have been obtained, proceed to collect the same by the attachment and sale of the property of such debtor, in the manner hereinafter provided.

Section 336.¹—Immediately upon the receipt of the written consent of the Treasurer, the collector or agent, shall make out a written notice of attachment of the personal property of the delinquent taxpayer, which notice shall contain the amount of the delinquent taxes and the interest provided for by Section 330. The said attachment shall be enforceable as soon as notice thereof shall have been served by leaving a copy thereof with the debtor himself or any member of his family or attendants of legal age, and record of such service shall be noted down by the collector or agent, for subsequent action. When the collector or agent, fails to find any member of said debtor's family or attendants, he shall call in two neighbors as witnesses of the service of the notice of attachment, and he shall leave said notice in the hands of said witnesses, or, if no witnesses be found willing to receive the notice, the same shall be posted or attached to the goods, chattels or other property of the said debtor, whereupon the notice shall be considered as having been served upon the debtor. If at the expiration of ten days after the service of such notice the said taxes and extra charges provided for by Section 330 shall not have been paid, the collector or agent, shall proceed to execute the attachment and sell the personal property of said debtor, or so much of the same as may be strictly necessary, to pay the said taxes, penalties and costs. In executing said attachment, the collector or agent, is hereby authorized, if necessary, to enter the

¹As amended by Act of March 14, 1907, (c) in the Introduction.

house of the said debtor with the consent of said debtor, and, if the said consent is not given, then a judicial order shall be presented to enter the house of said debtor. If any such debtor shall offer any resistance to any collector or agent, after the presentation of said order from the court, he shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to imprisonment not exceeding one year, or to pay a fine of three hundred dollars. In the event of such resistance, the local authorities, or the agents thereof, shall lend the collector or agent, all the assistance required for the proper execution of the duties of the collector or agent, as provided by this Title.

Section 337.—Sale of personal property for the payment of taxes shall be by public auction and strictly of a sufficient amount to pay all taxes, penalties and costs, but the following personal property shall be exempt from sale for the payment of taxes: tools and utensils of mechanics and artisans worked exclusively by hand; cattle, not exceeding two in number, intended exclusively for ploughing or carting products of the soil cultivated by the debtor, or two work horses or one only of the following animals: milch-cow, horse, mare, mule or donkey, and household furniture as follows: beds, dining tables, chairs and kitchen utensils actually in use by the family.

Section 338.¹—On payment of the price bid for any personal property sold, the delivery thereof, with a bill of sale, shall vest the title thereof in the purchaser. All excesses over the taxes, penalties and costs realized from such sale shall be returned by the collector or agent to the owner of the property sold, his heirs or assigns. The collector, or agent shall report to the Treasurer the full amount realized of every sale upon attachment, and the disposition of the proceeds thereof. The unsold portion of any such personal property shall be left at the place of sale at the risk of the owner.

Section 339.¹—If the personal property of any delinquent taxpayer shall be insufficient to pay the taxes, penalties and costs, owing by him to The People of Porto Rico, or if he shall have no personal property subject to attachment and sale, the collector of the district within which such taxpayer resides, or agent, shall notify the treasury of such facts, and any time after the receipt of such notification the Treasurer shall order the collector or agent to attach and sell enough of the real property of such delinquent taxpayer to pay said taxes, penalties and costs.

¹ As amended by Act of March 14, 1907, (s) in the Introduction.

Section 340.¹—Immediately upon the receipt of said order of attachment, the collector or agent shall affix thereto a certificate describing the property attached, and shall cause the said order and certificate to be recorded in the proper registry of deeds. The aforesaid certificate shall contain the following particulars: The name of the delinquent taxpayer, if known, the assessed value of his property, and the amount of taxes, penalties and costs due thereon; the quantity and description of the piece or pieces of property attached, the situation thereof, and the approximate area and boundaries thereof; that the attachment is to hold good in favor of The People of Porto Rico.

Section 341.¹—It shall be the duty of every registrar of property, immediately upon the receipt of any such order of attachment and certificate, to properly record and return the same to the proper collector, or agent with the endorsement of the registrar of property thereon showing that the attachment has been duly recorded. No fee shall be charged by any registrar for such service, nor shall the tax provided in Schedule "C" of Section 356 of this Title be imposed.

Section 342.²—Upon the return of said order and certificate, the collector, or agent shall serve notice upon the owner of said property, in the manner prescribed in Section 336 of this Title, that if all the taxes, penalties and costs owing by said owner are not paid within the period hereinafter prescribed for advertising the sale of said property, the same will be sold at public auction. The said advertisement shall be published at least twice a week for a period of three weeks in a newspaper circulating in the local district in which said property is located, and notices to a similar effect shall also be posted and the cost of such advertising and posting together with a fee not to exceed one dollar for service of said notice upon the taxpayer or his representative, shall be collected as a part of the costs of sale and paid to the Treasurer. The collector, or agent shall preserve copies of such notice and paper in which said advertisement appeared, and the same shall be *prima facie* evidence of the proper advertisement of such sale.

Section 343.³—The time and place at which said auction sale shall take place shall be plainly stated in the said advertisement and

¹As amended by Acts of March 10, 1904, and March 14, 1907, (a) and (g) in the Introduction.

²As amended by Act of March 10, 1910, (f) in the Introduction; previously amended by Acts of March 10, 1904, and March 14, 1907, (a) and (e) in the Introduction.

³As amended by Act of December 3, 1917, (a) in the Introduction; previously amended by Act of March 14, 1907, (c) in the Introduction, and by Act of March 10, 1904, (a) in the Introduction.

notices. At the expiration of the three weeks aforesaid, or as soon thereafter as may be practicable, the said property shall be sold by the collector or agent at public auction to the highest bidder, but no bid shall be accepted for a less amount than the taxes upon said property together with all costs and penalties, and unless accompanied by a cash deposit of ten per cent of the amount bid, which deposit shall be forfeited in the event of failure on the part of the purchaser to pay the balance of the purchase money upon delivery by the collector or agent of the certificate of purchase, and such delivery shall be made within ten days from the date of the sale; *Provided, however,* That any surplus resulting from the sale at public auction of any real or personal property for nonpayment of taxes, shall be returned to the owner of the property or to his heirs or assignees as soon as the sale is effected by the collector of internal revenue holding the auction, from whom he shall require a duplicate receipt, the original of which he shall attach to the respective record, retaining the duplicate for his protection; *And provided, further,* That if upon the lapse of one month from the date of the sale, the owner, his heirs or assignees should not call for said surplus, the collector shall cover the same into the Treasury where it shall remain until requested by its owner, his heirs or assignees.

Section 344.¹—The collector, or agent may continue the sale from day to day, if in his opinion such continuation is necessary, and for good and sufficient cause may adjourn the sale for a period not exceeding sixty days, of which due notice shall be given by advertisement, in the manner provided in Section 342 of this Title.

Section 345.²—If any collector or agent shall sell or assist in selling any real or personal property, knowing it to be exempt from attachment or knowing that the taxes for which it is sold have been paid, or shall knowingly and wilfully sell or assist in selling any real or personal property for taxes to defraud the owner thereof, or shall in any manner restrain bidders, or shall knowingly or wilfully issue a certificate of purchase of real property so sold, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, be fined in a sum not less than one thousand dollars or imprisoned not exceeding one year, or both, at the discretion of the court; and shall be liable to pay the injured party all damages sustained by him on account thereof, and all such sales shall be void.

¹ As amended by Act of March 14, 1907, (c) in the Introduction.

² As amended by Acts of March 10, 1904, and March 14, 1907, (a) and (c) in the Introduction.

Section 346.¹— If any collector, or agent shall, directly or indirectly, purchase any part of any real or personal property sold for the non-payment of taxes, he and his sureties shall be liable on his official bond for all damages sustained by the owner of such property, and all such sales shall be void. In addition thereto, the officer so offending shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be fined in a sum not exceeding one thousand dollars.

Section 347.¹—That the collector shall prepare, sign and deliver to the purchaser of any real property sold for non-payment of taxes a certificate of purchase, which shall contain the name and residence of such purchaser, the date of the sale of said real property, the amount for which it is sold, a statement that said amount has been paid by the purchaser, the amount of taxes, penalties and costs, and such description of the property as is required by Section 340 of this Title, and the folio and volume wherein the property sold shall have been recorded, in case it has been so recorded. If the right of redemption hereinafter provided for is not exercised within the time prescribed, said certificate, when recorded in the office of the registrar of property of the district in which the property is situated, shall vest the title to said property absolutely in said purchaser, free from all mortgages, liens or other encumbrances. Said certificate shall be *prima facie* evidence of the facts recited therein in any controversy, proceeding or suit involving or concerning the rights of the purchaser, his heirs or assigns, to the property thereby conveyed; and the purchaser his heirs or assigns, may, upon receipt of such certificate, have the same duly recorded by the registrar of property of the district in which such property is situated upon the payment of a fee of two dollars.

Section 348.²—That the owner of any real property hereafter sold for taxes, his heirs or assigns, or any person having a right or interest therein, may redeem the same within the period of one year from the date of the certificate of purchase by paying to the purchaser, his heirs or assigns, the full amount of the purchase money, with annual interest at the rate of twelve per cent, together with all cost incurred and taxes due. Upon the payment of the said amounts the redemptioner shall be entitled to receive from the purchaser, his heirs or assigns, the said certificate of purchase, upon

¹ As amended by Act of March 14, 1907, (c) in the Introduction.

² As amended by Act of March 10, 1910, (p) in the Introduction; previously amended by Act of March 14, 1907, (c) in the Introduction.

which shall be duly endorsed before a notary public the receipt of the redemption money, and a fee of fifty cents shall be paid by the redemptioner to the notary public. The receipt duly endorsed upon the certificate of purchase shall operate as a release of all claim to title to the real property sold under or by virtue of any such sale for non-payment of taxes. And the redemptioner may have such release duly entered in the registry of property against the certificate of purchase upon payment to the registrar of the fee of one dollar; and the property so released shall remain subject to all liens and legal claims against it, other than tax liens, to the same extent and in the same manner as though said property had not been sold for taxes. When the property is redeemed by a mortgagee, the redemption money paid him shall be added to his or her mortgage lien and may be recovered with the same rate of interest borne by the mortgage lien, and when the tenant or lessee redeems such property he may deduct the amount of such redemption money from his rent.

Section 349.—If the aforesaid purchaser, his heirs or assigns, refuse to accept the tender of redemption money so made, the person so tendering the same shall repeat the tender in the presence of at least two witnesses, and if the tender be again refused, the said person and witnesses shall make oath, before the registrar of property who recorded the certificate of attachment, that due tender of the lawful amount of redemption money has been made and refused. Whereupon the registrar shall compute from the proper records the lawful amount of redemption money due, in accordance with the provisions of this Title, and upon receipt of the same, shall issue to the redemptioner a certificate of redemption. The payment of such redemption money to said registrar shall restore to said former owner, his heirs or assigns, all the right, title, interest and estate in and to said real property, held by said former owner before the sale for non-payment of taxes.

Section 350.—Upon the receipt of such redemption money, in the manner aforesaid, the registrar shall notify the purchaser, his heirs or assigns, of the payment of such money, and shall hold the same subject to the order of said purchaser, his heirs or assigns. Such notification may be sent by registered mail to the last residence of such purchaser, his heirs or assigns, as specified in the certificate of purchase. For his services in the proceedings aforesaid, the registrar shall be entitled to retain from said redemption money a fee of three dollars.

Section 351.—(Repealed by Act of March 14, 1907.)

Section 352.¹—That every piece of real property offered at public sale for the non-payment of taxes, and not sold for want of bids sufficient to cover all taxes, penalties and costs thereon, may be purchased by the collector or agent in the name of The People of Porto Rico at any sale after the first offering of such property at public auction. The collector or agent shall make a public bid for such property in the amount of said taxes, penalties and costs, and if no higher bid be offered he shall make out and cause to be recorded in the registry of property of the district a certificate of purchase to The People of Porto Rico, which shall contain the statement and description of the property provided for in Section 347. If the right of redemption hereinafter provided for is not exercised within the time prescribed, said certificate, when recorded in the office of the registrar of property of the district in which the property is situated, shall vest the title to said property absolutely in The People of Porto Rico free from all mortgages, liens or other encumbrances. Said certificate shall be *prima facie* evidence of the facts therein recorded in any controversy, proceeding or suit involving or concerning the rights of the purchaser, his heirs or assigns, to the property thereby conveyed. No fee shall be charged by the registrar for recording such certificate, nor for issuing a copy thereof. The owner of said property at the time of its sale for non-payment of taxes, his heirs or assigns, or any one having any right or interest therein, may redeem the same within a period of one year from the issue of said certificate by the payment of the amount for which the property was bid in for The People of Porto Rico, with interest thereon at the rate of twelve per cent, per annum, from the date of the sale, and may require the Treasurer of Porto Rico to have such redemption noted by the registrar of property against the certificate of purchase upon the payment by the person redeeming to the Registrar, for such service, of a fee of one dollar, and said annotation shall operate as a release and cancellation of the certificate of purchase, and the property so released shall remain subject to all liens and legal claims against it, other than tax-liens, to the same extent and in the same manner as though said property had not been sold for taxes.

Section 353.²—(Paragraph 1.) Every corporation, joint-stock or

¹ As amended by Act of March 14, 1907, (c) in the Introduction; previously amended by Act of March 10, 1904, (a) in the Introduction.

² As amended by Act of March 6, 1913, (f) in the Introduction; previously amended by Act of March 10, 1904, (a) in the Introduction.

*limited liability company or association heretofore chartered or incorporated under the laws of Porto Rico, and every such association, corporation or company hereafter chartered or incorporated in Porto Rico, before proceeding to transact business shall file with the Treasurer of Porto Rico, an authenticated copy of its charter or articles of incorporation, together with a statement, verified by the oath of the president of such corporation and attested by a majority of its administration or board of directors, stating the name or title of such corporation,, its domicile, the kind of business engaged in, the branches which may have been established, and the commercial registry in which the articles of association or incorporation have been recorded.

(Paragraph 2.) It shall be unlawful for any corporation, joint-stock or limited-liability company or association not incorporated under the laws of Porto Rico, except associations not for pecuniary profit, to do business therein until such corporation, company or association shall have secured from the Treasurer of Porto Rico a formal license to transact business therein; and no such license shall be issued by said Treasurer until such corporation, company or association shall have paid the license fee hereinafter specified and shall have deposited with said Treasurer a certificate under seal from the Secretary of Porto Rico showing that it has filed in the office of the Secretary an authentic copy of its charter and the statement and certificate of consent required by law; *Provided*, That a foreign corporation can only transact such business or exercise such powers as a domestic corporation of like character transacts or exercises in Porto Rico, and to such extent as the latter may be authorized under the local laws, and the license issued by the Treasurer of Porto Rico shall set forth this restriction in the context thereof; *And provided, further*, That it shall be the duty of the Treasurer of Porto Rico to report to the Attorney General, for proper action under the provisions of Section 40 of the Private Corporations Act, any foreign corporation which is doing business in Porto Rico without having complied with the requirements prescribed by the local laws and secured from him a license. For such a purpose, the Treasurer shall take such action as may be necessary to secure information in every case in which a foreign corporation is doing business in this Island without the legal authorization so to do.

(Paragraph 3.) It shall be the duty of such corporations, companies or associations to renew their licenses annually, on or before the first day of July of each year, including the first day of July,

nineteen hundred and one; but no such renewal shall be issued by the Treasurer until such companies, corporations or associations shall have respectively paid the license fees hereinafter specified.

(Paragraph 4.) For the issue and renewal of every license issued under the provisions of this Section, the sum of twenty-five dollars shall be paid into the Treasury of Porto Rico.

(Paragraph 5.) The provisions of this Section shall not take effect upon such foreign corporations, companies and associations as have heretofore engaged in business, or made contracts in Porto Rico, until ninety days from the date of approval of the "Act to provide revenue for The People of Porto Rico, and for other purposes" (approved January 31, 1901). Foreign insurance and other companies which have filed their charters and taken out certificates in accordance with General Orders number ninety-four, series of nineteen hundred, of the late Military Government of Porto Rico, shall not be required to take out the license required by paragraph two of this Section, but nothing herein contained shall be construed to exempt such companies from the duty of renewing their licenses or certificates on or before the first day of July of each year. During the aforesaid period of ninety days, such companies as may have filed their charters, in accordance with the said general orders, shall continue to be subject to the provisions and requirements of said orders, but upon the termination of said period of ninety days, such companies shall be governed by the provisions of this Title, which shall also regulate and govern such surety, insurance, or building and loan companies as have not heretofore done business in Porto Rico but which may engage in the same subsequent to the passage of this Act.

(Paragraph 6.) The Treasurer shall report all violations of this Section to the prosecuting attorney of the proper court, who shall at once proceed to prosecute the corporation, company, association, officer or agent so violating the same; and, upon conviction thereof, such company, its officers or agents, shall forfeit to The People of Porto Rico the sum of four hundred dollars for any such violation.

Section 354.¹—(Paragraph 1.) It shall be the duty of the Treasurer of Porto Rico to examine periodically the condition and financial standing of every bank, insurance, surety or building and loan company, and of every quasi-public corporation doing business in Porto Rico; and the officers and agents of every such bank, com-

¹ As amended by Act of March 10, 1904, (a) in the Introduction.

pany or corporation shall, at their own expense, facilitate said examination and cause their books, moneys and securities to be opened or shown for inspection whenever the Treasurer shall require. The Treasurer shall have power to examine, under oath, the officers or agents of any such bank, corporation or company relative to the business of such company, and to administer to such officers or agents an oath for such purpose.

(Paragraph 2.) Whenever any surety, insurance or building and loan company, bank or quasi-public corporation doing business in Porto Rico shall refuse to comply with any of the foregoing provisions or whenever the Treasurer shall be of the opinion that the assets of such bank, company or corporation are insufficient to justify its continuance in business, or that its condition is unsound, said Treasurer shall forthwith revoke the license granted said company and shall cause a notification thereof to be published in such newspapers of the Island as he may deem advisable; and such company, its officers and agents shall be, after such notice, required to discontinue the transaction of new business or the renewal of any bond, policy, certificate or similar obligation previously issued. And every such bank, company or corporation violating the provisions of this Section shall be subject to all the pains and penalties imposed for the violation of Section 353 of this Title; *Provided*, That before the revocation of such license the Treasurer shall immediately lay the facts in the case, with his recommendation thereon, before the Executive Council, and the Executive Council shall take such action thereon as it deems desirable, and shall, when deemed proper, refer the matter to the Attorney General of Porto Rico to take action in the way of winding up the affairs of the corporation or bank and the protection of its credit; and no publication of any revocation shall be had until the Executive Council has acted thereon as herein provided.

(Paragraph 3.) The Treasurer of Porto Rico is hereby authorized to return the *cedula* bonds or other securities heretofore deposited by insurance companies doing business in Porto Rico, in accordance with the provision of Article 7, Budgetary Law of Porto Rico of 1894-1895.

Section 355.¹—(Paragraph 1.) Every surety, insurance or building and loan company not incorporated under the laws of Porto Rico but doing business therein shall pay, as a franchise tax, in ad-

¹ As amended by Act of March 7, 1912, (t) in the Introduction.

dition to the regular insular and other taxes upon their real and personal property and such special stamp taxes as are hereinafter provided, an annual tax of three per-centum upon the gross amount of all premiums or dues collected in Porto Rico, to be paid semi-annually at the time of rendering the semi-annual statement herein required. Upon the first day of January, and upon the first day of July of each year, the said companies shall render to the Treasurer of Porto Rico, in such form as he may require, full and complete statements of their receipts and business transactions. But nothing in this Section shall be construed to absolve such companies from the duty of rendering the monthly statement now required.

(Paragraph 2.) Every surety, insurance, or building and loan company doing business in Porto Rico shall pay the following special stamp taxes, by the affixture of internal-revenue stamps under such regulations as may hereafter be prescribed by the Treasurer. For each bond or obligation of the nature of indemnity for loss, damage or liability and each bond, undertaking or recognizance conditioned for the performance of the duties of any office or position, issued or executed, or renewed by any surety company, on the amount of premium charged, one-half of one cent on each one dollar or fractional part thereof. For each policy of insurance or other instrument, by whatsoever name the same shall be called, whereby any insurance shall be made upon any life or lives, eight cents on each one hundred dollars, or fractional part thereof, of the amount insured. For each policy of insurance, or other instrument, by whatsoever name the same shall be called, by which insurance shall be made or renewed upon property of any description (including rents or profits), whether against peril by sea or on inland waters, or by fire or lightning, or other peril, one-half of one cent on each one dollar or the fractional part of the amount of premium charged.

For each policy of insurance, or other instrument, by whatsoever name the same shall be called, whereby any insurance shall be made against accident, personal injury resulting from any cause and against loss of time resulting from disease, one-half of one cent on each one dollar or fractional part thereof, on the amount of premium charged.

(Paragraph 3.) Any agent, officer or representative violating any of the provisions of this Section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than two hundred nor more than five hundred dollars.

CHAPTER III.

INHERITANCE TAX.

Section 368.¹—All real property within Porto Rico and any interest therein, whether belonging to inhabitants of Porto Rico or not, and all personal property belonging to inhabitants of Porto Rico which shall pass by will, by intestacy, by inheritance or by any grant whatsoever, made or intended to take effect in possession or enjoyment after the death of the grantor to any person, association, institution or corporation, in trust or otherwise, shall be subject to a tax as hereinafter provided; *Provided*, That no tax shall be collected upon the property passing to any one heir, legatee, devisee or grantee, other than to or for the use of a wife, child, grandchild, or person legally recognized as an adopted child of a male decedent, when the same shall be valued at two hundred dollars or less; *And provided, further*, That when the value of such property exceeds two hundred dollars the said two hundred dollars shall be deducted in estimating the taxes thereon; and the remainder after making such deductions shall be considered as the value of the devise, bequest, legacy, grant or inheritance; *And provided, further*, That no tax shall be collected upon the property passing to a wife, child, grandchild, or person legally recognized as an adopted child of a male decedent, when the same shall be valued at five thousand dollars or less; *And provided, further*, That when the value of such property passing to a wife, child, grandchild, or person legally recognized as an adopted child exceeds five thousand dollars the said five thousand dollars shall be deducted in ascertaining the tax thereon; and the remainder after making such deductions shall be considered as the value of the devise, bequest, legacy, grant or inheritance.

Section 369.¹—The said tax shall be imposed, estimated and paid in accordance with the following schedule.

(Paragraph 1.) Upon every such devise, bequest, legacy, grant or inheritance not exceeding five thousand dollars in value, a husband or wife and all lineal descendants, whether legitimate or illegitimate, shall pay a tax of one per cent, and all other relatives, of whatever degree, and all other persons, associations, institutions or corporations shall pay a tax of three per cent.

(Paragraph 2.) Upon every such devise, bequest, legacy, grant or inheritance exceeding five thousand dollars but not exceeding twenty thousand dollars in value there shall be paid on the excess

¹ As amended by Act of April 13, 1916. (1) in the Introduction.

over five thousand dollars one and one-half times the respective rates prescribed in paragraph one of this Section.

(Paragraph 3.) Upon every such devise, bequest, legacy, grant or inheritance exceeding twenty thousand dollars but not exceeding fifty thousand dollars in value, there shall be paid on five thousand dollars the respective rates prescribed in paragraph one of this Section; on fifteen thousand dollars the respective rates prescribed in paragraph two of this Section, and on the excess over twenty thousand dollars twice the respective rates prescribed in paragraph one of this Section.

(Paragraph 4.) Upon every such devise, bequest, legacy, grant or inheritance exceeding fifty thousand dollars, but not exceeding one hundred thousand dollars in value, there shall be paid on five thousand dollars the respective rates prescribed in paragraph one of this Section, on fifteen thousand dollars the respective rates prescribed in paragraph two of this Section, on thirty thousand dollars the respective rates prescribed in paragraph three of this Section, and on the excess over fifty thousand dollars, three times the respective rates prescribed in paragraph one of this Section.

(Paragraph 5.) Upon every such devise, bequest, legacy, grant or inheritance, exceeding one hundred thousand dollars in value there shall be paid on five thousand dollars the respective rates prescribed in paragraph one of this Section; on fifteen thousand dollars; the respective rates prescribed in paragraph two of this Section; on thirty thousand dollars, the respective rates prescribed in paragraph three of this Section; on fifty thousand dollars, the respective rates prescribed in paragraph four of this Section and on the excess over one hundred thousand dollars, four times the respective rates prescribed in paragraph one of this Section.

Section 370.—For the purpose of assessing the taxes imposed under this Title the degree of relationship of any relative shall be ascertained and computed in accordance with the existing laws of Porto Rico relating thereto.

Section 371.—The commissions, compensation or allowance of any administrator, executor or trustee, whether fixed by the testator or by the court of probate having proper jurisdiction, or whether in the form of residuary legacy, shall be subject to the aforesaid tax in the same manner as if said commissions, compensation or allowance were a bequest or legacy, and the degree of relationship of said administrator, executor or trustee shall be taken into account

in the same manner as if said administrator, executor or trustee were an heir, legatee or grantee of the decedent.

Section 372.—It shall be the duty of every administrator, executor or trustee, or of any one of them acting in Porto Rico, and of every ancillary administrator, agent or person lawfully authorized to administer on the estate or any portion thereof in Porto Rico, sixty days after the death of the decedent whom he represents to transmit to the Treasurer of Porto Rico a sworn notification of the death of said decedent, stating plainly: The name and residence of said decedent; the date of his death; whether dying intestate, and, if not, the notary with whom the will of such decedent is recorded; and, as nearly as possible, the amount, valuation, description and location of the estate of the decedent; the names and degrees of relationship of the heirs, devisees and legatees and the proportionate parts and description of the estate accruing to each; the names of all administrators, executors or trustees of the estate of said decedent, and said notification shall be accompanied by a tax receipt in proof that the property tax imposed by this Title has been fully paid on said estate. And any administrator, executor, or trustee, failing to file said notification with the Treasurer within the period herein specified shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be subject personally to a fine of from one hundred to one thousand dollars.

Section 373.—Whenever it may be possible, the value of all estates of decedents shall be assessed by internal-revenue agents, and whenever the services of expert accountants are required for the purpose of appraising the estates of decedents the Treasurer is authorized to detail one or more of his employees for that purpose and to determine in accordance with Section 369 of this Title the inheritance tax thereon, and the results of said appraisals shall be made known both to the Treasurer and to the administrators, executors and trustees of such estates.

Section 374.—Within thirty days of the completion of said appraisal and assessment of taxes, any person or beneficiary affected thereby shall have the right to appeal therefrom to the district court of the district within which the estate is located on paying, or giving security to pay, all costs, together with whatever tax may have been assessed, upon the devise, bequest, legacy, grant or inheritance; and the said district court shall proceed to determine the matter as speedily as possible.

Section 375.—It shall be a misdemeanor, on the part of any ap-

praiser, to take any fee or reward from executor, administrator, trustee, heir, legatee, next of kin or any beneficiary of any decedent, and upon conviction of such offense, said appraiser shall be fined not exceeding five hundred dollars, or be imprisoned not exceeding one year, or both, at the discretion of the court.

Section 376.—All taxes imposed under Chapter III of this Title shall be paid into the Treasury of Porto Rico by the administrator, executors, trustees or other persons administering upon the estate charged with said taxes; and all such administrators, executors, trustees or persons shall be liable for such taxes, with interest as hereinafter provided, until the same shall have been paid. Such taxes shall become due and payable immediately upon the death of the decedent, and shall at once become a lien upon the estate of the decedent and shall remain a lien until paid. If said taxes are not paid within ten days from the presentation of the tax bill, the Treasurer shall require of said executor, administrator, or trustee, bond in twice the amount of said taxes due and unpaid conditioned upon full and complete payment of said taxes in the manner and within the term herein provided, and the Treasurer is authorized to attach the property of said decedent subject to the tax until such bond shall have been given. If said taxes are not paid within one year of the death of said decedent, interest at the rate of ten per centum shall be charged and collected thereon, and if said taxes are not paid at the expiration of eighteen months after the death of said decedent, it shall be the duty of the district attorney of the district wherein said taxes remain unpaid to institute the necessary proceedings to collect the same, after being duly notified by the Treasurer of the non-payment of such taxes.

Section 377.—The administrator, executor, trustee or other person administering upon any estate subject to the tax hereinbefore provided, shall deduct the proper tax, as provided in Section 369 preceding from any portion or share in the distribution of such estate which may be paid in money; and for any portion, share or legacy which is not in money he shall demand payment of the proper tax from the person or persons entitled to such portion, share or legacy; and no administrator, executor, trustee or other person administering upon any estate shall pay or deliver any specific legacy or property subject to said tax to any person until he has collected the tax thereon; and in case of neglect or refusal on the part of said legatee or distributee to pay the same, such specific legacy or property, or such thereof as may be necessary, shall be sold at public

sale by the administrator, executor, trustee or other person administering upon such estate after due notice to said legatee or distributee; and all moneys retained or received, as herein provided, by any administrator, executor, trustee or other person administering upon any estate shall be deposited with the Treasurer without delay.

Section 378.—It shall be the duty of the Treasurer to issue to the administrator, executor, trustee or person administering upon any estate subject to the tax provided in Section 369 of this Title, upon the payment of said tax upon such property, special tax receipts therefor in triplicate for use in the transfer of said property as hereinafter provided.

Section 379.—No judge shall approve the partition or distribution of the estate of any decedent or allow any final settlement of the accounts of any executor, administrator, trustee or person administering upon any estate unless the proper special tax receipt or receipts of the Treasurer, as provided in Section 378 of this Title, shall be produced and exhibited; and no notary shall issue, authorize or certify any instrument of award, partition, distribution, alienation or hypothecation of property unless such receipt or receipts of the Treasurer be presented; and no registrar shall record in any registry under his charge any instrument or judicial decision, ruling or warrant, drawn, rendered or issued in connection with the partition, distribution or delivery of such property unless such receipt or receipts of the Treasurer be presented; and persons violating the provisions of this Section shall be liable for all taxes uncollected because of such violation, together with interest thereon, as provided in Section 376 of this Title.

Section 380.—In the present Title the word "person" shall be construed to include the plural as well as the singular, artificial as well as natural persons; the word "property" shall be construed to include both real and personal estate, and any form of interest therein whatsoever, including annuities of whatever form or kind; the word "administrator" shall be held to include any heir, relative or other beneficiary of any decedent who may have charge of the disposition and apportionment of the property of any decedent.

Section 381.—The records and archives of courts, registrars of property, notaries public, and of municipal or other local governments shall at all times be open and accessible to assessors, inspectors and other public officials engaged in the performance of their official duties under the provisions of this Title.

Section 382.—On and after the first day of July, nineteen hun-

dred and one, there shall not be levied or assessed, for insular purposes, the taxes now imposed by law and respectively known as the territorial tax and as the industrial and commercial tax; but nothing in this Section shall be construed to prevent the collection of taxes lawfully levied or assessed before said date, nor of any class or classes of taxes, whether internal revenue or miscellaneous receipts, other than those herein excepted.

Section 383.¹—That all moneys, taxes and revenues of whatsoever kind received by the collector herein provided for shall be paid in full to the Treasurer of Porto Rico by depositing the same in such manner and at such times as said Treasurer shall by regulation prescribe; *Provided*, Such payments by the collector shall in no case be less than twice in one month. The collectors shall render monthly to the Auditor of Porto Rico their respective accounts for revenues collected and moneys received, in such manner and form as he shall prescribe.

¹ As amended by Act of March 14, 1907, (c) in the Introduction.

ORGANIC ACT.

Section 3.—That no export duties shall be levied or collected on exports from Porto Rico, but taxes and assessments on property, internal revenue, and license fees, and royalties for franchises, privileges and concessions may be imposed for the purposes of the insular and municipal governments, respectively, as may be provided and defined by the Legislature of Porto Rico; and, when necessary to anticipate taxes and revenues, bonds and other obligations may be issued by Porto Rico or any municipal government therein as may be provided by law, and to protect the public credit; *Provided, however,* That no public indebtedness of Porto Rico or of any subdivision or municipality thereof shall be authorized or allowed in excess of 10 per centum of the aggregate tax valuation of its property, and all bonds issued by the Government of Porto Rico, or by its authority, shall be exempt from taxation by the Government of the United States or by the Government of Porto Rico or of any political or municipal subdivision thereof, or by any State, or by any county, municipality, or other municipal subdivision of any State or Territory of the United States, or by the District of Columbia. In computing the indebtedness of The People of Porto Rico, bonds issued by The People of Porto Rico secured by an equivalent amount of bonds of municipal corporations or school boards of Porto Rico shall not be counted.

Approved March 2, 1917 and as amended February 3, 1921.

AN ACT

TO PROTECT NEW INDUSTRIES IN PORTO RICO BY EXEMPTING THEM FROM TAXES FOR A PERIOD NOT EXCEEDING TEN YEARS AS THE PUBLIC SERVICE COMMISSION MAY DETERMINE.

Be it enacted by the Legislature of Porto Rico:

Section 1.—That the following shall be understood to be new industries or factories in Porto Rico:

1. Those which on a small or large scale are absolutely new

because none other manufacturing products of the same class, whether or not the raw material is produced in Porto Rico, such as cement, cotton fabrics, wool, silk, hemp, sisal, *sanseveria*, rope, *majagua*, oils, paper, china, crystal, glass and other similar factories, including container and package factories not existing in Porto Rico, has been established or exists in Porto Rico.

Section 2.—That such industries, factories or mills shall be exempt from all taxes for a period not exceeding ten years, as the Public Service Commission may determine, which said period shall be reckoned from and after the complete installation of the factory or mill.

Section 3.—That all laws or parts of laws in conflict herewith are hereby repealed.

Section 4.—That this Act shall take effect ninety days after its approval.

Promulgated, March 31, 1919, in virtue of a decision of the Supreme Court of Porto Rico of March 11, 1919.

AN ACT

TO PROVIDE A GOVERNMENT FOR THE ISLAND OF CULEBRA, AND FOR OTHER PURPOSES.

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Section 5.—There is hereby levied for the fiscal year 1905-1906, and for each year thereafter, a tax of one per centum upon the value of all real and personal property situated in Culebra not exempt from taxation, as determined by the general law for the assessment of property for taxation in Porto Rico. Said tax shall be collected and its payment enforced in the manner and form prescribed for the collection and the enforcement of the payment of tax on property in Porto Rico. The proceeds of said tax shall be covered into the general fund of the Insular Treasury.

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Section 8.—The qualified voters resident in the municipality of Culebra shall be entitled, at each general election, to cast their votes for Commissioner to the United States and members of the House of Delegates, but they may not vote for members of the Board of

Road Supervisors, nor shall the municipality of Culebra be considered a part of any road districts, nor be liable for any tax levied for road purposes.

• • • • •
Approved March 8, 1905.

NOTE.—This Act was repealed by "An Act to include the Island of Culebra among the organized municipalities of Porto Rico, and for other purposes," approved December 6, 1917, but due to some impediments this Act did not take effect; and meantime is in force the Act of March 8, 1905.

CODIFIED SCHOOL LAW OF PORTO RICO, APPROVED MARCH 12, 1903.

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Section 63.¹—That for the fiscal year beginning July 1, 1904, and ending June 30, 1905, and for every succeeding fiscal year, in order to increase the revenues of the respective school boards, the municipalities may levy a property tax to be known as "school tax," and not to exceed one-tenth of one per centum of the assessed value of all real and personal property within the respective municipalities in accordance with assessment made by the Treasurer of Porto Rico to levy and collect the insular property tax.

Section 64.²—The municipal council of each municipality shall decide on or before the twentieth day of February of each and every year whether such additional tax shall be levied and shall fix the rate within the limit allowed by the foregoing Section, basing such action upon reports of the respective school boards situated in each municipality and upon the needs for school funds in whatsoever manner determined; *Provided*, That in cases where the school board is about to contract a loan for the construction of one or more school buildings, the municipal council may levy the school tax at a given rate, not to exceed the maximum of one-tenth of one per cent, for such term of years as will be covered by the payments on account of principal and interest of the loan to be contracted. The municipal council shall notify the Treasurer of Porto Rico immediately upon the adoption of all resolutions fixing the rate of the school tax and the Treasurer of Porto Rico shall collect the said tax in the same form and subject to the rules provided for by the act entitled, "An Act to provide revenue for The People of Porto Rico and for other purposes," approved January 31, 1901. The Treasurer of Porto Rico shall pay monthly, pursuant to law, upon the warrant of the Auditor, countersigned by the Governor, to the Treasurer of each school board the amounts collected on account of said school tax; *Provided*, That nothing herein contained shall pre-

¹As amended by "An Act to amend Section 63 of the Codified School Law of Porto Rico, approved March 12, 1903, as amended by the act approved March 10, 1904," approved February 17, 1905.

²As amended by "Act to amend Section 64 of the Codified School Law of Porto Rico, approved March 12, 1903," approved February 22, 1911.

vent the Treasurer of Porto Rico from retaining from moneys due school boards any sums required, or that may be hereafter required by law, or by ordinance duly enacted by any school board, to be retained by him for the purpose of meeting obligations contracted by them.

AN ACT

TO AUTHORIZE THE ISSUANCE BY THE INSULAR GOVERNMENT OF PORTO RICO OF BONDS TO THE AMOUNT OF ONE MILLION DOLLARS, AND FOR OTHER PURPOSES.

* * * * *

Section 6.—That for the payment of interest on, and the principal of, said bonds, there is hereby levied for the fiscal year ending June 30, 1907, and each succeeding fiscal year, an additional tax of one-tenth of one per cent upon the value of all real and personal property in the Island of Porto Rico not exempt from taxation in accordance with the laws of the Island. Said tax shall be collected by the Treasurer of Porto Rico in conjunction with the tax of fifteen one-hundredths of one per cent upon the value of all real and personal property now being collected for the purpose of providing insular revenue, and its proceeds shall be devoted to the payment of the interest and principal of said bonds as such payments fall due, and to the constitution of a sinking fund as hereinafter provided.

* * * * *

Approved March 8, 1906.

AN ACT

TO AUTHORIZE THE ISSUANCE BY THE INSULAR GOVERNMENT OF PORTO RICO OF BONDS TO THE AMOUNT OF FOUR HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS, AND FOR OTHER PURPOSES.

* * * * *

Section 5.—That the Treasurer of Porto Rico is hereby authorized, empowered and directed to pay the interest on said bonds as it falls due, and the principal of such bonds as they mature, out of any revenues coming into the Insular Treasury and available for

expenditure, including revenues collected in excess of payments required by law; and it is further provided that all proceeds of the special tax of one-tenth of one per cent upon the value of all real and personal property in the Island of Porto Rico not exempt from taxation, provided by Section 6 of an Act entitled "An Act to authorize the issuance by the Insular Government of Porto Rico of bonds to the amount of one million dollars and for other purposes," approved March 8, 1906, after an amount sufficient to pay the interest and principal of the bonds for the payment of which said tax is levied, shall have been collected and set aside, shall be devoted to the payment of the interest and principal of the bonds provided for in this Act; and said tax shall continue to be levied and collected until the principal and interest of the bonds provided for in this Act shall have been paid.

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Approved March 10, 1910.

[No. 23.]

AN ACT

TO AUTHORIZE AN ISSUANCE OF BONDS OF THE PEOPLE OF PORTO RICO IN THE AMOUNT OF ONE MILLION DOLLARS (\$1,000,000) FOR THE CONSTRUCTION OF PUBLIC IMPROVEMENTS, AND FOR OTHER PURPOSES.

• • • • •

Section 5.—That the principal of said bonds shall be paid from the proceeds of the special tax of one-tenth of one per cent upon the value of all real and personal property in the Island of Porto Rico not exempt from taxation, provided by Section six (6) of an Act entitled "An Act to authorize the issuance by the Insular Government of Porto Rico of bonds to the amount of one million dollars, and for other purposes," approved March 8, 1906, and amended March 10, 1910; and said tax shall continue to be levied and collected until the principal and interest of the bonds provided for in this Act shall have been paid from its proceeds.

• • • • •

Approved, March 30, 1914.

[No. 71.]

AN ACT

TO AUTHORIZE AN ISSUANCE OF BONDS OF THE PEOPLE OF PORTO RICO IN THE AMOUNT OF TWO MILLION DOLLARS FOR THE CONSTRUCTION OF ROADS AND BRIDGES, AND FOR OTHER PURPOSES.

Section 8.—That the principal and interest of said bonds shall be paid from any revenues coming into the Insular Treasury and available for expenditure and from the proceeds of the special tax of one-tenth of one per cent upon the value of all real and personal property in the Island of Porto Rico not exempt from taxation, provided by Section six (6) of an Act entitled “An Act to authorize the issuance by the Insular Government of Porto Rico of bonds to the amount of one million dollars, and for other purposes,” approved March 9, (8) 1906, and by Section 5 of “An Act to authorize the issuance by the Insular Government of Porto Rico of bonds to the amount of four hundred and twenty-five thousand dollars, and for other purposes,” approved March the 10th, 1910, and by Section 5 of “An Act to authorize the issuance by the Insular Government of Porto Rico of bonds to the amount of one million dollars for the construction of public improvements, and for other purposes,” approved March the 28th, 1914; and said tax shall continue to be levied and collected until the principal and the interest of the bonds provided for in this Act shall have been paid from its proceeds, and the proceeds of the said special tax shall be devoted to the payment in the following manner: When the funds on hand in the Insular Treasury, produced from the special tax, shall be sufficient to meet all the unpaid obligations—both principal and interest—of the bond issues authorized by the said Act of the Legislature, approved March the 8th, 1906, March the 10th, 1910, and March the 28th, 1914, then the proceeds from the said special tax shall be devoted exclusively to the payment of the current interest and the installments of the principal becoming due each year; *Provided*, That after said interest and installments of principal have been provided for each fiscal year, the balance of the said special tax for the said fiscal year shall be devoted to the construction of rural schools.

Approved April 13, 1916.

[No. 4.]

AN ACT

TO PROVIDE FOR THE CONTRACTION OF INDEBTEDNESS, THE BORROWING OF MONEY AND THE ISSUING OF BONDS BY MUNICIPAL CORPORATIONS AND SCHOOL BOARDS OF PORTO RICO, AND FOR OTHER PURPOSES.

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Section 8.—That if the ordinary receipts of a municipal corporation in which it is desired, either by the municipal corporation itself or by the school board coterminous therewith, to contract indebtedness, borrow money or issue bonds, for either municipal or school-board purposes, as provided in Sections 3 and 4 of this law, are not sufficient to provide for both the interest and principal of the same as they shall become due, then the president of the municipal council may convene the municipal council and the property taxpayers of the district and, in joint assembly, by individual vote, they shall decide whether or not a special tax, not to exceed twenty-five one-hundredths of one per centum of the last assessed valuation of the real and personal property of the said municipality, shall be levied, and if the said assembly, by a vote representing a majority of the property taxpayers present, does decide that a special tax shall be levied and fixes the rate of the same, then the municipal council shall pass an ordinance providing for the same, to become effective at the beginning of such future fiscal year as the municipal council with the approval of the Executive Council of Porto Rico may determine.

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Approved February 19, 1913, and amended by Act No. 20 of March 12, 1914.

NOTE.—This Section was repealed by the Municipal Law approved in 1919, but taxes levied to pay principal and interest on bonds issued by the municipalities according to this Act are still in force.

[No. 125.]

AN ACT

AUTHORIZING THE MUNICIPALITY OF SAN JUAN TO LEVY A SPECIAL TAX.

Be it enacted by the Legislative Assembly of Porto Rico:

Section 1.—That the municipality of San Juan is hereby authorized to levy a tax not to exceed forty one-hundredths of one per

cent, under the conditions and in complete accordance with all the specifications, except as regards the amount of the tax, of Section 8 of "An Act to provide for the contracting of indebtedness, the borrowing of money and the issuing of bonds by Municipal Corporations and School Boards of Porto Rico, and for other purposes," approved February 19, 1913.

* * * * * * *

Approved, August 2, 1913.

[J. R. No. 23.]

JOINT RESOLUTION

TO AUTHORIZE AND REGULATE THE ISSUANCE OF BONDS BY THE CITIES OF
PORTO RICO, AND FOR OTHER PURPOSES.

WHEREAS, It is impossible for municipalities, under the present laws, to incur indebtedness, and issue bonds to secure the payment thereof, without the credit of The People of Porto Rico being pledged; and

WHEREAS, It is not deemed advisable that The People of Porto Rico should pledge its credit in all cases of municipal bond issues; and

WHEREAS, In many cases municipalities are able to secure loans to advantage without the credit of The People of Porto Rico being pledged; and

WHEREAS, The municipality of San Juan has provided for the issuance of bonds on condition that the credit of The People of Porto Rico shall be pledged, or not pledged, according as the Legislative Assembly of Porto Rico shall determine; and

WHEREAS, It is deemed advisable to provide that the credit of The People of Porto Rico shall not be pledged to secure the said bond issue; and

WHEREAS, The municipality of Ponce has approved a loan without the approval of the Executive Council;

Now, THEREFORE, *Be it enacted by the Legislative Assembly of Porto Rico:*

Section 1.—That section 16 of an Act to provide for the contracting of indebtedness, the borrowing of money and the issuing of bonds by municipal corporations and school boards of Porto Rico, and for other purposes, approved February 19, 1913, is amended to read as follows: ' '

“Section 16.—That in order to facilitate the sale or hypothecation of any bonds or other evidences of indebtedness authorized by this Act, the good faith of The People of Porto Rico shall be irrevocably pledged for the payment of interest as it falls due and the repayment of the principal thereof at maturity, in case the Executive Council so provides in writing at the time of approving the purpose or purposes of the loan or indebtedness to be contracted, otherwise the good faith and credit of The People of Porto Rico shall not be pledged.”

Section 2.—The bond issue of \$1,700,000 provided for by ordinance of the municipality of San Juan enacted October 8, 1915, and approved by the Mayor of San Juan on October 9, 1915, and the purposes provided in said ordinances to which the proceeds shall be applied and the special tax voted by said municipality on October 13, 1915, to provide for the payment of the principal and interest of said bonds are hereby affirmed, approved and declared legal, and all the proceedings taken with regard to the authorizing thereof are hereby affirmed, ratified and declared legal, and the municipality of San Juan is hereby authorized to proceed with the issue of said bonds, with the approval of the Executive Council, and under such conditions as shall be determined by the Executive Council, and shall be legally responsible for the payment of the interest and principal thereof. The municipality may, with the approval of the Executive Council, transfer the use of the funds devoted to any of the purposes provided for by said municipal ordinance to any of the other purposes provided therein, in case they are not necessary for the purposes to which they were originally devoted, and the validity of the bonds shall not be affected by the application of the proceeds thereof. Said municipality shall provide in the budget each year an amount sufficient to pay the interest and principal falling due, and in case for any reason the special tax provided for by said municipality and the budgetary appropriations are not sufficient to pay such principal and interest, the said municipality shall levy an additional tax for the purpose upon all taxable real and personal property of the municipality: *Provided*, That the Treasurer of Porto Rico is hereby authorized and directed to withhold for the payment of installments of principal and interest on said bonds accruing in any one fiscal year, sufficient funds from the revenues of the municipality to provide for the payment of such installments of principal and interest. Said municipality is hereby authorized, with the approval of the Executive Council, notwith-

standing the terms of the ordinance above referred to, to provide that said bonds shall be issued in serial form subject to redemption at the option of the municipality at a time not less than five years from their date and at a price not greater than 105 per cent of their par value, and such of said bonds as are subject to redemption shall state the terms upon which such redemption may be made and the notice to be given thereof; *Provided*, That the amount of \$1,700,000 shall be the maximum of said loan, which maximum may be reduced by an ordinance of said municipality; *Provided*, That all future proceedings and transactions not inconsistent with this Act shall be carried on and conducted in the manner provided by an Act to provide for the contracting of indebtedness, the borrowing of money and the issuing of bonds by municipal corporations and school boards of Porto Rico, and for other purposes, approved February 19, 1913, and the amendments thereto, to the same extent as if the bond issue hereby authorized had been guaranteed and secured by the pledge of the good faith and credit of The People of Porto Rico for the payment of the interest and the repayments of the principal and to the same effect as if the requirements of Section 24 of the said Act of February 19, 1913, had been complied with and made a part of the ordinance authorizing the contracting of the loan. It is hereby further enacted that the good faith of The People of Porto Rico is not pledged for the payment of the interest on said bonds as it falls due and the repayment of the principal thereof at maturity.

Section 3.—The bond issue provided for by ordinance of the municipality of Ponce enacted June 17, 1913, duly approved by the mayor of Ponce, and amended at an extraordinary session of said municipality of Ponce, held on April 10, 1916, duly approved by the mayor, and the purposes provided in said ordinance to which the proceeds shall be applied are hereby affirmed, approved and declared legal and all the proceedings taken with regard to the authorizing thereof are hereby affirmed, ratified and declared legal and the municipality of Ponce is hereby authorized to proceed with the issue of said bonds, with the approval of the Executive Council, and under such conditions as shall be determined by the Executive Council, and said loan shall be equivalent to a maximum amount equal to six per centum of its present assessed valuation, in accordance with law, and said municipality shall be legally responsible for

of the funds devoted to any of the purposes provided for by said municipal ordinance to any of the other purposes provided therein, in case they are not necessary for the purposes to which they were originally devoted, and the validity of the bonds shall not be affected by the application of the proceeds thereof. Said municipality shall provide in the budget each year an amount sufficient to pay the interest, and principal falling due, and in case for any reason the special tax provided for by said municipality and the budgetary appropriations are not sufficient to pay such principal and interest, the said municipality shall levy an additional tax for the purpose upon all taxable real and personal property of the municipality; *Provided*, That the Treasurer of Porto Rico is hereby authorized and directed to withhold for the payment of the instalments of principal and interest on said bonds accruing in any one fiscal year, sufficient funds from the revenues of the municipality to provide for the payment of such instalments of principal and interest. Said municipality is hereby authorized, with the approval of the Executive Council, notwithstanding the terms of the ordinance above referred to, to provide that said bonds shall be issued in serial form subject to redemption at the option of the municipality at a time not less than five years from their date and at a price not greater than 105 per cent of their par value, and such of said bonds as are subject to redemption shall state the terms upon which such redemption may be made and the notice to be given thereof; *Provided*, That all future proceedings and transactions not inconsistent with this Act shall be carried on and conducted in the manner provided by an Act to provide for the contracting of indebtedness, the borrowing of money and the issuing of bonds by municipal corporations and school boards of Porto Rico, and for other purposes, approved February 19, 1913, and the amendment thereto, to the same extent as if the bond issue hereby authorized has been guaranteed and secured by the pledge of the good faith and credit of The People of Porto Rico for the payment of the interest and the repayment of the principal, and to the same effect as if the requirements, of section 24 of the said Act of February 19, 1913, had been complied with and made a part of the ordinance authorizing the contracting of the loan. It is hereby further enacted that the good faith of The People of Porto Rico is not pledged for the payment of the interest on said bonds as it falls due and the repayment of the

principal thereof at maturity; *Provided*, That to carry out the provisions of this Section, the municipality of Ponce shall hold a the payment of the interest and principal thereof. The municipality may, with the approval of the Executive Council, transfer the use joint assembly of the municipal council and of the property taxpayers for the purpose of determining whether or not a special tax shall be levied in accordance with the provisions of said law, as amended, and the proceedings of said assembly shall be taken in the form prescribed by the aforesaid law and amendments thereto.

Section 4.—That all laws or parts of laws in conflict herewith are hereby repealed.

Section 5.—That this Act shall take effect upon its approval.

Approved April 13, 1916.

[J. R. No. 4.]

JOINT RESOLUTION

AUTHORIZING MUNICIPAL CORPORATIONS OF PORTO RICO TO CONTRACT INDEBTEDNESS, BORROW MONEY AND ISSUE BONDS FOR THE EXCLUSIVE PURPOSE OF EXECUTING WORKS TENDING TO SUPPLY WATER, CONSTRUCT AND REPAIR ROADS, AND OTHER CONVENIENCES TO FACILITATE AND AID THE FEDERAL GOVERNMENT OF THE UNITED STATES IN THE ESTABLISHMENT AND MAINTENANCE OF MILITARY CAMPS.

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Section 5.—That where the regular receipts of a municipal corporation are not sufficient to meet the payment of the principal and interest on the dates specified therefor, provision shall be made and the municipal corporation is hereby empowered to provide in the said ordinance for the levying of a reasonable and equitable special tax of not to exceed one-fourth of one per cent of all the taxable property of the municipality to secure the payment of the indebtedness and interest thereon on the dates of maturity.

• • • • •

Approved, October 31, 1917.

[No. 7.]

AN ACT

AUTHORIZING THE MUNICIPALITY OF ARROYO TO LEVY A SPECIAL TAX FOR THE PURPOSE OF PAYING THE DEBT CONTRACTED FOR THE CONSTRUCTION OF AN AQUEDUCT.

Be it enacted by the Legislative Assembly of Porto Rico:

Section 1.—That the municipality of Arroyo is hereby authorized to levy a special tax not to exceed twenty-five one-hundredths of one per cent on the assessed valuation of the personal and real property in said municipality not exempt from taxation.

Section 2.—That the proceeds of said tax shall be exclusively devoted to the payment of the debt contracted by the municipality of Arroyo for the construction of its aqueduct.

Section 3.—That the aforesaid special tax shall be levied in accordance with the provisions of Act No. 4, approved February 19, 1913, and amended March 12, 1914.

Section 4.—That all laws or parts of laws in conflict herewith are hereby repealed.

Section 5.—That this Act shall take effect immediately after its approval.

Approved, March 11, 1915.

[No. 9.]

AN ACT

TO AUTHORIZE THE MUNICIPALITY OF FAJARDO TO LEVY A SPECIAL TAX FOR THE PAYMENT OF CERTAIN INDEBTEDNESS CONTRACTED BY IT UNDER THE LOANS FOR ONE HUNDRED AND TWELVE THOUSAND (112,000) DOLLARS AND ELEVEN THOUSAND FOUR HUNDRED (11,400) DOLLARS, FOR CERTAIN PUBLIC IMPROVEMENTS.

Be it enacted by the Legislature of Porto Rico:

Section 1.—That the municipality of Fajardo be, and the same is hereby, authorized to levy a special tax of not to exceed twenty-five (.25) one hundredths of one per cent on the assessed value of the real and personal property of the said municipality not exempt from taxation.

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Approved, May 16, 1919.

[No. 23.]

AN ACT

AUTHORIZING THE MUNICIPALITY OF CAYEY TO LEVY AND COLLECT A TAX OF TWENTY-FIVE (25) HUNDREDTHS OF ONE (1) PER CENTUM ON THE VALUE OF ALL REAL PROPERTY IN SAID MUNICIPALITY, FOR THE CONSTRUCTION OF A CEMETERY IN SAID CITY AND IMPROVING THE CONDITIONS OF THE AQUEDUCT THEREOF.

Be it enacted by the Legislature of Porto Rico:

Section 1.—That the municipality of Cayey be, and the same is hereby, authorized to levy a special tax of not to exceed twenty-five (25) hundredths of one (1) per centum on the value of all real property existing in said municipality.

Approved, May 31, 1919.

[No. 25.]

AN ACT

AUTHORIZING THE MUNICIPALITY OF PEÑUELAS TO LEVY A SPECIAL TAX FOR THE PURPOSE OF REDEEMING THE ISSUE OF BONDS MADE BY SAID MUNICIPALITY TO SATISFY THE DEBT CONTRACTED FOR THE CONSTRUCTION OF THE AQUEDUCT, AND FOR OTHER PURPOSES.

Be it enacted by the Legislature of Porto Rico:

Section 1.—That the municipality of Peñuelas is hereby authorized to levy a special tax not to exceed one-tenth of one per cent of the assessed valuation of the real and personal property in Peñuelas, and not exempt from taxation.

Approved, May 31, 1919.

[No. 31.]

AN ACT

TO PROVIDE FOR THE CONSTRUCTION OF A HIGH-SCHOOL BUILDING IN CAGUAS, AND FOR OTHER PURPOSES.

Be it enacted by the Legislature of Porto Rico:

Section 1.—That the amount of sixty thousand (60,000) dollars is hereby appropriated for the construction of a building in the city

of Caguas to be used for the installation of the high school of said city.

Section 3.—That to obtain sufficient funds the School Board of Caguas is hereby authorized to levy, for ten (10) consecutive fiscal years, an additional tax of one-tenth of one per centum on the taxable property in the municipality, the ordinance providing for such surcharge constituting sufficient authority for the Treasurer of Porto Rico to proceed to the collection of such tax; *Provided*, That the School Board of Caguas is hereby authorized to borrow from any banking or private institution the sum of sixty thousand (60,000) dollars at a rate of interest not to exceed six (6) per centum a year, to be refunded in ten (10) annual instalments from the annual sum produced by said special tax; *And provided, further*, That in any year where the proceeds of said tax are insufficient for the payment of principal and interest the School Board of Caguas shall pay from its funds such sum as may be necessary to complete such annual instalment.

Approved, June 3, 1919.

[No. 30.]

AN ACT

FOR THE CONSTRUCTION OF A SCHOOLHOUSE IN THE MUNICIPALITY OF AJUNTAS AND APPROPRIATING FUNDS FOR SUCH PURPOSES.

Be it enacted by the Legislature of Porto Rico:

Section 1.—That for the purpose of constructing an eight-room school building in the town of Adjuntas, on the lot which the school board of said municipality has acquired for the purpose, the school board of said municipality is hereby authorized to levy during such fiscal years as may be necessary, a surcharge or additional tax of one-fourth of one per cent on the taxable property of the municipality, the ordinance authorizing said surcharge to constitute sufficient authority for the Treasurer of Porto Rico to proceed to the collection thereof; *Provided*, That the Treasurer of Porto Rico is hereby authorized to advance to said school board out of any funds under his custody, the sum of twenty-four thousand (24,000) dollars at five (5) per cent interest, to be reimbursed from the proceeds of

such additional tax as the school board may decide upon, or to borrow said sum from any banking institution or private individual, in the name and for account of and chargeable to the aforesaid school board, to be reimbursed in the manner hereinabove stated.

* * * * *

Approved, June 3, 1919.

[No. 44.]

AN ACT

TO PROVIDE FOR THE CONSTRUCTION OF A GRADED SCHOOL BUILDING IN THE TOWN OF JUNCOS; APPROPRIATING THE SUM OF FORTY THOUSAND (40,000) DOLLARS THEREFOR, AND FOR OTHER PURPOSES.

Be it enacted by the Legislature of Porto Rico:

Section 1.—That a tax of two-tenths of one per cent, in addition to all other taxes heretofore levied, shall be levied and collected for a term not exceeding fifteen years, on all real and personal property of the municipality of Juncos.

* * * * *

Approved, June 7, 1919.

[No. 48.]

AN ACT

AUTHORIZING THE MUNICIPAL COUNCIL OF JUANA DIAZ TO LEVY AN ADDITIONAL TAX ON REAL AND PERSONAL PROPERTY DURING SUCH FISCAL YEARS AS MAY BE NECESSARY FOR THE PURPOSE OF CARRYING OUT THE CONSTRUCTION OF A WATERWORKS SYSTEM IN THE SAID TOWN.

Be it enacted by the Legislature of Porto Rico:

Section 1.—That the Municipal Council of Juana Díaz is hereby authorized, for the purpose of carrying out the construction of a water-works system in the municipality of Juana Díaz, to levy a surcharge or additional tax on the real and personal property of the municipality, during such fiscal years as may be necessary, of not to exceed twenty-five one-hundredths of one per cent, such ordinance as shall be adopted providing for such surcharge to be of sufficient au-

thority to the Treasurer of Porto Rico to proceed to the collection thereof; *Provided*, That the Treasurer of Porto Rico is hereby authorized to loan, out of any funds in his possession up to the sum of sixty thousand (60,000) dollars, to the said municipality, at a rate of interest not exceeding six per cent per annum, to be reimbursed out of the proceeds of such tax as the aforesaid municipal council may authorize, or to borrow the said amount from any banking institution or individual in the name and for account of the said municipality, to be repaid in the manner aforesaid.

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Approved, June 13, 1919.

[No. 54]

AN ACT

AUTHORIZING THE SCHOOL BOARD OF SAN LORENZO TO LEVY AN ADDITIONAL TAX ON REAL AND PERSONAL PROPERTY DURING SUCH FISCAL YEARS AS MAY BE NECESSARY FOR THE PURPOSE OF CARRYING OUT THE CONSTRUCTION OF A SCHOOL BUILDING.

Be it enacted by the Legislature of Porto Rico:

Section 1.—That for the purpose of carrying out the construction of an eight-room school building in the municipality of San Lorenzo, the school board of said municipality is hereby authorized to levy, during such fiscal years as may be necessary, a surcharge or additional tax on the real and personal property of the municipality, such tax not to exceed twenty-five one-hundredths of one per cent, and the ordinance adopted for the purpose shall constitute sufficient authority for the Treasurer of Porto Rico to proceed to the collection thereof; *Provided*, That the Treasurer of Porto Rico is hereby authorized to lend to the said school board out of any moneys in his possession, up to the sum of twenty thousand (20,000) dollars, with interest at not to exceed six (6) per cent per annum, to be repaid out of the proceeds of such additional tax as may be decided upon by the school board, or to borrow the said amount from any banking institution or individual in the name and for account of the said school board, to be repaid in the manner aforesaid.

• • • • •
Approved, June 14, 1919.

[No. 69.]

AN ACT

AUTHORIZING THE SCHOOL BOARD OF CABO ROJO TO LEVY AN ADDITIONAL TAX ON REAL AND PERSONAL PROPERTY DURING SUCH FISCAL YEARS AS MAY BE NECESSARY FOR THE PURPOSE OF CARRYING OUT THE CONSTRUCTION OF A SCHOOL BUILDING.

Be it enacted by the Legislature of Porto Rico:

Section 1.—That for the purpose of carrying out the construction of a twenty-room school building in the municipality of Cabo Rojo, the school board of said municipality is hereby authorized to levy, during such fiscal years as may be necessary, a surcharge or additional tax on the real and personal property of the municipality, such tax not to exceed one-tenth of one per centum and the ordinance adopted for the purpose shall constitute sufficient authority for the Treasurer of Porto Rico to proceed to the collection thereof; *Provided*, That the Treasurer of Porto Rico is hereby authorized to lend to the said school board out of any moneys in his possession, up to the sum of sixty thousand (60,000) dollars, with interest at not to exceed six (6) per cent per annum, to be repaid out of the proceeds of such additional tax as may be decided upon by the school board, or to borrow the said amount from any banking institution or individual in the name and for account of the said school board, to be repaid in the manner aforesaid.

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Approved, June 20, 1919.

[No. 53.]

AN ACT

AUTHORIZING THE SCHOOL BOARD OF GUAYAMA TO LEVY AN ADDITIONAL TAX ON REAL AND PERSONAL PROPERTY DURING SUCH FISCAL YEARS AS MAY BE NECESSARY FOR THE PURPOSE OF CARRYING OUT THE CONSTRUCTION OF A HIGH-SCHOOL BUILDING.

Be it enacted by the Legislature of Porto Rico:

Section 1.—That for the purpose of carrying out the construction of a high-school building in the municipality of Guayama, the school board of the said municipality is hereby authorized to levy, during such fiscal years as may be necessary, a surcharge or additional tax of not to exceed twenty-five (25) hundredths of one per cent on all

the real and personal property of the municipality, the ordinance levying such surcharge being sufficient authorization for the Treasurer of Porto Rico to proceed to the collection thereof; *Provided*, That the Treasurer of Porto Rico is hereby authorized to lend to the said school board, out of any funds in his possession, up to the sum of sixty thousand (60,000) dollars, at a rate of interest not greater than six (6) per cent per annum, to be repaid out of the proceeds of such additional tax as shall be levied by the said school board, or to borrow the said sum from any banking institution or individual in the name and for account of the said board to be reimbursed in the manner aforesaid.

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Approved June 14, 1919.

[No. 27.]

AN ACT

AUTHORIZING THE MUNICIPALITY OF LARES TO LEVY A SPECIAL TAX FOR THE PURPOSE OF PAYING THE INDEBTEDNESS CONTRACTED FOR THE CONSTRUCTION OF THE AQUEDUCT AND SEWERAGE SYSTEM, FOR CERTAIN PUBLIC IMPROVEMENTS, HOSPITAL SERVICES, AND FOR OTHER PURPOSES.

Be it enacted by the Legislature of Porto Rico:

Section 1.—That the municipality of Lares is hereby authorized to levy a special tax not to exceed one-fifteenth of one per cent on the assessed valuation of the real and personal property existing in Lares, and not exempt from taxation.

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Approved, May 31, 1919.

[No. 38.]

AN ACT

GRANTING TO FORMER OWNERS OF PROPERTY SOLD AFTER JULY 1, 1901, FOR NON-PAYMENT OF TAXES, OR TO ANY PERSON INTERESTED THEREIN, THE RIGHT TO REDEEM SUCH PROPERTY UNDER CERTAIN CONDITIONS.

Be it enacted by the Legislature of Porto Rico:

Section 1.—That former owners of real property sold for non-payment of taxes, and acquired at public auction by The People of Porto Rico subsequent to July 1, 1901, and, prior to July 1, 1918,

and at present in possession of The People of Porto Rico, or the lawful heirs of said former owners or assignees, or any person in any manner interested in such property, are hereby granted the right to redeem said property within one year from the date on which this Act takes effect, upon payment to The People of Porto Rico of the price for which said real property was sold and interest thereon at the rate of four and one-half ($4\frac{1}{2}$) per cent a year from the date of the auction.

Section 2.—That when more than one property shall have been sold at one auction for non-payment of taxes, and the taxpayer is unable to redeem them all, the Treasurer of Porto Rico, in accordance with the assessed valuation of said properties and the amount of adjudication, shall determine the sum to be paid by the taxpayer in order to redeem one or more of the properties adjudged to The People of Porto Rico at one auction.

Section 3.—That when the property to be redeemed is recorded in the registry of property in the name of The People of Porto Rico, the Treasurer of Porto Rico shall notify the registrar of property in whose office such property is recorded, and the registrar, upon payment of a fee of one (1) dollar by the person redeeming the property, shall enter the fact of the aforesaid redemption on the certificate of purchase by The People of Porto Rico as well as the fact that the property so redeemed shall answer for all legal liens on and claims against the same, other than the tax lien by virtue of which the said property was sold, to the same extent and in the same manner as if the property had not been sold for payment of taxes.

Section 4.—That when the property redeemed shall have been leased by The People of Porto Rico, the person redeeming the same shall take charge of the property subject to said lease, but in such case shall be entitled to receive the rental thereof subsequent to the redemption, and when the property shall have been improved in any way by expenditure of funds thereon by The People of Porto Rico, the person desiring to redeem the property shall pay, in addition to what has been previously provided, the amount so expended by The People of Porto Rico, with interest at the rate of four and one-half ($4\frac{1}{2}$) per cent per annum.

Section 5.—That all laws or parts of laws in conflict herewith are hereby repealed.

Section 6.—That this Act shall take effect ninety days after its approval.

Approved, June 5, 1919.

AN ACT

FOR THE REPAYMENT OF TAXES IMPROPERLY COLLECTED.

Be it enacted by the Legislative Assembly of Porto Rico:

Section 1.—Whenever it is found, either upon the application of any taxpayer satisfactory to the Treasurer of Porto Rico, or by the Auditor or Treasurer upon the revision and correction of the tax receipts, that any moneys have been collected by the Treasurer of Porto Rico improperly, or in excess of the proper amount, upon the approval of the Governor, the Auditor of Porto Rico is hereby authorized to issue a settlement warrant in favor of the taxpayer for the amount of such excess of the amount improperly paid.

Section 2.—An amount necessary to cover the refund of such moneys erroneously collected is hereby appropriated out of any moneys in the Treasury not otherwise appropriated.

Section 3.—This Act shall take effect from and after its passage.

Approved, February 12, 1904.

AN ACT

TO PROVIDE FOR THE REGISTRATION IN THE REGISTRIES OF PROPERTY OF THE ATTACHMENTS OF REAL PROPERTY IN FAVOR OF THE PEOPLE OF PORTO RICO, AND TO REPEAL ALL LAWS IN CONFLICT THEREWITH.

Be it enacted by the Legislative Assembly of Porto Rico:

Section 1.—It is hereby provided that in every one of the registries of property of Porto Rico, a book to be known as "Registry of Attachments of Real Property in favor of The People of Porto Rico," shall be kept for every one of the municipal districts included within the territorial jurisdiction of the said Registries of Property, and in which books the certificates of attachment provided by Section 340 of the Political Code, shall be registered according to the order in which they are presented for registration.

Section 2.—The registry books provided by the foregoing Section shall be uniform in all the registries of the Island, neatly bound and folioed and ruled in such a manner as to have separate spaces for the registration of the number of the case, dates of the presentation and registration of the certificate, showing the hour, the day, the

month and the year of such registration, the description of the property, showing the name, location, area and boundaries of such property, the name of the debtor, amount due for unpaid taxes, penalties and costs, the date of the attachment and also the date of the certificate and of the cancellation of the same; and each one of said registry books shall have attached thereto an alphabetical index showing the names of the attachment debtors of the Insular Treasury for due and unpaid taxes.

Section 3.—Whenever a certificate of attachment of real property in favor of The People of Porto Rico, shall be presented for registration in the proper registry of property, it shall be the duty of the registrar to present the same in the Registry of Attachments hereby created, corresponding to the municipal district where the property attached is situated; and the registrar shall register the said certificate at once, making the proper entry in the index of the book. After the said registration is made the certificate shall be returned to the person presenting it, with a note showing the folio and the book where the entry has been made.

Section 4.—The cancellations of attachments for unpaid taxes shall be made and entered in the space reserved for such purpose, returning the certificate of cancellation with a note showing the folio and the volume where the entry has been made.

Section 5.—No fees shall be collected by the registrars of property for the registration of such attachments or for the cancellation of the same in the books of the registry.

Section 6.—Reference shall be made in the certificates issued by the registrars of property, to the entries appearing in the Registry of Attachments, for unpaid taxes.

Section 7.—The necessary books for the Registry of Attachments shall be furnished to the registrars of property, by the Attorney General of Porto Rico, in the same manner, and charged to the same appropriation, as all other books for the registries of property.

Section 8.—That all laws and parts of laws in conflict herewith are hereby repealed.

Section 9.—This Act shall take effect from and after May first, nineteen hundred and nine.

Approved, March 15, 1909.

[No. 17.]

AN ACT

TO REGULATE THE ADMINISTRATIVE AND JUDICIAL PROCEDURE WITH REGARD TO TAXES PAID UNDER PROTEST, AND TO REPEAL THE ACT OF MARCH 9, 1911, RELATIVE TO THE SAME MATTER.

Be it enacted by the Legislature of Porto Rico:

Section 1.—That whenever any taxpayer believes that he should not pay a tax because it is illegal, excessive or wrongful, he shall pay the same upon request of the collector of taxes of his district and shall request the said collector, should he desire to make any claim, to endorse the tax receipt with the statement that he pays the same under protest because he considers the tax to be illegal, excessive or wrongful, which said endorsement shall be signed by the collector.

Section 2.—That any taxpayer making payment as above shall file within a term of fifteen days from and after the date of the notice of payment under protest, signed by the collector, a complaint in the proper district court pursuant to the Code of Civil Procedure, against the Treasurer of Porto Rico, making pertinent allegations on the petition for such relief as he may desire to obtain from the court, that the said tax is illegal, excessive or wrongful, and he shall attach to the said complaint the protested tax receipt, a certificate from the office of the Treasurer setting forth that he has paid all his taxes, and shall file in the office of the secretary of the court pursuant to law, a bond to answer for such expenses and costs as may be caused by his claim in case of the dismissal thereof.

Section 3.—That the Treasurer of Porto Rico, through the Attorney General or the law clerk or officer designated by the latter from his department, or any district *fiscal* of the Island, shall answer the said complaint within the term provided by law for any answer, and shall make therein, in their order, his allegations as to the striking out of particulars of the complaint and demurrers.

Section 4.—That the district court shall designate on each calendar such days as it may deem necessary to pass upon all suits for protested taxes, and shall fix the day for trial thereof without the necessity of a request therefor, and such suits shall be decided as all others, first passing upon the allegation relative to striking out particulars and upon demurrers, and then holding the hearing of the case in accordance with the rulings on such incidental questions. If the decision be in favor of the taxpayer, and the judge believes

it to be just, he shall grant to the taxpayer such costs and attorney's fees as he may deem reasonable. If the decision be adverse to the taxpayer, the costs shall be taxed against him together with a reasonable amount to be fixed in the decision by way of indemnity to The People of Porto Rico for such work as may have been done in the suit by the attorney for the said People of Porto Rico, as if he had been a private lawyer, and the said costs and indemnity shall be covered into the public Treasury.

Section 5.—That either party to said suit may appeal from the decision of the district court to the Supreme Court, but the appeal shall be filed within a term of fifteen days, and the statement of the case must be filed and approved within another term of fifteen days.

Upon the filing of the record on appeal in the Supreme Court together with another bond in a reasonable amount to be fixed by the judge of the district court, to answer for such expenses and costs as may be occasioned by the appeal, such appeal shall be prosecuted by filing the brief of the appellant within the following fifteen days, and by holding the hearing in preference to any other matter in the said Supreme Court.

In the decision of the Supreme Court the same declaration will be made as regards costs and indemnity as provided in Section 4 of this Act. Said costs shall be taxed in the sum of twenty-five dollars.

Section 6.—That at any time that The People of Porto Rico shall show, through a certificate issued by the Treasurer, that the taxpayer complainant has not paid any other tax subsequently thereto, within the time fixed by law, he shall be deemed to have withdrawn his suit with costs and with the indemnity fixed in Section 4 of this Act taxed against him.

Section 7.—That from and after a tax paid under protest is received, the same shall be considered as all other revenue from taxes, the amount thereof to be applied to the obligations of the Treasury of Porto Rico, and the part of the protested tax appertaining to the respective municipalities, pursuant to law, shall be turned over to them.

Section 8.—That when a decision in a suit for taxes paid under protest shall become final, if adverse to The People of Porto Rico, the Treasurer shall, upon receipt of the proper certificate from the district court, include in such estimate as he may present to the Governor, in accordance with the Organic Act, the necessary amount to reimburse the taxpayer such sum as shall have been fixed by the court for the illegal tax and costs.

.And the part of the said tax which should be reimbursed by the municipality or municipalities among which it was distributed, shall be deducted by the Treasurer out of taxes to be turned over to such municipality or municipalities in the following year, by halves, one-half in the first semester and the other half in the second semester of the following fiscal year.

Section 9.—That all amounts paid to this date by way of taxes, excises or fees, under protest, shall be transferred from the special trust fund into which the same have been covered, to general funds of the Insular Treasury.

Section 10.—That the law of March 9, 1911, relative to the payment of taxes under protest, is hereby repealed.

Section 11.—That this Act shall take effect ninety days after its approval.

Approved, May 13, 1920.

CIVIL CODE.

Section 1824.¹—With regard to certain real property and rights on realty of the debtor, the following shall have preference:

1. Indebtedness due to The People of Porto Rico or to the corresponding municipality with regard to the property of the taxpayers for the amounts of the last three annual assessments and the current annual assessment, unpaid, of the taxes which burden the same.

Section 1825.¹—With regard to all other personal and real property of the debtor, preference shall be given to:

1. Indebtedness due to The People of Porto Rico and to the corresponding municipality for the taxes of the last three annual assessments due and the current unpaid annual assessment which are not covered by paragraph 1 of Section 1824.

AN ACT

TO AMEND TITLE IX OF THE POLITICAL CODE AND AN ACT ENTITLED "AN ACT TO AMEND CHAPTER II, TITLE IX, OF THE POLITICAL CODE, AND TO REPEAL CERTAIN SECTIONS OF THE PENAL CODE, AND FOR OTHER PURPOSES," APPROVED MARCH 9, 1905, SECTIONS 1824 AND 1825 OF THE CIVIL CODE AND ARTICLE 218 OF THE MORTGAGE LAW, AND FOR OTHER PURPOSES.

Section 26.—That when any real property has been sold for delinquent taxes and has been bid in in the name of The People of Porto Rico and it is afterwards discovered that, for any reason such sale was irregular and that the owner of said property has been improperly deprived of his property the Treasurer of Porto Rico shall have authority to cancel said sale and where necessary to issue a certificate of redemption which shall act as a re-conveyance of the property to the owner, or to his heirs or assigns, as the case may be, and the property shall remain subject to all liens and legal claims against it to the same extent and in the same manner as though

¹ As amended by "An Act to provide for contracts of advances for agricultural purposes and grinding of cane, and for other purposes," approved March 10, 1910. It had been previously amended by Act of March 14, 1907, (c) in the Introduction.

said property had not been sold for taxes, and the registrar of property shall record the certificate of redemption without the payment of any fee for such service. The Treasurer of Porto Rico shall in all cases where a certificate of redemption is issued in accordance with the provisions of this Section transmit to the Commissioner of the Interior a certified copy of said certificate together with a statement setting forth the facts in the case and the grounds for issuing such certificate.

* * * * *

Approved, March 14, 1907.

AN ACT

TO FIX CERTAIN FEES.

Be it enacted by the Legislative Assembly of Porto Rico:

Section 1.—That in all cases where no other fees are fixed by law, the following amounts shall be collected:

(1) For every certified copy of an official document on record issued by any department, bureau or branch of the Insular Government, or by any court or justice of the peace, fifteen cents for every one hundred words contained in such copy; and for the certificate of the officer issuing the same, fifty cents and each figure to be considered as one word; *Provided*, That not less than one dollar shall be collected for any copy, exclusive of the fee for the certificate; *Provided, further*, That each certificate issued by the Treasury Department in connection with a declaration of property, or payment of taxes, shall refer to the property embodied or described in a single tax receipt, or shall certify to the total value of property of one taxpayer in a single municipality. No certificate shall include more than one municipality nor more than a single owner. A fee of one dollar shall be collected for such certificate.

(2) For each original certificate other than those above mentioned, one dollar.

Approved, March 12, 1908.

IRRIGATION LAW.

METHOD AND AMOUNT OF TAXATION DURING THE PERMANENT IRRIGATION DISTRICT.

Section 11.—The amount that shall be assessed and levied upon a given tract of land included in the permanent irrigation district shall be determined as follows:

The Treasurer of Porto Rico shall calculate the amount of the interest and principal or sinking fund due upon outstanding irrigation bonds for the ensuing fiscal year, and shall add thereto the total amount due upon credits for the ensuing year on account of water rights or concessions; and shall further add thereto the amount estimated and certified as estimated to him by the Commissioner of the Interior for the cost of operation and maintenance of the irrigation system for the said ensuing fiscal year. He shall then either add to or subtract from the amount so obtained the estimated amount of any deficit or surplus, as the case may be, existing in connection with the Irrigation Fund from the operation of the current fiscal year. From this amount he shall subtract the amount estimated and certified as estimated to him by the Commissioner of the Interior as the receipts for the ensuing fiscal year from any water power developed in connection with the irrigation system (until such time as the total bonded indebtedness incurred on account of the irrigation system shall have been paid in full); and the amount estimated and certified as estimated to him by the Commissioner of the Interior as receipts for the ensuing fiscal year from any other sources except from the issues of bonds and from special assessments herein provided for to be levied upon the land in the permanent irrigation district. To the amount so determined the Treasurer shall add an amount equivalent to two per centum of the total as a margin of safety for delayed collections, and the amount thus determined by the Treasurer of Porto Rico, subject to the limitations and provisions hereinafter set forth, shall be and constitute the total sum assessed for the said fiscal year, and the same shall be levied upon the lands at the time included in the permanent irrigation district (including any lands owned by The People of Porto Rico which form part of the said district, which lands shall be liable for and pay taxes levied here-

under in the same manner as the other lands included in the said irrigation district); *Provided, however*, That no deficit shall be carried over from the temporary irrigation district to the permanent irrigation district; *Provided, further, however*, That if any portion of the principal of any bonds falling due in any year cannot be paid under an assessment levied according to the provisions of this Section, then the amount which cannot so be paid and for the refunding of which provision is hereinafter made, shall not be deemed a deficit in any subsequent year; *And provided, further*, That prior to the certifying by the Commissioner of the Interior of the amount thus estimated by him as receipts from water power, the Commissioner of the Interior may, if in his judgement it is advisable, deduct from the amount thus estimated by him a sum not to exceed 25 per cent of the said amount for the development and extension of the said water power.

The amount of credit on taxes to which any tract of land having a water right or concession shall be entitled on account of the relinquishment of the same shall be such percentage of such taxes as shall have been determined by the Irrigation Commission as hereinbefore provided.

No tract of land included in the permanent irrigation district shall pay any tax until it shall have received or have been offered water from the irrigation system for a period of twelve months (said water to have been received after the inclusion of the said land in the temporary irrigation district, or, if the said land is first included in the permanent irrigation district, after the said inclusion); but thereafter the said tract of land shall be liable at the regular assessment dates to the same assessments as would have been the case had all the lands in the permanent irrigation district been assessed under the provisions of this Section; *Provided*, That the said tract of land shall pay a tax for the portion of the half year (either fiscal or calendar, as the case may be), if any, remaining after the completion of the said period of twelve months, for which no taxes are paid in accordance with the foregoing provisions, and the tax due for any such portion of a half year shall be payable upon the first of the month succeeding the completion of the said period of twelve months for which no taxes are paid in accordance with the foregoing provision.

Assessments under the foregoing provisions shall be made upon each particular tract of land in the proportion that the area of such tract of land bears to the whole number of acres included in the said

permanent irrigation district. The amounts resulting from such computation, or if such amounts exceed the amount which can be assessed under the provisions hereof, then such maximum amount as may be assessed under the said provisions, shall be extended upon the tax-roll for the different tracts at the time comprising the permanent irrigation district, after first deducting in the case of any land entitled to a credit for a water right or concession the proper credit to which the said tract of land is entitled, computed according to the provisions hereinbefore contained. The tax-roll so extended shall be completed by the Treasurer of Porto Rico on or before the first day of July of each year, and is hereby imposed as a charge upon the said lands (but not as a personal liability upon the owners thereof) in favor to The People of Porto Rico, and shall constitute a tax the lien of which shall be superior and prior in law to any right, claim or lien of any other nature, save and except the general taxes of Porto Rico as provided by law, and the same shall become due and the Treasurer of Porto Rico shall proceed to the collection thereof, and to the embargo and sale of the land to enforce the collection thereof, in the manner and at the time now or hereafter provided by law for the collection and enforcement of other real property taxes except that in the case of taxes assessed for a period of less than six months as hereinbefore provided the said taxes shall be assessed, levied and collected as hereinbefore provided; *Provided, however,* That anything hereinbefore contained to the contrary notwithstanding, (1) in case any assessment for any fiscal year determined as above provided shall amount to more than fifteen dollars (\$15) per acre per annum, prior to deducting credits for relinquished water rights or concessions, then the assessment for such fiscal year shall exceed fifteen dollars (\$15) per acre per annum only to the extent that it is necessary that the assessment should exceed the said rate in order to provide for the payment of interest, operation and maintenance, the deficit of the preceding year, if any; (*Provided, however,* That no deficit shall be carried over from the temporary irrigation district to the permanent irrigation district,) and the two (2) per centum margin of safety provided for above, plus fifty thousand dollars (\$50,000) for the payment of the principal of bonds falling due in the said fiscal year, less the surplus, if any, of the preceding year and any estimated receipts as income from other sources, as above provided; and (2) that no tax for the payment of any part of the interest and principal due upon outstanding irrigation bonds for any fiscal year, assessed as above provided shall be paid on

tract of land which has received or has been offered, prior to the date for payment of the said tax, water from the irrigation system for more than one full fiscal year, unless the said tract of land shall have received or shall have been offered, during the preceding fiscal year, water from the irrigation system, as shown by the records of the Irrigation Service, to the amount of at least one acre-foot per acre during the first six months thereof and at least one acre-foot per acre during the second six months thereof; *Provided, further,* That when in the above case the said tax is due upon the first of July terminating the fiscal year to which the above test is to be applied, then the said land shall pay the said tax if it shall have received or shall have been offered water from the irrigation system during the first six months of the said fiscal year, to the amount of at least one-acre-foot per acre; *Provided, further,* That no tax for the payment of any part of the interest and principal due upon outstanding irrigation bonds for any fiscal year, assessed as above provided, shall be paid on any tract of land which has not, prior to the date for payment of the said tax, received or been offered water from the irrigation system for more than one full fiscal year, unless the said tract of land shall have received or shall have been offered water from the irrigation system as shown by the records of the Irrigation Service to the amount of at least one acre-foot per acre during the next preceding half year (either calendar or fiscal) ending more than one month prior to the date of the said payment; *Provided, further, however,* That the foregoing exemptions from taxation conditioned upon the receipt by, or the offering to, the lands within the irrigation district of a certain amount of water from the irrigation system shall cease to be operative and effective at such time after the beginning of the permanent irrigation district as the Chief Engineer of the Irrigation Service shall certify to the Commissioner of the Interior that each fundamental integral part of the irrigation system has been constructed.

The amount which may be included in the assessment for any one fiscal year for the payment of the principal of the bonds shall not exceed one hundred and fifty thousand dollars (\$150,000).

IRRIGATION LAW.

Section 24.—The amount that shall be assessed and levied upon a given tract of land while it shall form a part of the temporary irrigation district shall be determined as follows:

The Treasurer of Porto Rico shall calculate the amount of interest due upon outstanding irrigation bonds for the ensuing fiscal year, and shall add thereto the amount estimated and certified as estimated to him by the Commissioner of the Interior for the cost of operation and maintenance of the irrigation system for the said ensuing fiscal year. He shall then either add to or subtract from the amount so obtained the estimated amount of any deficit or surplus, as the case may be, existing in connection with the Isabela Irrigation Fund from the operations of the current fiscal year. From this amount he shall subtract the amount estimated and certified as estimated to him by the Commissioner of the Interior as the receipts for the ensuing fiscal year from any water power developed in connection with the irrigation system and the amount estimated and certified as estimated to him by the Commissioner of the Interior as receipts for the ensuing fiscal year from any other sources except from the issue of bonds and from special assessments herein provided for to be levied upon the land while it shall form a part of the temporary irrigation district. To the amount so determined the Treasurer shall add an amount equivalent to two (2) per centum of the total as a margin of safety for delayed collections and the amount thus determined by the Treasurer of Porto Rico, subject to the limitations and provisions hereinafter set forth, shall be and constitute the total sum assessed for the said fiscal year, and the same shall be levied upon the lands at the time included within the temporary irrigation district (including any lands owned by The People of Porto Rico which form part of the said district, which lands shall be liable for and pay taxes levied hereunder in the same manner as the other lands included in the said district): *Provided*, That prior to the certifying by the Commissioner of the Interior of the amount thus estimated by him as receipts from water power, the Commissioner of the Interior may, if in his judgment it is advisable, deduct from the amount thus estimated by him a sum not to exceed twenty-five (25) per cent of the said amount for the development and extension of the said water power.

No tract of land included within the temporary irrigation district shall pay any tax until it shall have received or shall have been offered water from the irrigation system for a period of twelve months (the said water having been received or offered subsequent to the inclusion of the said land in the temporary irrigation district), but thereafter any tract of land included within the temporary irrigation district shall be liable, at the regular assessment dates, to the same assessments as would have been the case had all the lands in the temporary irrigation district been assessed under the provisions of this Section; *Provided*, That the said tract of land shall pay a tax for the portion of the half year (either fiscal or calendar, as the case may be), if any, remaining after the completion of the said period of twelve months, for which no taxes are paid in accordance with the foregoing provisions, and the tax due for any portion of a half year shall be payable upon the first of the month succeeding the completion of the said period of twelve months for which no taxes are paid in accordance with the foregoing provisions.

Assessments under the foregoing provisions shall be made on each particular tract of land in the proportion that the area of such tract of land bears to the whole number of acres included in the said temporary irrigation district. The amounts resulting from such computation, or if such amounts exceeds the amount which can be assessed under the provisions hereof, then such maximum amount as may be assessed under the said provisions shall be extended upon the tax-roll for the different tracts at the time comprising the temporary irrigation district.

The tax-roll so extended shall be completed by the Treasurer of Porto Rico on or before the first day of July of each year, and is hereby imposed as a charge upon the said lands (but not as a personal liability upon the owners thereof) in favor of The People of Porto Rico, and shall constitute a tax the lien of which shall be superior and prior in law to any right, claim or lien of any nature, save and except the general taxes of Porto Rico, as provided by law, and the same shall become due and the Treasurer of Porto Rico shall proceed to the collection thereof, and to the embargo and sale of the land to enforce payment in the manner and at the times now or hereafter provided by law for the collection and enforcement of other real property taxes, except that in the case of taxes assessed for a period of less than six months, as hereinbefore provided, the said taxes shall be assessed, levied and collected as hereinbefore provided; *Provided, however*, That anything hereinbefore contained

to the contrary notwithstanding, the assessments on any tract of land while it shall form a part of the temporary irrigation district shall not be in excess of the following amounts:

The assessment on the said land shall be at a rate not to exceed twelve (12) dollars per acre per annum for the period, if any, between the end of the period of twelve months, during which no tax is payable, as hereinbefore provided, and the beginning of the next succeeding half year (either fiscal or calendar, as the case may be). The assessment on the said land shall be at a rate not to exceed twelve (12) dollars per acre per annum for the first full fiscal or calendar year as the case may be, after the completion of the said period of twelve months, and at a rate not to exceed twelve (12) dollars per acre per annum thereafter during the existence of the temporary irrigation district; *Provided, however,* That anything herein contained to the contrary notwithstanding, no tax, assessed as above provided, shall be paid on any tract of land which has received or has been offered water from the irrigation system, for more than one full fiscal year prior to the date for payment of the said tax, unless the said tract of land shall have received or shall have been offered during the preceding fiscal year water from the irrigation system, as shown by the records of the Department of the Interior to the amount of at least one acre-foot per acre during the first six months thereof, and at least one acre-foot per acre during the second six months thereof; *Provided, further,* That when, in the above case, the said tax is due upon the first of July terminating the fiscal year to which the above test is to be applied, then the said land shall pay the said tax if it shall have received or shall have been offered water from the irrigation system during the first six months of the said fiscal year, to the amount of at least one acre-foot per acre; *Provided, further,* That no tax assessed as above provided, shall be paid on any tract of land which has not, prior to the date for payment of the said tax, received or been offered water from the irrigation system for more than one fiscal year, unless the said tract of land shall have received or shall have been offered water from the irrigation system, as shown by the records of the Department of the Interior, to the amount of at least one acre-foot per acre, during the next preceding half-year (either calendar or fiscal, as the case may be) ending more than one month prior to the date of the said payment: *Provided,* That any person, natural or artificial, of whatever character, who shall hereafter for any reason acquire the possession or ownership of more than five hundred (500) acres of land in the

irrigation district hereby created, shall be subject to the payment of double the amount of the tax fixed in this Act for the irrigation service to be furnished, on the amount of acres exceeding the said five hundred (500) acres.

* * * * * * *

Section 29.—The amount that shall be assessed and levied upon a given tract of land included in the permanent irrigation district shall be determined as follows:

The Treasurer of Porto Rico shall calculate the amount of the interest and principal or sinking fund due upon outstanding irrigation bonds for the ensuing fiscal year, and shall add thereto the amount estimated and certified as estimated to him by the Commissioner of the Interior for the cost of operation and maintenance of the irrigation system for the said ensuing fiscal year. He shall then either add to or subtract from the amount so obtained the estimated amount of any deficit or surplus, as the case may be, existing in connection with the Irrigation Fund from the operations of the current fiscal year. From this amount he shall subtract the amount estimated and certified as estimated to him by the Commissioner of the Interior as the receipts for the ensuing fiscal year from any water power developed in connection with the irrigation system (until such time as the total bonded indebtedness incurred on account of the irrigation system shall have been paid in full); and the amount estimated and certified as estimated to him by the Commissioner of the Interior as receipts for the ensuing fiscal years from any of the sources except from the issues of bonds and from special assessments herein provided for to be levied upon the land in the permanent irrigation district. To the amount so determined the Treasurer shall add an amount equivalent to two (2) per centum of the total as a margin of safety for delayed collections, and the amount thus determined by the Treasurer of Porto Rico, subject to the limitations and provisions hereinafter set forth, shall be and constitute the total sum assessed for the said fiscal year, and the same shall be levied upon the lands at the time included in the permanent irrigation district (including any lands owned by The People of Porto Rico which form part of the said district, which lands shall be liable for and pay taxes levied hereunder in the same manner as the other lands included in the said irrigation district); *Provided, however,* That no deficit shall be carried over from the temporary irrigation district; to the permanent irrigation district; *Provided, further, however,* That if any portion of the principal of any bonds falling

due in any year cannot be paid under an assessment levied according to the provisions of this Section, then the amount which cannot so be paid and for the refunding of which provision is hereinafter made, shall not be deemed a deficit in any subsequent year; *And provided, further,* That prior to the certifying by the Commissioner of the Interior of the amount thus estimated by him as receipts from water power the Commissioner of the Interior, if in his judgment it is advisable, shall deduct from the amount thus estimated by him a sum not to exceed twenty-five (25) per cent of the said amount for the development and extension of the said water power.

No tract of land included in the permanent irrigation district shall pay any tax until it shall have received or have been offered water from the irrigation system for a period of twelve months (said water to have been received after the inclusion of the said land in the temporary irrigation district) or, if the said land is first included in the permanent irrigation district, after the said inclusion; but thereafter the said tract of land shall be liable at the regular assessment dates as would have been the case had all the lands in the permanent irrigation district been assessed under the provisions of this Section; *Provided,* That the said tract of land shall pay a tax for the portion of the half year (either fiscal or calendar as the case may be), if any remaining after the completion of the said period of twelve months, for which no taxes are paid in accordance with the foregoing provisions, and the tax due for any such portion of a half year shall be payable upon the first of the month succeeding the completion of the said period of twelve months for which no taxes are paid in accordance with the foregoing provisions.

Assessment under the foregoing provisions shall be made upon each particular tract of land in the proportion that the area of such tract of land bears to the whole number of acres included in the said permanent irrigation district. The amounts resulting from such computation, or if such amounts exceed the amount which can be assessed under the provisions hereof, then such maximum amount as may be assessed under the said provisions, shall be extended upon the tax-roll for the different tracts at the time comprising the permanent irrigation district. The tax-roll so extended shall be completed by the Treasurer of Porto Rico on or before the first day of July of each year, and is hereby imposed as a charge upon the said lands (but not as a personal liability upon the owners thereof) in favor of The People of Porto Rico, and shall constitute a tax the lien of which shall be superior and prior in law to any right, claim or lien

of any other nature, save and except the general taxes of Porto Rico, as provided by law, and the same shall become due and the Treasurer of Porto Rico shall proceed to the collection thereof, and to the embargo and sale of the land to enforce payment, in the manner and at the time now or hereafter provided by law for the collection and enforcement of other real property taxes except that in the case of taxes assessed for a period of less than six months as hereinbefore provided the said taxes shall be assessed levied and collected as hereinbefore provided; *Provided, however,* That anything hereinbefore contained to the contrary notwithstanding, (1) the tax on said land shall be at a rate of not to exceed twelve (12) dollars per acre per annum for the period, if any, between the beginning of the permanent irrigation district and the beginning of the subsequent half year (fiscal or calendar, as the case may be); (2) in case any assessment for any fiscal year determined as above provided shall amount to more than fifteen (15) dollars per acre per annum, then the assessment for such fiscal year shall exceed fifteen (15) dollars per acre per annum only to the extent that it is necessary that the assessment should exceed the said rate in order to provide for the payment of interest, operation and maintenance, the deficit of the preceding year, if any; (*Provided, however,* That no deficit shall be carried over from the temporary irrigation district to the permanent irrigation district), and the two (2) per centum margin of safety provided for above, plus thirty thousand (30,000) dollars for the payment of the principal of bonds falling due in the said fiscal year, less the surplus, if any, of the preceding year and any receipts as income from other sources, as above provided; and (3) that no tax for the payment of any amount for interest and principal due upon outstanding irrigation bonds for any fiscal year, assessed as above provided shall be paid on any tract of land which has received or has been offered, prior to the date for payment of the said tax, water from the irrigation system for more than one full fiscal year, unless the said tract of land shall have received or shall have been offered, during the preceding fiscal year, water from the irrigation system, as shown by the records of the Department of the Interior, to the amount of at least one acre-foot per acre during the first six months thereof and at least one acre-foot per acre during the second six months thereof; *Provided, further,* That when in the above case the said tax is due upon the first of July terminating the fiscal year to which the above test is to be applied, then the said land shall pay the aforesaid taxes as if it had received or had been offered water

from the irrigation system during the first six months of the said fiscal year, to the amount of at least one acre-foot per acre; *Provided, further*, That no tax for the payment of any amount for interest and principal due upon outstanding irrigation bonds for any fiscal year, assessed as above provided, shall be paid on any tract of land which has not, prior to the date for payment of the said tax, received or been offered water from the irrigation system for more than one full fiscal year, unless said tract of land shall have received or shall have been offered water from the irrigation system as shown by the records of the Department of the Interior to the amount of at least one acre-foot per acre during the next preceding half year (either calendar or fiscal) ending more than one month prior to the date of the said payment; *Provided, further, however*, That the foregoing exceptions from the payment of taxes conditioned upon the receipt by, or the offering to, the lands within the irrigation district of a certain amount of water from the irrigation system shall cease to be operative and effective at such time after the beginning of the permanent irrigation district as the Commissioner of the Interior shall certify to the Treasurer of Porto Rico that each and every fundamental integral part of the said irrigation system has been constructed.

The amount which may be included in the assessment for any one fiscal year for the payment of the principal of the bonds shall not exceed seventy-five thousand (75,000) dollars.

Approved, June 19, 1919.

AN ACT

TO AMEND AND REPEAL ARTICLES 793, 796, 797, 801, 811, 812, 815, 821, 822, 823 AND 824 OF THE CIVIL CODE NOW IN FORCE.

Be it enacted by the Legislative Assembly of Porto Rico:

Section 1.—Forced heirs are:

1. Legitimate children and descendants, with regard to their legitimate parents and ascendants;
2. In the absence of the foregoing, the legitimate parents and ascendants, with regard to their legitimate children and descendants;
3. The widower or widow, the natural children legally acknowledged, and the father or the mother of the latter in the manner and extent established in Sections 8, 9, 10, 11, 14, 15, 16 and 20 hereof.

Section 2.—The legal portion of legitimate children and descendants is composed of two-thirds of the hereditary estate of the father and of the mother.

Nevertheless the latter may dispose of one of the two-thirds forming the legal portion in order to apply it as an additional portion to their legitimate children and descendants.

The remaining third shall be at their free disposal.

Section 3.—The legal portion of the parents or ascendants is constituted by one-half of the hereditary estate of the children and descendants. The latter may unrestrictedly dispose of the other half, with the exception of what is established in Section 10 hereof.

Section 4.—A testator can not deprive the heir of his legal portion, except in the cases expressly fixed by law.

Neither can he impose upon it any burden, condition, or substitution of any kind whatsoever, with exception of what has been prescribed with regard to the usufruct of the surviving spouse.

Section 5.—The father or the mother may dispose of one of the two-thirds destined as the legal portion in favor of one or more of their children or descendants.

This portion is called an additional portion.

No other incumbrances can be imposed upon the additional portion than those which may be established in favor of the forced heirs or their descendants.

Sections 6.—No gift by contract *inter vivos*, either gratuitous or for a valuable consideration, in favor of children or descendant, who may be forced heirs shall be considered as an additional portion, if the donor has not expressly declared his intention to that effect.

Section 7.—A bequest or legacy made by the testator to one of his children or descendants shall not be considered as an additional portion, except when the testator has expressly declared such to be his intention, or when it can not be included in the portion he can freely dispose of.

Section 8.—The widower or widow who, on the death of his or her spouse is not divorced, or should be divorced through the fault of the deceased spouse, shall have a right to a portion in usufruct equal to that corresponding by way of legal portion to each of the legitimate children or descendants who have not received any additional portion.

If only one legitimate child or descendant shall survive the widower or widow shall have the usufruct of that third which is authorized by law to be applied to additional portions, the former

preserving the naked ownership until, on the death of the surviving spouse, the full title is merged in him.

If the spouses are separated by a suit for divorce, the result of the suit shall be awaited.

The provisions of this Section and of the subsequent Sections 9, 10, 11, 12 and 13 of this Act, shall apply in like manner to the intestate as well as the testate succession.

Section 9.—The hereditary portion allotted in usufruct to the surviving spouse must be taken from that part of the estate which the testator is permitted by law to apply to additional portions.

Section 10.—Should the testator not leave any descendants, but only ascendants, the surviving spouse shall have a right to the third of the estate in usufruct.

This third shall be taken from the free half, the testator being allowed to dispose of the ownership of the same.

Section 11.—If the testator should leave neither legitimate ascendants nor descendants, the surviving spouse shall be entitled to one-half of the estate also in usufruct.

Section 12.—The heirs may satisfy the surviving spouse for his or her part of usufruct, assigning to him or her a life annuity, or the proceeds from specified property, or a sum in cash, making a mutual agreement, and, in the absence thereof, by virtue of a judicial mandate.

Until this has been done, all the property of the inheritance shall be charged with the payment of the part of the usufruct pertaining to the surviving spouse.

Section 13.—In case of there being children of two or more marriages, the usufruct pertaining to the widowed spouse of the second marriage shall be taken from the third at the free disposal of the parents.

Section 14.—When the testator leaves legitimate children, or descendants, and natural children, legally acknowledged, each of the latter shall have a right to a portion equal to one-half of that pertaining to each of the legitimate children who have not received any additional portion; *Provided*, It can be included in the third which may be freely disposed of, from which it must be taken, after the burial and funeral expenses have been deducted.

The legitimate children may pay the portion pertaining to the natural one in cash, or in other property of the state, according to just rules.

Section 15.—Should the testator not leave any legitimate children

or descendants, but does leave legitimate ascendants, the acknowledged natural children shall have a right to one-half of the part of the estate which can be freely disposed of by the testator.

This is understood without prejudice to the legal portion of the surviving spouse, in accordance with article ten hereof; so that when the spouse survives with acknowledged natural children, what may be lacking to make up their legal portion shall be awarded to them as a naked property right during the life of the spouse.

Section 16.—When the testator leaves no legitimate descendants or ascendants, the acknowledged natural children shall be entitled to a third of the inheritance.

Section 17.—The rights granted natural children by the foregoing Section are transmitted on their death to their legitimate descendants.

Section 18.—The right of succession which the law grants natural children extends reciprocally in similar cases to the natural father or mother.

Section 19.—The gifts which the natural child may have received from its father or mother shall be charged to its legal portion.

Should they exceed the third which can be freely disposed of, they shall be reduced in the manner prescribed by the Civil Code.

Section 20.—Articles 795, 796, 797, 801, 811, 812, 815, 821, 822, 823 and 824 of the Civil Code, and all laws or parts thereof in conflict herewith, are hereby repealed.

Section 21.—This Act shall take effect immediately after its approval.

Approved, March 9, 1905.

NOTE.—Section 8 of this Act has been copied as amended on March 9, 1911.

[No. 73.]

AN ACT

TO AMEND CHAPTERS III AND IV OF TITLE VII, BOOK FIRST OF THE CIVIL CODE, COMPRISING SECTIONS 187 AND SUBSEQUENT ONES UP TO AND INCLUDING 197 OF THE SAME CODE AND SECTION 918 AND TO AMEND SECTION 8 OF AN ACT ENTITLED "AN ACT TO AMEND AND REPEAL SECTIONS 795, 796, 797, 801, 811, 812, 815, 821, 822, 823 AND 824 OF THE CIVIL CODE NOW IN FORCE," APPROVED MARCH 9, 1905.

Be it enacted by the Legislative Assembly of Porto Rico:

Section 1.—The Chapters III and IV, of Title VII, Book First, comprising Sections 187 and subsequent ones up to and including

197 of the Civil Code of Porto Rico are hereby amended so as to read as follows:

CHAPTER III.

LEGITIMATIZED CHILDREN.

Section 187.—Only natural children are entitled to be legitimized.

Section 188.—The legitimation of natural children shall be accomplished by the subsequent wedlock of the parents.

Section 189.—Legitimized children shall enjoy the same rights as the legitimate children.

Section 190.—The legitimation shall become effective from and after the date of the wedlock of the parents.

Section 191.—The legitimation of children dying prior to the wedlock of the parents shall benefit their descendants.

Section 192.—The legitimation may be disputed by persons considering their rights impaired, when the legitimation be granted in favor of persons not having the lawful condition of natural children, or when the requirements prescribed in this chapter have not been met.

CHAPTER IV.

ILLEGITIMATE CHILDREN.

Section 193.—Natural children are those born out of wedlock, from parents who, at the moment when such children were conceived or were born could have intermarried with or without dispensation.

The natural child may be recognized by the father and mother conjointly or by one of them only either in the record of birth or in the testament or in any other public instrument.

The father is obliged to recognise the natural child:

1. When there exists an undubitable statement in writing of the father wherein he expressly acknowledges his paternity.

2. Where the child has uninterruptedly enjoyed the condition as of a natural child of the defendant father justified by acts of the same father or of his family.

3. When the mother was known to have lived in concubinage with the father, both during her pregnancy and at the time of the birth of the child.

4. When the child may present any authentic evidence of his paternity.

The mother shall likewise be obliged to recognize a natural child

in the same cases as the father, and further where the act of the confinement and the identity of the child are fully established.

☞ The child, if of age, cannot be recognized without his consent.

When the recognition of the minor is not made at the time of recording the birth or in the testament, the approval of the judge of the district court of the district where the child resides, with the concurrence of the *fiscal*, shall be necessary.

Section 194.—The action for the recognition of natural children, can only be established during the life of the presumptive parents, and a year beyond their death except in the following instances:

1. If the father or the mother shall have died during the minority of the child, in which case, the child may bring his action before the first four years of his having attained his majority, shall have elapsed.

2. If after the death of the father or mother there shall appear a written statement or document, of which no notice was previously had, wherein the child is expressly recognized.

In this case the action shall be established within the next six months after the document has been discovered.

The recognition of a child not having the qualifications provided for in paragraph first of Section 193 can be disputed by whomsoever may be affected thereby.

Section 195.—A natural child has the right:

1. To use the surname of the parent making the recognition.

2. To be supported.

3. To perceive the hereditary portion determined in this code.

Section 196.—The illegitimate children lacking the lawful qualification of natural children are only entitled to such support from their parents, as is prescribed in Section 213.

Section 197.—The right to the support mentioned in the preceding Section can only be exercised:

1. Where the paternity or maternity is inferred from a final judgment rendered in a criminal or civil action.

2. Where the paternity or maternity is shown by an indubitable document from the father or mother wherein the filiation is expressly recognized.

Section 2.—That Section 8 of an Act entitled "An Act to amend and repeal Articles 795, 796, 797, 801, 811, 812, 815, 821, 822, 823 and 824 of the Civil Code now in force," approved March 9, 1905, be and is hereby amended so as to read as follows:

Section 8.—The widower or widow who, on the death of his or her spouse is not divorced, or should be divorced through the fault of the deceased spouse, shall have a right to a portion in usufruct equal to that corresponding by way of legal portion to each of the legitimate children or descendants who have not received any additional portion.

If only one legitimate child or descendant shall survive the widower or widow shall have the usufruct of that third which is authorized by law to be applied to additional portions, the former preserving the naked ownership until, on the death of the surviving spouse, the full title is merged in him.

If the spouses are separated by a suit for divorce, the result of the suit shall be awaited.

The provisions of this Section and of the subsequent Sections 9, 10, 11, 12 and 13 of this Act shall apply in like manner to the intestate as well as the testate succession.

Section 3.—That Section 913 of the Civil Code, be and is hereby amended so as to read as follows:

Section 913.—In default of legitimate descendant or ascendant the natural children legally recognized shall succeed the deceased in the whole of the inheritance.

If with the natural children there shall concur the descendants of another deceased natural or legitimized child, the former shall succeed by their own right and the latter by right of representation.

The rights of inheritance granted to natural children by the two preceding paragraphs, shall be transferable at their death to their descendants, who shall inherit their deceased grandparent.

Should there be any legitimate descendants or ascendants, the natural descendants shall receive only that portion of the inheritance allowed to them by the Act amending and repealing Sections 795, 796, etc., of the Civil Code, approved March 9, 1905.

A natural child has no right to succeed intestate legitimate children or relatives of the father and mother who has recognized him or her nor they a natural or legitimized child.

Should a natural recognized child die without leaving a recognized or legitimized (by him or her) posterity, the deceased shall be succeeded in his or her entirety by the father or mother who recog-

nized him or her; and if both parents performed the recognition, and lived both shall inherit in equal portions.

In default of natural ascendants, the natural child, shall be succeeded by his or her natural brothers or sisters in accordance with the rules established for legitimate brothers and sisters.

Section 4.—That Sections 198, 199, of the Civil Code and any other law in conflict with this Act be and are hereby repealed.

Section 5.—This Act shall take effect on and after its approval.

Approved, March 9, 1911.

[No. 19.]

AN ACT

AUTHORIZE THE ISSUING OF BONDS FOR THE PURPOSE OF URBANIZING CERTAIN LANDS BELONGING TO THE PEOPLE OF PORTO RICO IN THE MUNICIPALITY OF SAN JUAN, FOR THE PURCHASE OF MORE LAND IF NECESSARY, FOR THE CONSTRUCTION THEREON OF SEWERAGE, WATER WORKS AND LIGHTING SYSTEMS, FOR THE PAVING OF STREETS AND FOR THE BUILDING OF HOUSES FOR ARTISANS AND LABORERS, AND FOR OTHER PURPOSES.

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Section 4.—The principal and interest of the said bonds shall be paid out of any tax covered into the Insular Treasury and available for expenditure and out of the proceeds of a special tax of one-tenth of one per cent on the real and personal property of the Island of Porto Rico not exempt from taxation, prescribed by Section 6 of "An Act to authorize the issuing of bonds by the Insular Government of Porto Rico up to the sum of one million dollars and for other purposes," approved March 8, 1906, and by Section 5, of "An Act to authorize the issuing of bonds of the Insular Government of Porto Rico up to the sum of four hundred twenty-five thousand (425,000) dollars and for other purposes," approved March 10, 1910 and by Section 5 of "An Act to authorize the issuing of bonds of The People of Porto Rico in the sum of one million dollars (1,000,000) for the construction of public works and for other purposes," approved March 28, 1914, and by Section 8 of "An Act to authorize the issuing of bonds of The People of Porto Rico in the

• sum of two million dollars (2,000,000) for the construction of roads and bridges and for other purposes," approved April 13, 1916, and by Section 7, of "An Act to authorize the issuing of bonds of The People of Porto Rico in the sum of one million dollars (1,000,000) to continue the construction of roads and bridges, and for other purposes," approved June 13, 1919, and the said tax shall continue to be levied and collected until the principal and interest of the bonds herein authorized shall have been paid out of the proceeds thereof, and the proceeds of the said special tax shall be applied to the payment thereof in the following manner: where the funds in cash in the Insular Treasury arising from the said tax shall be sufficient to meet all the outstanding obligations,—both the principal and interest—of the issues of bonds authorized by said acts of the Legislature of Porto Rico, approved on the aforesaid dates, then the proceeds of the said special tax shall be devoted exclusively to the payment of current interest and of the instalments of the principal maturing each year.

Approved, May 13, 1920.

[No. 21.]

AN ACT

TO AUTHORIZE THE CONTINUATION OF THE SPECIAL TAX FOR THE CONSTRUCTION OF THE SAN ANTONIO-MARTIN PESA ROAD PURSUANT TO ACT No. 72 OF THE LEGISLATURE OF PORTO RICO, APPROVED JUNE 21, 1919.

Be it enacted by the Legislature of Porto Rico:

Section 1.—That the present special tax of fourteen hundredths of one per cent on the real and personal property of the municipality of San Juan not exempt from taxation, which special tax was created under Act No. 72 of the Legislature approved June 21, 1919, is hereby continued for the fiscal year ending June 30, 1922, and June 30, 1923, and shall be collected by the Treasurer of Porto Rico and applied to the enforcement of this Act.

Approved, June 8, 1921.

[No. 49.]

AN ACT

FIXING A TAX ON CERTAIN LANDS USING WATER FROM THE SOUTHERN COAST PUBLIC IRRIGATION SYSTEM, ON WHICH LANDS NO TAX WHATSOEVER WAS LEVIED UNDER THE PUBLIC IRRIGATION LAW, AND FOR OTHER PURPOSES.

Be it enacted by the Legislature of Porto Rico:

Section 1.—That a special tax is hereby levied in addition to other taxes already fixed by law, on all parcels of land which for irrigation purposes are supplied with water from the southern coast public irrigation system constructed and in operation pursuant to the provisions of the public Irrigation Law and amendments thereto, but which under the present Irrigation Law in no way contribute to the payment of expenses for the maintenance of said system.

Section 2.—That the tax to be levied on each tract of land receiving water from the irrigation system, but which under the law in force does not contribute towards defraying the cost of such system, shall be classified as follows: The Treasurer of Porto Rico shall have charge of fixing the total number of acres receiving water from the irrigation system which includes: (1) tracts of lands subject to taxation pursuant to the provisions of the public irrigation law and amendments thereto, for the purpose of reimbursing the cost of the irrigation works; (2) tracts of land to which the Irrigation Commission acknowledged the right to use of water or to which such right was acknowledged by the courts in cases of appeal, as rights acquired under the law for the use of water under prior concessions; (3) tracts of land irrigated with water delivered in accordance with acquired rights or concessions which have not been assigned, which said water, pursuant to the terms of the contracts entered into with the Commissioner of the Interior or because of decisions of the Irrigation Commission, is delivered in whole or in part and is measured at the canals of the Irrigation Service system, and such tracts shall be determined by dividing the value of the said concessions in acre-feet per year, as the same may be or shall have been fixed by the Commissioner of the Interior, by the Irrigation Commission or by decision of the courts, by four,—that is to say, by the number of acre-feet per year established by the Public Irrigation Law as a normal rate for delivery per acre for the formation of the irrigation

district; (4) parcels of land irrigated by water supplied because of acquired rights or concessions which have not been assigned, which said water, pursuant to the terms of the contracts entered into with the Commissioner of the Interior or under decisions of the Irrigation Commission, is taken and measured in the rivers at the points of intake indicated in the said concessions; and such tracts shall be determined by dividing the value of the said concessions in acre-feet per year, as the same may be or as shall have been fixed by the Commissioner of the Interior, by the Irrigation Commission or by decision of the courts in cases of appeal, by five. The Treasurer of Porto Rico shall then take amount estimated or certified to as estimated by the Commissioner of the Interior for defraying the cost of operations and maintenance of the irrigation system during the following fiscal year (as provided under Section 11 of Act 128, approved August 8, 1913, which amends the Irrigation Law approved September 18, 1908), and shall add thereto or subtract therefrom, as the case may be any resulting deficit between or surplus over, the amount expended and certified to as expended by the Commissioner of the Interior for expenses of operation and maintenance of the irrigation system during the preceding fiscal year, and the amount estimated or certified to as estimated by the Commissioner of the Interior for defraying the cost of operation and maintenance of the irrigation system during the aforesaid preceding fiscal year. The Treasurer shall then divide the amount so determined by the total number of acres computed as hereinbefore provided, and the result shall be and shall constitute the tax per acre which shall be levied during said subsequent fiscal year on all tracts supplied with water from the southern coast public irrigation system, and which in no other manner are subject to the payment of a tax to meet the cost of the said irrigation system.

This tax shall be levied and collected by the Treasurer of Porto Rico at the same time as any other tax imposed by the Public Irrigation Law, and the moneys collected shall be covered into the Insular Treasury to the credit of a special trust fund known as the "Irrigation Fund," to be invested in the same manner and for the same purposes provided by the Public Irrigation Law and laws amendatory thereof.

Section 3.—All laws or parts of laws in conflict herewith are hereby repealed.

Section 4.—This Act shall take effect ninety days after its ~~ap~~
~~approval.~~

Approved, July 8, 1921.

[No. 50.]

AN ACT

TO CONTINUE AND CARRY TO COMPLETION THE CONSTRUCTION OF THE WORKINGMEN'S SETTLEMENT (BARRIO OBRERO) IN THE MUNICIPALITY OF SAN JUAN, NOW BEING CONSTRUCTED PURSUANT TO ACT No. 19 ENTITLED "AN ACT TO AUTHORIZE THE ISSUING OF BONDS FOR THE PURPOSE OF URBANIZING CERTAIN LANDS BELONGING TO THE PEOPLE OF PORTO RICO IN THE MUNICIPALITY OF SAN JUAN, FOR THE PURCHASE OF MORE LAND IF NECESSARY, FOR THE CONSTRUCTION THEREON OF SEWERAGE, WATER WORKS AND LIGHTING SYSTEMS, FOR THE PAVING OF STREETS AND FOR THE BUILDING OF HOUSES FOR ARTISANS AND LABORERS, AND FOR OTHER PURPOSES," APPROVED MAY 13, 1920, AND TO PROVIDE FUNDS FOR SUCH CONSTRUCTION.

Be it enacted by the Legislature of Porto Rico:

Section 1.—That for the purpose of continuing and carrying to completion the construction of the workingmen's settlement (Barrio Obrero), in the municipality of San Juan now being constructed pursuant to Act o. 19 entitled "An Act to authorize the issuing of bonds for the purpose of urbanizing certain lands belonging to The People of Porto Rico in the municipality of San Juan, for the purchase of more land if necessary, for the construction thereon of sewerage, water and lighting systems, for the paving of streets and for the building of houses for artisans and laborers and for other purposes," approved May 13, 1920, a special tax of one-tenth of one per cent is hereby levied on all real and personal property of the municipality of San Juan not exempt from taxation, for the fiscal years ending June 30, 1922, and June 30, 1923, which shall be collected by the Treasurer of Porto Rico and applied to the carrying out of this Act.

Approved, July 8, 1921.

[No. 51.]

AN ACT

APPROPRIATING FUNDS FOR THE CONSTRUCTION OF THE PONCE-GUAYANILLA ROAD ALONG THE SEASHORE AND LEVYING A SPECIAL TAX OF ONE-TENTH OF ONE PER CENT ON ALL THE REAL AND PERSONAL PROPERTY OF THE MUNICIPALITIES OF PONCE, GUAYANILLA AND YAUCO, TO PROVIDE ADDITIONAL FUNDS TO BE USED TOGETHER WITH THE FUNDS FROM THIS APPROPRIATION FOR THE CONSTRUCTION OF SAID ROAD; TO AUTHORIZE THE TREASURER OF PORTO RICO TO ADVANCE FUNDS, TREASURY CONDITIONS PERMITTING, TO BE REIMBURSED OUT OF THE PROCEEDS OF THE TAX, AND FOR OTHER PURPOSES.

Be it enacted by the Legislature of Porto Rico:

Section 1.—That the sum of fifty thousand (50,000) dollars per year be, and the same is hereby appropriated out of any funds in the Treasury of Porto Rico for the two fiscal years 1921-1922 and 1922-1923, to be expended by the Commissioner of the Interior in the construction of the Ponce-Guayanilla road along the seashore.

Section 2.—That with the object of providing for the balance of such funds as may be necessary to complete the construction of the road authorized to be constructed under the preceding Section, the Treasurer of Porto Rico is hereby authorized to levy and collect a special tax of one-tenth of one per cent on all real and personal property in the municipalities of Ponce, Guayanilla and Yauco, and the said tax shall be levied and collected during the four fiscal years 1921-1922, 1922-1923, 1923-1924 and 1924-1925. The proceeds of the said tax shall be covered into a special fund in the Treasury which shall be known as "Special Fund for the construction of the Ponce-Guayanilla road, along the seashore," and is hereby appropriated to be expended by the Commissioner of the Interior, together with the sum of one hundred thousand (100,000) dollars appropriated by the Insular Government as provided by Section 1 of this Act; *Provided*, That to the end that the construction work may be carried out progressively, avoiding the stoppage of the work which would mean having to wait until the collection of the tax for the fiscal years 1923-1924 and 1924-1925, the Treasurer of Porto Rico is authorized to advance (Treasury conditions permitting), for the fiscal year 1922-1923, the amount to be collected by virtue of said tax for the aforesaid two years of 1923-1924 and 1924-1925, and the said amount of the tax for these two years 1923-1924 and 1924-1925, shall be duly covered in due time into the Treasury as reimbursement

of the amounts so advanced; *Provided, further,* That the resulting surplus from this appropriation if any, and from the road fund created hereunder, shall be applied to the construction of a retaining wall on the banks of the Guayanilla river for the protection of the town, and to the survey of a road from Guayanilla to Adjuntas through the coffee zone of both jurisdictions.

Section 3.—That all laws or parts of laws in conflict herewith are hereby repealed.

Section 4.—That this Act shall take effect ninety days after its approval.

Approved, July 8, 1921.

[No. 60.]

AN ACT

TO AMEND SECTIONS 9, 10, 13, 14, 17, 26, 28, 29, 31, 33, 35, 40, 42, 47, 48, 49, 50 AND 71 OF "AN ACT ESTABLISHING A SYSTEM OF LOCAL GOVERNMENT AND REORGANIZING MUNICIPAL SERVICES," APPROVED JULY 31, 1919, AND AMENDED MAY 12, 1920.

Section 49.—That the municipal revenues shall consist of—

“(c) Any surcharge of the tax on taxable property of the municipality, provided, it shall be so decided by two-thirds of the municipal assembly; or, where this is not possible, either because some offices are vacant, or because some of its members fail to attend the meetings, or for any other reasons, said ordinances may be adopted by a majority of its members. These ordinances, whether adopted by two-thirds of the members of the municipal assembly or by a majority thereof shall require the approval of the Executive Council of Porto Rico. The aforesaid surcharge shall not exceed one (1) per cent, computing therein any additional tax at present or hereafter authorized; *Provided,* That the said ordinances shall be posted to the public for a term of not less than twenty days, and published twice in one week in a paper of large circulation before they are submitted to the Executive Council—

“Said surcharge shall be devoted solely to the redemption of loans heretofore or hereafter contracted; to the development of elementary

and interest of the bonds provided for in this Act shall have been paid from its proceeds, and the proceeds of the said tax shall be devoted to such payment in the following manner: When the funds on hand in the Insular Treasury proceeding from said tax shall be sufficient to meet all the unpaid obligations—both principal and interest—of the bond issues authorized by said acts of the Legislature of Porto Rico, approved on the aforesaid dates, then the proceeds of said tax shall be devoted exclusively to the payment of the current interest and instalments of the principal of the present issue maturing each year, and from the proceeds of a special tax additional to the tax prescribed in the acts mentioned in this Section, of five hundredths of one per cent on all real and personal property in the Island of Porto Rico, not exempt from taxation, which said additional tax shall be levied and collected from and after July 1, 1921. The proceeds of said additional tax shall be covered into a special fund to be known as "Special Insular Tax for the Redemption of Bonds" and shall be devoted to the payment of interest on the present issue and to the accumulation of such amount as may be necessary each year for the payment of the principal as it falls due. Such surplus, as may remain each year after the payment of interest and the accumulation of the annual amount necessary for the payment of the principal of the present issue, shall be devoted by the Treasurer of Porto Rico to the payment of interest on all other issues of bonds mentioned in this Section.

Approved, July 16, 1921.

[No. 89.]

AN ACT

TO AUTHORIZE THE ISSUANCE OF BONDS OF THE INSULAR GOVERNMENT OF PORTO RICO TO THE AMOUNT OF THREE MILLION (3,000,000) DOLLARS, FOR THE PURPOSE OF CONSTRUCTING RAILROAD LINES IN THE EASTERN SECTION OF PORTO RICO CONNECTING THE PUBLIC-SERVICE RAILROAD LINES EXISTING IN THE SAID SECTION, AND TO PURCHASE AND LEASE SUCH EXISTING PROPERTY AND LINES AS MAY BE NECESSARY FOR THE COMPLETION OF THE BELT-LINE RAILROAD.

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 Section 7.—That the principal and interest of said bonds shall be paid from the proceeds of a special tax of one and three-fourths of one-tenth of one per cent on all the real and personal property in

the section benefited by the construction of the lines authorized pursuant to the provisions of an act entitled "An Act authorizing the Commissioner of the Interior to proceed to make a survey of and to construct the necessary railroad lines to join the present public service lines in the eastern portion of Porto Rico; to acquire by purchase, lease or eminent domain proceedings any property necessary for the purposes of this Act, and to exempt from taxation any company constructing and operating any section or portion of the railroads specified in this Act for the purpose of establishing a belt-line railroad;" *Provided*, That "benefited section" shall mean such jurisdictions through which run the railroad lines constructed by the Commissioner of the Interior and the jurisdiction through which run public-service or private railroad lines existing on the date of the approval of this Act, as shall be connected by the sections constructed by the Commissioner of the Interior, or by any company, pursuant to the provisions of the aforesaid act; *And provided, further*, That the extension of such benefited section shall be determined by way of a taxation district, by the Public Service Commission of Porto Rico, taking into consideration the benefit to be derived by each section from the construction of the work. The said special tax shall continue to be levied and collected until the principal and interest of the bonds provided for in this Act shall have been paid from its proceeds, and shall cease when this shall have been accomplished; and the proceeds of said special tax shall be devoted to such payment in the following manner: When the fund on hand in the Insular Treasury, proceeding from said special tax, shall be sufficient to meet all unpaid obligations—both principal and interest—of the bond issues authorized by this Act, then the proceeds of said special tax shall be devoted exclusively to the payment of the current interest and instalments of the principal falling due each year. In case that the funds on hand in the Insular Treasury, proceeding from said special tax shall not be sufficient to meet all the unpaid obligations of the bond issues authorized, the principal and interest of said bonds shall be paid from any tax covered into the Insular Treasury and available for disbursement.

Approved, July 26, 1921.