

## GENERAL SUBJECT INDEX

ALIENS—	Page
All aliens now owning lands in the State of Texas and all aliens hereafter purchasing, or in any manner acquiring lands located in Texas, must make the "Report of Alien Ownership" provided for in Article 21(d) of Title 3, Revised Civil Statutes of 1911, as amended by Chapter 134, General Laws, passed at the Regular Session of the Thirty-seventh Legislature, except as to those classes of lands and aliens specifically exempted by the provisions of Article 16 of said Title 3, as amended . . . . .	513
ANTI-TRUST—	
A lease limiting lessee in sale of goods, in rented premises, to those manufactured by lessor, not in violation of the Anti-Trust Statutes of Texas . . . . .	260
A contract between a manufacturer and a dealer in gasoline, oils and petroleum products, whereby the manufacturer for a nominal consideration leases to the dealer a pump and tank with necessary attachments and equipments to operate the pump and tank; restricting the use of the property so leased to products manufactured by the manufacturer is in violation of the Texas Anti-Trust Laws . . . . .	262
APPROPRIATIONS—	
Chapter 138, Acts Regular Session of the Thirty-seventh Legislature, donating State ad valorem taxes of certain counties to the city of Corpus Christi to aid said city in paying interest and sinking fund upon an issue or issues of bonds for the construction of a sea wall or breakwater is a specific appropriation of said taxes and any part of such taxes collected since September 1, 1921, and paid into the State Treasury constitutes a trust fund belonging to the city of Corpus Christi for the purposes in said act . . . . .	112
An appropriation made for the support, maintenance and operation of the State penitentiary system, declared by the act "to be available immediately upon the passage" of same, is a general appropriation act within the meaning of Section 39 of Article 3 of our Constitution, and became effective upon its approval by the Governor . . . . .	107
Construing the act making an appropriation of three million dollars to be added to the available school fund . . . . .	129
An appropriation for the Game, Fish and Oyster Commissioner for the enforcement of the game, fish and oyster laws cannot be used to purchase a moving picture machine and procure films for the purpose of carrying on an educational campaign in reference to the conservation of fish and game . . . . .	137
It would not be violative of the State Constitution for the Legislature in making appropriations for educational institutions to "lump" certain large items without itemizing the same in detail . . . . .	123
<i>Corpus Christi Donation and Sea Wall—</i>	
Chapter 116, General Laws, Thirty-fifth Legislature, 1917, and Chapter 138, Acts Thirty-seventh Legislature, Regular Session, 1921, donating to the city of Corpus Christi certain taxes, construed to mean that all State ad valorem taxes collected regardless of when they were assessed and levied are donated to the said city of Corpus Christi. Penalty and interest on delinquent taxes are not donated . . . . .	111
BANKS AND BANKING—	
Senate Bill No. 52 is effective June 13, 1923, and prohibits the organization, establishment and operation of private banking institutions or business . . . . .	320
1. It is contemplated by the law that the cash portion of the Depositors'	

<b>BANKS AND BANKING—(Continued)</b>	
Guaranty Fund shall be deposited and at all times kept in a separate fund in the State Treasury . . . . .	273
2. The State Banking Board has no power or authority to take any portion of said fund from the State Treasury, and deposit it elsewhere, at interest or without interest . . . . .	273
Article 448, Revised Statutes, 1911, imposes an annual indebtedness of one-fourth of one per cent of the average daily deposit on a State bank operating under Depositors' Guaranty Fund during its continuance in business as a State bank—the bank being liable only for such payments as become due and payable while it is doing business as a State bank . . . . .	310
<i>Insolvent Banks—Identification of Trust Proceeds and the Rights of Cestui Que Trust—</i>	
The method of identifying trust property or its proceeds is governed by the laws of the jurisdiction where it is sought to be identified. A cestui que trust in order to identify the trust property or its proceeds must place such proceeds in a specific piece of property or special fund . . . . .	281
<i>Private Banks—</i>	
The penalties and provisions of Sections 2, 3, 4, 5, 7, 8, 9, 10, and 11, Chapter 185, Acts Regular Session, Thirty-eighth Legislature, do not apply to private banks in operation at the time said act took effect and which had been in operation for a period of two years next preceding said date . . . . .	305
<i>National Banks—</i>	
Since the laws of the State of Texas authorize and permit State banks and State bank and trust companies to act as guardian, administrator, etc., without bond and be sole surety upon bonds, National banking associations doing business in Texas, although not authorized by the State statutes may be authorized and empowered by the Federal Reserve Board and therefore, act, do and perform such powers and functions in Texas . . . . .	306
<i>State Banks—Limit of Indebtedness—</i>	
A company incorporated under Title 14, Revised Statutes, 1911, with trust powers is prohibited from contracting debts or becoming "in any way liable" in an amount at any one time in excess of its unimpaired capital stock and unimpaired certified surplus, except for (1) moneys collected and deposited; (2) bills of exchange drawn on deposits; (3) liabilities for dividends and profits to stockholders; (4) liabilities authorized by Federal Reserve Act; (5) liabilities authorized by "Federal Agricultural Credits Act" . . . . .	326
<i>Liquidations—Dividends—Impaired Capital Stock—</i>	
Depositors of an insolvent guaranty fund bank who failed to file claims in the manner and within the time prescribed by Article 463, Revised Statutes, 1911, are not entitled to participate in the guaranty fund.	
Common creditors of an insolvent bank who failed to file claims in the manner and within the time prescribed by Article 463 may nevertheless participate in declared and approved dividends . . . . .	334
<i>Guaranty Fund—Daily Average Deposits—</i>	
"Daily Average Deposits" within the meaning of Article 448, Revised Statutes, 1911 (as amended Thirty-seventh Legislature, First Called Session, Chapter 33), upon which annual contributions and occasional assessments are calculated and paid for the creation and maintenance of the Depositors' Guaranty Fund, include all deposits of member banks, except such as are expressly exempted by statute, viz.: secured public funds, savings department deposits, notwithstanding all of such deposits are not protected by such fund, but only the bona fide uncertified non-interest bearing and unsecured deposits. (Acts Regular Session, Thirty-eighth Legislature, Chapter 45; Chapter 150, Section 4) . . . . .	331

**BOARD OF WATER ENGINEERS—**

In the absence of a proper application therefor there is no statute of this State enjoining any duty upon the Board of Water Engineers concerning any change that may be made, or that may be desired, by an appropriator of public waters for irrigation purposes in the point of diversion or place of use . . . . . 547

**BONDS—**

Chapter 54, Second Called Session, Thirty-eighth Legislature, providing that unearned interest upon bonds bought on deferred payments by the State Board of Education, does not authorize the credit of such unearned interest on bonds of another issue, but only upon the coupons of bonds of said issue.

The redemption of any bond at any time, either before or after the full payment by the State, would not affect the amount of unearned interest to be credited upon unpaid coupons remaining in the Treasury . . . . . 551

**Road District Bonds—**

The commissioners court of Cherokee County is authorized to levy a tax sufficient to pay the interest and provide a sinking fund sufficient to pay the principal of road district bonds, and said court is not limited to a rate of one dollar on the one hundred dollars valuation 147

**University Permanent Fund—**

Articles 2652, 2653 and 2654, Revised Statutes, 1911, do not give the Governor unquestioned authority to issue manuscript bonds for investment by the State Board of Education for the University permanent fund, since such bonds are authorized only for the purpose of "supplying casual deficiencies in the revenue."

The proceeds of such bonds if issued by the Governor, could not be used to retire the bonds held by the State permanent school fund, since there is no legislative authority to issue such refunding bonds . . 549

**BUILDING AND LOAN ASSOCIATIONS—**

A building and loan association organized under Title 25, Chapter 25A, is not authorized to use as a part of its name or in its advertising the word "savings," "savings," "bank," "banker," "banking," "trust," "trust company," "savings bank" . . . . . 258

Dues being the living principle in the whole plan of building and loan associations, such associations have the power to provide penalties for non-payment of dues at maturity . . . . . 251

The right of a building and loan association to issue advance payment shares bearing a reasonable fixed dividend would give them the right to issue a certificate of stock to which is attached coupons in the form of dividend coupons subject to their by-laws . . . . . 253

An advertisement of a building and loan association as follows: "Make your money earn 6%. Dividend starts from date money received. Earnings continue to actual date of withdrawal. Dividends on amounts up to \$5,000.00 exempt from Federal income tax as provided by Act of Congress," or "\$1000.00 with us earns 6% which equals the earnings on \$1,500.00 at 4%. Make your money earn what it is worth. Our loans benefit you because they build up Galveston. Do business here because of: 1. Safety. 2. Profit to us. 3. Benefit to our city. 4. Dividends on amounts up to \$5,000.00 exempt from income taxes," does not seem to violate any laws of the State of Texas, nor any of the provisions of Chapter 25a, Title 25. Revised Statutes . . . . . 257

A savings and loan scheme operated primarily for the profit of its promoters, whose investment features are negligible; whose chief attraction is the awarding of a loan at a rate of interest which is but a fraction of the market rate for such loans; which loan is awarded upon the happening of various contingencies, and which loan receives a credit, either greater or less than the liability of the concern to the subscriber, according to the time when the loan is awarded, and which loan is drawn from a fund out of which it

## BUILDING AND LOAN ASSOCIATIONS—(Continued)

receives a certain preference over other obligations of the concern;  
so combines the elements of prize and chance with consideration  
as to constitute a lottery . . . . . 233

## COMMISSIONERS COURT—

The assessed valuation of all property in Cherokee County being more  
than ten million dollars and less than twenty million dollars, the  
county commissioners of said county are entitled to receive for their  
services a salary of twelve hundred dollars per annum, payable in  
equal monthly installments and are not entitled to any other fees  
or per diem . . . . . 147  
See County Warrants . . . . . 139

## CONSTITUTIONAL LAW—

The provisions of the Constitution requiring proposed amendments to  
the Constitution to be published once a week for four weeks com-  
mencing at least three months before an election, is mandatory;  
and failure to comply therewith is fatal to the adoption of any  
proposed constitutional amendment . . . . . 168  
See Appropriations . . . . . 129  
Statutes passed by the Thirty-eighth Legislature require county judges,  
county commissioners, sheriffs and county clerks to execute new  
and different bonds within thirty days after the acts take effect,  
even though such officers have already executed bonds and qualified  
for the present term of office . . . . . 158  
The fact that deficiency warrants may have been authorized by the  
Governor and issued in excess of \$200,000.00 does not render such  
deficiency warrants illegal, and no debt is created in violation of  
the Constitution, Section 49 of Article 3, by reason of such deficiency  
warrants exceeding the amount of \$200,000.00 . . . . . 211  
The Legislature cannot without an affirmative vote of the people call  
a convention to revise or alter the State Constitution.  
The calling of such a convention is not within the grant of legislative  
power to the Legislature, but the question of whether a new Con-  
stitution is desired is one reserved by the people in themselves . . . . . 191  
There is no constitutional inhibition against using the electric voting  
machine now installed in the House of Representatives to take and  
record the vote of the members of the House except in elections by  
the Senate and House of Representatives, jointly or separately (other  
than election of their officers) which must be by viva voce . . . . . 209  
Negro slaves, born in the United States prior to 1832, who left this  
country about that time and went to and became permanent resi-  
dents in the Republic of Mexico, and who continued to reside there  
and never returned to the United States, were not and never be-  
came citizens of the United States . . . . . 517  
A man not born in the United States or under its jurisdiction, of parents  
not citizens of the United States, if neither of his parents became a  
citizen of the United States by naturalization while he was a  
minor, and if he himself has not become and is not a citizen of  
the United States by naturalization, is an alien . . . . . 521  
Citizenship and right of married women to vote, they being otherwise  
qualified, who were aliens when married, and who are still the  
wives of such marriage, but whose husbands are citizens of the  
United States by naturalization . . . . . 393

*Police Power—*

The rule against impairing obligations of contracts does not affect  
State regulations for the production of rights of individuals, and  
these regulations, when exercised, are for the public welfare to  
which private contracts must yield.

See Free Textbooks . . . . . 214

*Employers' Liability Act—*

See Insurance . . . . .

CONSTITUTIONAL LAW—(Continued)

*Auto Registration Tax*—  
 See Taxation 166  
*State Officers, Agents and Employees*—  
 See Torts 509

CONVICTS—

Under our present statutes, State convicts are not entitled to and may not be allowed extra time, or commutation of time, for teaching in or attendance upon schools for prisoners established by the Board of Prison Commissioners 445  
 See Prison Factory Labor 525  
 A convict on furlough or parole and absent from the prison at the expiration of his term is, when discharged, entitled to be furnished with transportation from the prison to the place from which he was sentenced, or from the prison to such place as he may designate not further from the prison than the place from which he was sentenced, and is entitled to be furnished with clothing and money as provided by statute, but only in person and at the prison. 541

CORPORATIONS—

A Texas corporation has no power either to subscribe for or purchase shares of stock in another corporation unless such power is expressly conferred upon it by its charter or statute, or unless such purchase and ownership of stock is necessary to carry out the purposes of the corporation 269  
*Gas Utilities Law*—  
 Powers of Commission: Section 3 of the Gas Utilities Law gives the Railroad Commission power, among other things, to establish a fair and equitable division of the proceeds of the sale of gas between the companies transporting or producing the gas and companies distributing or selling it, therefore the Commission has the authority to modify or change the terms of a contract between a producing company and a distributing company, the public welfare being involved 265  
*Blue Sky Law*—  
 A private corporation proposing to issue its mortgage bonds for the purpose of borrowing money to finance its business is not required to submit such bonds to the Secretary of State and procure a permit or exemption certificate for the issuance thereof 228  
*Electric Interurban Railroad Car*—  
 The Blue Sky Law is not applicable where the promoters themselves in good faith, without an intention to evade the provisions of the Blue Sky Law, organize a corporation and subscribe to all of the capital stock of the corporation without soliciting subscription from others 220  
 But where the incorporators or organizers or a portion of them decide upon the organization of a corporation and go out and actively solicit subscriptions, the Blue Sky Law does apply and must be complied with.  
 The Blue Sky Law must be complied with in all cases where there is an increase of capital stock of a corporation 220

CORPUS CHRISTI SEA WALL—

Moneys granted and donated to the city of Corpus Christi by the Act of the Regular Session of the Thirty-seventh Legislature (Chapter 138, General Laws) can be used only for the construction of a sea wall or breakwater to protect said city from calamitous overflow 119  
 See Appropriations 111

COUNTY WARRANTS—

Interest-bearing funding warrants of deferred maturity may be issued by the commissioners court to take up an equal amount of non-interest bearing road warrants under the following circumstances existing in Johnson County 139

## ELECTIONS—

*Exemption Certificates—*

The obtaining of exemption certificates by those residing elsewhere than in cities or towns of ten thousand inhabitants or more is not required as a prerequisite to voting, and the issuance of same is neither required nor authorized . . . . . 391

*County Seat Removal—*

Where a county seat has been established for a longer term than forty years, only those shown by the last approved tax rolls of the county to be freeholders and qualified voters of the county should be counted or considered in determining the sufficiency of an application for an election on the question of the removal of such county seat, and this irrespective of whether such persons are men or women, or are married or unmarried . . . . . 383

Certificate showing vacancy filled by party executive committee must be signed by majority and acknowledged.

Date of convention of parties of ten thousand to one hundred thousand voting strength controlled by Article 3159 to nominate candidates for State offices . . . . . 399

*Presiding Officer—Disqualification—*

The fact that a member of the county board of school trustees, contrary to the provisions of Article 2922, Revised Statutes, 1920, acted as presiding officer in an election held in a common school district, will not of itself render void such election. . . . . 389

*Primary Elections—*

Governor's appointment to fill vacancy in office of Railroad Commission is until next general election only and necessitates an election to fill out the remainder of the unexpired term . . . . . 396

State Democratic Executive Committee is not authorized to designate a person whose name shall be printed on the primary ballot in lieu of the name of a person who withdraws his candidacy. However, the committee would have authority after the primary to fill a vacancy caused by the resignation of the party nominee. . . . . 396

## FEES OF OFFICE—

*Sheriffs—*

Fees in lunacy cases are controlled by the provisions of Article 1173, Code of Criminal Procedure . . . . . 418

Are entitled to fifty cents as a fee for summoning a jury in each lunacy case where a conviction is had, to be paid by the county unless it can be collected out of the estate of the lunatic . . . . . 418

Article 1117a, Code of Criminal Procedure, 1920, Texas Complete Statutes, prescribes the maximum amount of compensation which sheriffs and constables may receive for all services rendered in examining trials, in any one case . . . . . 413

*County Surveyor—*

Those portions of Article 3876 of the Revised Civil Statutes that fix the compensation of a county surveyor at \$3.00 a mile, including all expenses, for surveying land when the distance actually run is one mile or more, \$2.50 a mile, including all expenses, for surveying land when the distance run is less than one mile, and \$5.00 a day for services in designating a homestead, and Article 1383 fixing his compensation at \$3.00 a mile for surveying and marking county boundary lines under orders of the county court, are repealed by Chapter 67, page 173, General Laws, Second Called Session, Thirty-sixth Legislature, and said act fixes the compensation of such surveyors for such services at \$10.00 per day . . . . . 432

*County Attorney—Delinquent Children—*

County and district attorneys are not entitled to any fee for representing the State in a juvenile court . . . . . 421

*Maximum Fees—*

All county officers as well as all justices of the peace and constables serving in cities of more than twenty thousand inhabitants will be entitled to receive a compensation for official services rendered for

**FEES OF OFFICE—**(Continued)  
 that part of the fiscal year beginning December 1, 1922, and ending when their successor shall have qualified, such proportional part of the fees accruing to the office for the fiscal year beginning December 1, 1922, as the time of their service bears to the entire year . . . . . 414

**GAME, FISH AND OYSTER COMMISSION—**  
 An appropriation for the Game, Fish and Oyster Commissioner for the enforcement of the Game, Fish and Oyster Laws cannot be used to purchase a moving picture machine and procure films for the purpose of carrying on an educational campaign in reference to the conservation of fish and game . . . . . 137

**INSANE ASYLUMS—**  
 Superintendents of State insane asylums are not authorized to employ as attendants at the asylum any inmate of such institution. . . . . 563

**INSURANCE—**  
 The Texas Employers' Insurance Association has no power or authority, either express or implied, to engaged in a reinsurance business . . . . . 276

*Agents—*  
 A corporation may not act as an insurance agent in Texas inasmuch as license therefor cannot be granted by the Commissioner of Insurance . . . . . 361

*Uniform Policies, Fire and Tornado—*  
 The State Insurance Commission has the power and duty (Acts Thirty-third Legislature, Chapter 106, page 195, approved April 2, 1913, Articles 4876 to 4904, C. S., 1920) to make, promulgate and establish uniform policies of insurance against loss by fire only and is not authorized nor required to make, promulgate and establish a combination fire and tornado policy. . . . . 361

*Fraternal Insurance—*  
 Fraternal beneficiary associations, whether organized or incorporated, must comply with the Fraternal Beneficiary Association Act of 1913 . . . . . 373

*Workmen's Compensation—*  
 The State Insurance Commission under Chapter 182, page 408, Acts Regular Session, Thirty-eighth Legislature, 1923, has the power and duty (1) to establish and promulgate classification of hazards in employments affected by the Workmen's Compensation Act, (2) and to prescribe (uniform) standard policy forms and rates of premiums applicable to workmen's compensation insurance . . . . . 356

Chapter 182, General Laws of the Thirty-eighth Legislature, requiring the State Insurance Commission to make classification of rates and premiums under Workmen's Compensation Law, etc., is not unconstitutional on the ground that it does not expressly provide for judicial review, that right being presumed by its silence. . . . . 347

The general rule of construction applied to compensation laws is that the law at the time of the injury is to be taken as the measure of the right of recovery . . . . . 378

Statutes are to be construed as having only a prospective operation unless the purpose and intent of the Legislature to give them a retrospective effect is expressly declared or is necessarily implied from the language used . . . . . 378

When a right has arisen on a contract or a transaction in the nature of a contract authorized by statute so perfected as nothing remains to be done by the party asserting the right, the repeal of the statute will not affect it . . . . . 378

*Mutual Fire Insurance Companies—*  
 All contracts or policies of insurance against loss by fire on property in Texas must be made and issued pursuant to the provisions of the State Insurance Commission Act (Acts Thirty-third Legislature, Chapter 106, page 195, approved April 2, 1913, as amended Articles

INSURANCE—(Continued)	
4876 to 4904, C. S., 1920), except such contracts and policies issued by "purely mutual" or "purely profit-sharing" or "purely co-operative inter-insurance or reciprocal exchanges" fire insurance companies for protection of their own property and not for profit.	364
INSURANCE AND BANKING—	
No State court has the power to compel the Commissioner of Insurance and Banking to deliver securities deposited with him into the registry of the court for delivery to its receiver, prior to the adjudication of the rights of the claimants.	
It is the duty of the Commissioner of Insurance and Banking to administer the trust fund prior to the adjudication of the rights of the various claimants	341
LEGISLATURE—	
Time when bills take effect	162
MINES AND MINING—	
Subject to certain limitations, the Board of Prison Commissioners, with the approval of and when so directed by the Governor, is authorized to execute a proper lease or contract providing for prospecting for and mining the oil, gas and other minerals that may be acquired and owned by the State for penitentiary farm purposes, such leases or contract to be approved by the Attorney General	532
See School Lands	426
NAVIGATION—	
It is the duty of the county auditor to audit all bills of the navigation district and approve same if incurred in accordance with law, and are found by him to be correct, and no bill of the district can be paid until the same has been audited and approved by the county auditor, as provided by law. All warrants of the district must be countersigned by the county auditor	543
OFFICERS—	
<i>Fees of Office—Sheriffs—</i>	
The Act of the Thirty-eighth Legislature allowing the sheriff 15 cents for each day for the safe keep of each prisoner not to exceed the sum of two hundred dollars per month, does not repeal or supersede the provisions of Article 1143, Code of Criminal Procedure, allowing the sheriff a certain amount for guards	437
Except the district attorney, the officers named in Articles 3881 to 3886 in counties having a population of twenty-five thousand inhabitants or less, are not required to make report of fees as provided for in Article 3895, or to keep the statement provided for in Article 3894	149
<i>District Judge—</i>	
Where a district judge, who has been elected for a four-year term, resigns and the Governor fills the vacancy until the next general election, at which time a judge is elected, the election is for the unexpired term only and is not for a full four-year term	439
<i>State Health Officer—</i>	
The Legislature imposed the duty upon the health officer of this State to prevent the sale or offering for sale unwholesome, unclean or decayed foods in this State on dining cars or elsewhere	507
PENSIONS—	
The commissioners court would not be authorized to make an allowance to the grandmother of children under the provisions of Chapter 120, page 313, General Laws, Regular Session of the Thirty-fifth Legislature, nor to a grandmother or other woman on account of children she may have adopted under the provisions of Title 1 of the Revised Civil Statutes of 1911.	157



## PENSIONS —(Continued)

- One who has been admitted into the Confederate Home, or into the Confederate Woman's Home, remains an inmate of such home within the meaning of Article 6278 of the Revised Civil Statutes of 1911, as amended by Chapter 74, page 144, General Laws, Regular Session, Thirty-seventh Legislature, during his or her absence therefrom on a furlough or other leave of absence, and during such absence, in like manner as during the time such person may be actually present in such home, such person is entitled to only one-half of the amount of the pension such person would be entitled to if he or she had not been admitted into such home . . . . . 524
- A man, who, as the head of a family, is claiming, holding, occupying and using as a homestead, under his right to do so as the head of a family, land valued at eighteen hundred (\$1800.00) dollars, although such land is community property, one-half of which belongs to children of himself and deceased wife, is to all intents and purposes the owner of such land within the meaning of Article 6272 of the Revised Civil Statutes, as amended, is not indigent within the meaning of said article, and is not entitled to a pension under the Constitution and laws of this State as a Confederate soldier . . . . . 523
- PRISON COMMISSIONERS—
- See Mines and Mining . . . . . 532
- A proposed contract purporting to provide for the establishment and operation of a factory by the Board of Prison Commissioners held not to be such, and held to be violative of Article 6174 of the Revised Civil Statutes of 1911, as amended by Chapter 32, page 49, General Laws, First and Second Called Sessions, Thirty-fifth Legislature, prohibiting the sale of convict labor . . . . . 525
- The term of office of the auditor for the prison system, and his right to the compensation provided by law, begins with the date of his acceptance of the appointment to that office upon beginning the discharge of the duties of that office within a reasonable time thereafter . . . . . 528
- PRISON SYSTEM—
- See Appropriations . . . . . 107
- PUBLIC LANDS—
- See Aliens . . . . . 513
- A grant of land made by the State since December 14, 1837, that embraces within its boundaries the bed of a stream maintaining an average width of thirty feet or not, did not pass to the grantee title to the bed of such stream, and in such case the bed of the stream remains the property of the State and is subject to the provisions of Chapter 83, page 158, General Laws, Regular Session, Thirty-fifth Legislature, effective June 19, 1917, pertaining to prospecting for, developing and mining oil and gas on river beds and channels, and the granting of permits therefor . . . . . 423
- PUBLICATION—PRICE FOR NOTICES—
- Chapter 179, General Laws, Regular Session, Thirty-fifth Legislature, on the subject of publication of the notices theretofore required to be posted, and fixing the rate of publication has no application to notices by publication of the sale of real property to be sold under execution mentioned in Article 3757 or to publication of notices in delinquent tax suits provided for in Article 7698 . . . . . 503
- RAILROADS—
- M., K. & T. Ry. Co. (Memorandum of notice of sale.)
- RAILROAD COMMISSION—
- The statutes of this State do not confer authority of the Railroad Commission to exercise control or jurisdiction in the manner of determining whether or not unwholesome, unclean or decayed food is being sold or offered for sale through the dining car service operated by certain railroads within this State . . . . . 507

## SCHOOL DISTRICTS—

*Common School—*

- A general validating act, enacted by the Legislature for the purpose of validating common school districts created by proper officers, is inadequate to validate an order of commissioners court redefining a common school district when the effect of such order is to abolish a county line school district, without the consent of commissioners court of both counties in which such county line is situated . . . . . 441
- County boards of school trustees of two or more counties cannot consolidate common school districts lying in different counties by reciting that they are creating a common county line school district when in fact they are consolidating two or more common school districts lying in different counties, our courts having held that consolidation of such districts may be had only by virtue of an election held for that purpose . . . . . 443

## SCHOOL LANDS—

- An application for the reinstatement of a forfeited sale of public free school land classified as "agricultural" at the time of sale does not vest in the applicant the right to a reinstatement if after such forfeiture and before the making of such application the classification of the land is changed to "mineral and agricultural" and there is at the time such application is made a valid oil and gas permit outstanding upon such land applied for before the making of such application for reinstatement, nor will the fact that such application, together with interest money paid thereon, remain in the Land Office during the life of, and is there upon the termination of, such permit, operate to vest in the applicant the right to reinstatement, nor, upon tender of the balance due the State, to a patent to such land under such forfeited sale . . . . . 426

## STATUTES CITED AND CONSTRUED—

*Constitution—*

- Article I—  
 Section 2 . . . . . 192  
 Section 16 . . . . . 160
- Article III—  
 Section 3 . . . . . 107  
 Section 7 . . . . . 214  
 Section 12 . . . . . 210  
 Section 32 . . . . . 210  
 Section 39 . . . . . 163, 165, 210  
 Section 41 . . . . . 210  
 Section 49 . . . . . 212  
 Section 152 . . . . . 143
- Article IV—  
 Section 14 . . . . . 163  
 Section 15 . . . . . 163
- Article V—  
 Section 7 . . . . . 440  
 Section 18 . . . . . 143  
 Section 28 . . . . . 440
- Article VI—  
 Section 2 . . . . . 517  
 Section 3 . . . . . 386
- Article VIII—  
 Section 2 . . . . . 218  
 Section 3 . . . . . 490  
 Section 6 . . . . . 124, 167, 486  
 Section 9 . . . . . 144, 141, 143  
 Section 10 . . . . . 479  
 Section 13 . . . . . 455  
 Section 15 . . . . . 455  
 Section 17 . . . . . 190

## STATUTES CITED AND CONSTRUED—(Continued)

Article XI—	
Section 2	143
Section 7	143
Section 10	386
Article XVII—	
Section 1	193
<i>Code of Criminal Procedure—</i>	
Article 1117A	413
Article 1118	420
Article 1122	413, 418
Article 1130	413, 418
Article 1143	437
Article 1173	418
Article 1197	511
Article 3866	418
<i>Criminal Code—</i>	
Article 130	449
Article 134	154
Article 139	154
<i>Acts Thirty-third Legislature, 1913—</i>	
Chapter 106	351, 364
Chapter 179	358
<i>Acts Thirty-fourth Legislature, 1915—</i>	
Chapter 20	442
Chapter 41	271
<i>Acts Thirty-fifth Legislature, 1917—</i>	
Chapter 32	525, 542
Chapter 83	424
Chapter 88	547
Chapter 116	111
Chapter 120	157
Chapter 179	503
<i>Acts Thirty-sixth Legislature, 1919—</i>	
Chapter 3	439
Chapter 14	266
Chapter 29	214, 384, 553
Chapter 43	418
Chapter 67	433
Chapter 77	446
Chapter 83	361
Chapter 157	521
<i>Acts Thirty-seventh Legislature, 1921—</i>	
Chapter 45	415
Chapter 51	449
Chapter 74	524
Chapter 134	513
Chapter 138	111, 112, 119
<i>Acts Thirty-eighth Legislature, 1923—</i>	
Chapter 16	499
Chapter 21	470, 480
Chapter 29	475
Chapter 51	503
Chapter 52	221, 228
Chapter 54	551
Chapter 149	391
Chapter 177	378
Chapter 180	373
Chapter 181	150, 437
Chapter 182	347
Chapter 185	305, 321

## STATUTES CITED AND CONSTRUED—(Continued)

*Revised Civil Statutes of 1911—*

Article 376	327
Article 445	273
Article 446	273
Article 448	273
Article 449	273
Article 453	274, 313
Article 456	274, 313
Article 457	274, 313
Article 458	274, 313
Article 459	274, 313
Article 460	274, 313
Article 463	334
Article 467	274, 313
Article 468	274, 313
Article 480	335
Article 486	317
Article 490	310
Article 523	337
Article 540	331, 333
Article 545	307
Article 550	307
Article 557	258
Article 558	322
Article 559	322
Article 570A	329
Article 578	331
Article 622	368
Article 1113 $\frac{1}{2}$ C	253
Article 1121	220, 232, 373
Article 1313C	253
Article 1313D	341
Article 1313 $\frac{1}{2}$ Y	341
Article 1390	384
Article 1494A	545
Article 1672	440
Article 1674	440
Article 2242	144
Article 2652	549
Article 2653	549
Article 2654	549
Article 2817 $\frac{1}{2}$	444
Article 2909A	561
Article 2909B	561
Article 2909C	561
Article 2909D	561
Article 2909DD	561
Article 2922	389
Article 2939	391
Article 2953	391
Article 2954	391
Article 3140	402
Article 3159	402, 406
Article 3169	406
Article 3172	397, 403
Article 3173	397
Article 3757	503
Article 3785	385
Article 3786	385
Article 3787	385
Article 3876	432
Article 3881	150, 415
Article 3894	149, 150
Article 3895	150

## STATUTES CITED AND CONSTRUED—(Continued)

Article 3896	414, 417
Article 3897	149, 153
Article 3898	150
Article 3903	415
Article 4332	109
Article 4333	107
Article 4368	109
Article 4850	377
Article 4851	374
Article 4876	351, 364
Article 4876A	353
Article 4904	351, 364
Article 4955	361
Article 4963	361
Article 4965	361
Article 4967	361
Article 4969	361
Article 5246	378
Article 5955	544
Article 6174	525, 536
Article 6187	536
Article 6188	107
Article 6192	107
Article 6193	529
Article 6203	445
Article 6214	445
Article 6215	445
Article 6217	445
Article 6220	445
Article 6227	542
Article 6272	523
Article 6278	524
Article 6654	507
Article 6675	507
Article 6736	225
Article 6901A	149
Article 6901D	149
Article 6901DD	149
Article 6973	474
Article 7351	137
Article 7355	449
Article 7383	446
Article 7509	164, 388
Article 7516	164
Article 7517	164
Article 7520	164
Article 7544	164
Article 7550	164
Article 7551	164
Article 7565	464
Article 7566	156
Article 7575	164
Article 7627	466
Article 7630	471
Article 7663	464
Article 7682	464
Article 7689	472
Article 7698	503
Article 7702	464
Article 7707	487
Article 7715	464
Article 7796	261, 263

## SUPERINTENDENT OF PUBLIC INSTRUCTION—

Superintendent of Public Instruction has no power or authority to bind State by purchase of textbooks to be used in public free schools during scholastic year beginning September 1, 1923, under a contract which expires with the close of the scholastic year beginning September 1, 1922.

State Superintendent of Public Instruction has no power or authority to change an adopted series of textbooks or to make extensions or renewals of textbook contracts. That power belongs to the State Textbook Commission alone . . . . . 553

## TAXES—

*Auto Registration Tax—*

An automobile registration fee is not an occupation tax . . . . . 186

*Occupation Tax—*

Revised Civil Statutes, as amended by Chapter 16, Acts of the Thirty-eighth Legislature, Second Called Session, does not levy a tax upon coin operated machines or devices, except those specifically named in the act, and others similar in kind and character . . . . . 499

*Optometrist—*

Regularly licensed optometrists who have an established office in a county but make visits to other towns either in the same county or in other counties, establish temporary offices there and solicit business, are subject to the payment of the occupation tax provided for by Section 6, Article 7355, R. S., 1911 . . . . . 449

*Peddlers—*

A person, not a regularly licensed optometrist, who travels from place to place selling eyeglasses as articles of merchandise and delivering the same to his customers, at the time of purchase, is not subject to the payment of the occupation tax provided for by Section 6, Article 7355, Revised Statutes, 1911, but is subject to the payment of the occupation tax provided for in Section 11 of said article. . . . . 449

*Redemption—*

A tract of land that has been at any time bid off to the State at a tax lien foreclosure judgment sale may be redeemed by the owner or anyone having an interest in same paying within two years from the date of such sale the amount of taxes, interest, penalties and costs for which same was bid off to the State, together with all taxes, interest, penalties and costs against same remaining unpaid at the time of redemption . . . . . 455

*Foreclosure—*

Certain courts of this State, other than the Supreme Court, have held that the sale of a tract of land under a judgment foreclosing the lien on same for State and county taxes for any given year or years, in cases where the sale is made to some person other than the State, extinguishes or precludes the enforcement of the lien for such taxes previously assessed on same for any prior year or years, where no express reservation is made in such foreclosure suit of the lien for such taxes so previously assessed for such prior year or years, and the utmost diligence should be exercised on the part of those charged with the duty of enforcing such judgments, particularly district and county attorneys, to see that no tract of land is sold under any such judgment when such sale would leave unsatisfied the lien securing the payment of State and county taxes previously assessed on same for any prior year or years; and each suit to foreclose the lien for such taxes on any tract of land should include all State and county taxes on same delinquent at the time the suit is filed . . . . . 458

*Inheritance Tax—Personal Property—*

Personal property permanently situated within the territorial boundaries of this State, regardless of whether owned by residents or non-residents, is within the jurisdiction of this State and is subject to inheritance taxes in Texas . . . . . 475

TAXES—(Continued)

Personal property belonging to residents of this State, regardless of where located, is within the jurisdiction of this State and is subject to inheritance taxes in Texas . . . . . 475

*Real Estate—*

Real estate situated in this State is within the jurisdiction of this State and is subject to inheritance taxes in Texas.

Real estate belonging to residents of this State and situated in a foreign State and not subject to inheritance taxes in Texas . . . . . 475

*Delinquent Tax—*

Commissioners courts are without authority to contract with attorneys to act independent of the county and district attorneys in the filing of suits for collection of delinquent taxes.

There is no statutory or constitutional provision authorizing the commissioners court to contract with attorneys or other persons for the collection of delinquent taxes except that such court may contract with an attorney to assist the county and district attorneys in the performance of their duties. Other contracts for the purpose of collecting delinquent taxes are invalid and unenforceable. . . 479

*Board of Equalization—*

The board of equalization is not charged with the duty and has no power nor authority to add personal property to the lists or inventories of property listed to or by the tax assessor for taxation, or to the tax rolls properly prepared by the tax assessor from such lists or inventories, nor to list or render personal property for taxation not so listed or rendered, nor to summon persons to appear before it or otherwise to consider evidence for the purpose of investigating whether or not this should be done . . . . . 153

*Payment on Separate Tracts of Land—*

Where a tract of land within the meaning of our tax laws is properly separately described and valued on the list or inventory of property listed or rendered for taxation for a given year, such tract should be separately entered and valued on the tax rolls for such year, and the owner of such tract, irrespective of when or how acquired, or other person where necessary to preserve unimpaired a property right in same, has the right to pay the taxes assessed (or properly assessable) against such tract for such year, at any time after such taxes become due and payable, without the payment of taxes for such year against any other person or property, and this although such tract may have been listed with other property, all so listed together on the same list or inventory as the property of one ownership, and although all such property so listed may have been entered together on the same tax roll form for such year in the name of and as the property of one ownership, and with the taxes calculated and stated or extended on such tax roll form for such year only as against the total or aggregate value of all such property, and not separately as against such tract; provided: . . . . . 465

One who has been assessed with and is liable for the payment of a poll tax in one county and who, without paying same, has moved to and become a resident of another county, cannot be required to work upon the public roads of the latter county upon the ground that he has failed to pay such poll tax, either under Article 6973 of the Revised Civil Statutes or under any local road law that may have been passed for either of such counties as at present enacted . . . 474

An Act of the Legislature undertaking to exempt from taxation property owned, held and used by the American Legion of the Department of Texas and the various posts thereof in the State of Texas is unconstitutional since it is not within the power of the Legislature to extend such exemption to any property not used exclusively for purely public charities . . . . . 218

Where land is being sold under judgment in favor of the State foreclosing the State's lien for taxes neither the county attorney nor the sheriff is required or authorized to bid on same for the State if there are other bona fide bidders, and in such case sale may be made for an amount less than the aggregate of the taxes, penalties,

## TAXES—(Continued)

- interest and costs, but where there are no bona fide bidders it is the duty of the county attorney, or, in his absence, of the sheriff, to bid the property off to the State at not less than the amount of the taxes, penalties, interest and costs adjudged against the property . . . . . 472
- What constitutes the "market value" of oil within the meaning of Article 7383, R. C. S., 1911, as amended by Chapter 77, General Laws, passed at the Regular Session of the Thirty-sixth Legislature, is a question of fact to be determined from all the circumstances and conditions existing in the field of production at the time the oil is produced . . . . . 446

## TEXTBOOK COMMISSION—

*Free Textbook Commission—Supplemental Bids—*

- After the bids have been filed and opened, the Textbook Commission cannot permit supplemental bids except for purposes of correction of mistakes apparent on the face of bids . . . . . 560

*Textbooks—Free—*

- Duty of State Board of Education in respect to setting apart funds to provide free textbooks is imposed in and defined by Section 3, Article 7, State Constitution. . . . . 214
- Legislature has no power to require the State Board of Education to set apart only the amount estimated by the Superintendent of Public Instruction to be sufficient to provide free textbooks the coming year, if the board should believe such amount too much or too little . . . . . 215
- State Board of Education must obey its constitutional duty and set apart an amount actually sufficient to provide for textbooks . . . . . 215

## TORTS—

- Where an inmate of the State Industrial School for Boys, a State institution and governmental agency, died from the effects of corporal punishment administered to him by an employee of said institution, the Legislature was without authority, in absence of a pre-existing statute making the State liable for the tortious or negligent acts of the employees of said institution, to make an appropriation, out of the public funds of the State, to pay the parents of said inmate for loss and damages sustained by the death of their son . . . . . 509