

# Texas Historical Statutes Project

1931 SUPPLEMENT  
TO THE  
1928 COMPLETE TEXAS STATUTES



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SUPPLEMENT  
TO THE  
1928  
COMPLETE TEXAS STATUTES

COVERING THE  
LAWS OF A GENERAL NATURE ENACTED AT THE  
41<sup>ST</sup> LEGISLATURE, 1929 (REGULAR SESSION  
AND FIRST TO THIRD CALLED SESSIONS)  
41<sup>ST</sup> LEGISLATURE, 1930 (FOURTH AND FIFTH  
CALLED SESSIONS)

AND

42<sup>ND</sup> LEGISLATURE, 1931 (REGULAR SESSION  
FIRST AND SECOND CALLED SESSIONS)

WITH  
TABLE OF SESSION LAWS  
AND  
INDEX

KANSAS CITY  
VERNON LAW BOOK CO.  
1931



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'31 TEX. COMP. STAT.

## EXPLANATION

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The purpose of this volume is to present in convenient form the General Laws of Texas, in force and effect, subsequent to the Laws published in Vernon's 1928 Complete Texas Statutes.

Included are Laws of the Regular and Called Sessions of the 41st Legislature 1929 and 1930 and the Regular and Called Sessions of the 42nd Legislature 1931.

The arrangement conforms to Vernon's 1928 Complete Texas Statutes and Vernon's Annotated Texas Statutes which are based on the 1925 Revision of the Texas Statutes.

A comprehensive Index is provided.

Table of Session Laws for the 41st and 42nd Sessions of the Legislature are included.

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# AMENDMENTS

## TO THE

# CONSTITUTION OF THE STATE OF TEXAS

The following is the complete text of the amendments to the Constitution adopted November 6, 1928 and November 4, 1930.

## ARTICLE III

### LEGISLATIVE DEPARTMENT

#### Section 5.

The Legislature shall meet every two years at such time as may be provided by law and at other times when convened by the Governor. When convened in regular Session, the first thirty days thereof shall be devoted to the introduction of bills and resolutions, acting upon emergency appropriations, passing upon the confirmation of the recess appointees of the Governor and such emergency matters as may be submitted by the Governor in special messages to the Legislature; provided that during the succeeding thirty days of the regular session of the Legislature the various committees of each House shall hold hearings to consider all bills and resolutions and other matters then pending; and such emergency matters as may be submitted by the Governor; provided further that during the following sixty days the Legislature shall act upon such bills and resolutions as may be then pending and upon such emergency matters as may be submitted by the Governor in special messages to the Legislature; provided however, either House may otherwise determine its order of business by an affirmative vote of four-fifths of its membership. (Sec. 5, Art. 3, adopted election Nov. 4, 1930.)

#### Sec. 24

Members of the Legislature shall receive from the public Treasury a per diem of not exceeding \$10.00 per day for the first 120 days of each session and after that not exceeding \$5.00 per day for the remainder of the session.

In addition to the per diem the members of each House shall be entitled to mileage in going to and returning from the seat of government, which mileage shall not exceed \$2.50 for every 25 miles, the distance to be computed by the nearest and most direct route of travel, from a table of distance prepared by the Comptroller to each county seat now or hereafter to be established; no member to be entitled to mileage for any extra session that may be called within one day after the adjournment of a regular or called session. (Sec. 24, Art. 3, adopted election Nov. 4, 1930.)

Sec. 51. The Legislature shall have no power to make any grant or authorize the making of any grant of public moneys to any individual, association of individuals, municipal or other corporations whatsoever; provided, however, the Legislature may grant aid to indigent and disabled Confederate soldiers and sailors under such regulations and limitations as may be deemed by the Legislature as expedient, and to their widows in indigent circumstances under such regulations and limitations as may be deemed by the Legislature as expedient; to indigent and disabled sol-

diers, who, under special laws of the State of Texas, during the war between the States, served in organizations for the protection of the frontier against Indian raids or Mexican marauders, and to indigent and disabled soldiers of the militia who were in active service during the war between the States, and to the widows of such soldiers who are in indigent circumstances, and who are or may be eligible to receive aid under such regulations and limitations as may be deemed by the Legislature as expedient; and also grant for the establishment and maintenance of a home for said soldiers and sailors, their wives and widows and women who aided in the Confederacy, under such regulations and limitations as may be provided for by law; provided the Legislature may provide for husband and wife to remain together in the home. There is hereby levied in addition to all other taxes heretofore permitted by the Constitution of Texas, a State ad valorem tax on property of seven (\$.07) cents on the one hundred (\$100) dollars valuation for the purpose of creating a special fund for the payment of pensions for services in the Confederate army and navy, frontier organizations and the militia of the State of Texas, and for the widows of such soldiers serving in said armies, navies, organizations or militia; provided that the Legislature may reduce the tax rate herein levied, and provided further, that the provisions of this section shall not be construed so as to prevent the grant of aid in cases of public calamity. (Sec. 51, Art. 3, adopted election Nov. 6, 1928.)

## ARTICLE V

### JUDICIAL DEPARTMENT

#### Sec. 3

Amended by repealing the sentence in the second paragraph "The Supreme Court shall sit for the transaction of business from the first Monday of October in each year until the last Saturday in June of the next year, inclusive at the Capitol of the State." (Adopted election Nov. 4, 1930.)

#### Sec. 3a

The Supreme Court may sit at any time during the year at the seat of government for the transaction of business and each term thereof shall begin and end with each calendar year. (Sec. 3a, Art. 5, adopted election Nov. 4, 1930.)

## ARTICLE VII

### EDUCATION

Sec. 8. The Legislature shall provide by law for a State Board of Education, whose members shall be appointed or elected in such manner and by such authority and shall serve for such terms as the Legislature shall prescribe not to exceed six years. The said board shall perform such duties as may be prescribed by law. (Sec. 8, Art. 7, adopted election Nov. 6, 1928.)

#### Sec. 11

In order to enable the Legislature to perform the duties set forth in the foregoing section, it is hereby declared all lands and other property heretofore set apart and appropriated for the establishment and maintenance of the University of Texas, together with all the proceeds of sales of the same, heretofore made or hereafter to be made, and all grants, donations

and appropriations that may hereafter be made by the State of Texas, or from any other source, shall constitute and become a permanent university fund. And the same as realized and received into the Treasury of the State (together with such sums belonging to the fund, as may now be in the Treasury), shall be invested in bonds of the United States, the State of Texas, or counties of said State, or in school bonds of municipalities, or in bonds of any city of this State, or in obligations and pledges issued by the Board of Regents of the University of Texas, or secured by such obligations and pledges, for the construction of dormitories and other buildings for the use of the University of Texas, or in bonds issued under and by virtue of the Federal Farm Loan Act approved by the President of the United States, July 17, 1916, and amendments thereto; and the interest accruing thereon shall be subject to appropriation by the Legislature to accomplish the purpose declared in the foregoing section; provided, that the one-tenth of the alternate sections of the lands granted to railroads, reserved by the State, which were set apart and appropriated to the establishment of the University of Texas, by an Act of the Legislature of February 11, 1858, entitled, "An Act to establish 'the University of Texas,' shall not be included in, or constitute a part of, the permanent university fund." (Sec. 11, Art. 7, adopted election Nov. 4, 1930.)

Sec. 16. The Legislature shall fix by law the terms of all offices of the public school system and of the State institutions of higher education, inclusive, and the terms of members of the respective boards, not to exceed six years. (Sec. 16, Art. 7, adopted election Nov. 6, 1928.)

#### Sec. 16[a]

All land mentioned in Sections 11, 12 and 15 of Article VII, of the Constitution of the State of Texas, now belonging to the University of Texas shall be subject to the taxation for county purposes to the same extent as lands privately owned; provided they shall be rendered for taxation upon values fixed by the State Tax Board; and providing that the State shall remit annually to each of the counties in which said lands are located an amount equal to the tax imposed upon said land for county purposes. (Sec. 16[a], Art. 7, adopted Nov. 4, 1930.)

Amendment numbered 16[a], as a section numbered 16, was adopted at election Nov. 6, 1928.

## ARTICLE VIII

### TAXATION AND REVENUE

Sec. 2. All occupation taxes shall be equal and uniform upon the same class of subjects within the limits of the authority levying the tax; but the legislature may, by general laws, exempt from taxation public property used for public purposes; actual places or [of] religious worship, also any property owned by a church or by a strictly religious society for the exclusive use as a dwelling place for the ministry of such church or religious society, and which yields no revenue whatever to such church or religious society; provided that such exemption shall not extend to more property than is reasonably necessary for a dwelling place and in no event more than one acre of land; places of burial not held for private or corporate profit; all buildings used exclusively and owned by persons or associations of persons for school purposes and the necessary furniture



of all schools and property used exclusively and reasonably necessary in conducting any association engaged in promoting the religious, educational and physical development of boys, girls, young men or young women operating under a State or National organization of like character; also the endowment funds of such institutions of learning and religion not used with a view to profit; and when the same are invested in bonds or mortgages, or in land or other property which has been and shall hereafter be bought in by such institutions under foreclosure sales made to satisfy or protect such bonds or mortgages, that such exemption of such land and property shall continue only for two years after the purchase of the same at such sale by such institutions and no longer, and institutions of purely public charity; and all laws exempting property from taxation other than the property above mentioned shall be null and void. (Sec. 2, Art. 8, adopted election Nov. 6, 1928.)

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## CERTIFICATE OF SECRETARY OF STATE

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### THE STATE OF TEXAS, DEPARTMENT OF STATE

I, Jane Y. McCallum Secretary of State, of the State of Texas, do hereby certify that the foregoing is a true and correct copy of

AMENDMENTS TO THE CONSTITUTION OF THE STATE OF TEXAS, which were submitted to the voters on November 6, 1928 and November 4, 1930, and adopted by them with the endorsement thereon, as now appears of record in this Department.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused to be impressed hereon the Seal of State at my office in the City of Austin, this 1st day of December, A. D. 1931.

JANE Y. MCCALLUM,  
Secretary of State.

[Official Seal,  
State of Texas.]



SUPPLEMENT  
TO THE  
REVISED CIVIL STATUTES  
OF THE  
STATE OF TEXAS

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**TITLE 1—GENERAL PROVISIONS**

Art. 28. [Repealed by Acts 1929, 41st Leg., p. 235, ch. 100, § 1]

Acts 1929, 41st Leg., 2nd C. S., p. 91, ch. 53, §§ 1-3, validate the service of citations whether published or posted in all proceedings where guardians have been appointed, written wills probated, or executors or administrators appointed.

**TITLE 3—ADOPTION**

Arts. 42-46. [Repealed by Acts 1931, 42nd Leg., p. 300, ch. 177, § 11]

[Art. 46a. Petition for adoption, hearing and rights of adopted child]

Sec. 1. Any adult resident of this State may petition the District Court in the District of his residence or in the District of the residence of the child to be adopted for leave to adopt a minor child; such petition shall set forth the facts relevant to petitioner and child, and be verified by the affidavit of the petitioner. But no such petition made by a married person shall be granted unless the husband and wife shall join therein, excepting when such petitioner shall be married to the natural father or mother; then such joinder by such father or mother shall be unnecessary.

Sec. 2. Upon the filing of such petition for the adoption of any minor child, the Court or Judge shall cause an investigation to be made of the former environment and antecedents of the child for the purpose of ascertaining whether he is the proper subject for adoption, and of the home of the petitioner to determine whether it is a suitable home for the child. Such investigation shall be made by a suitable person selected by the Court. The results of such investigation shall be embodied in a full written report, which shall be submitted to the court at or prior to the hearing on the petition and which shall be filed with the records of the proceedings and become a part thereof.

Sec. 3. No petition for the adoption of any minor child shall be granted until the child shall have lived for six months in the home of the petitioner; provided, that this requirement may be dispensed with upon good cause shown in the discretion of the Court, when the Court is satisfied that the home of the petitioner and the child are suited to each other.

Sec. 4. Upon the filing of a petition for adoption the court shall appoint a time and place for hearing such petition, which shall allow a reasonable time, but not exceeding thirty days, for the prior investigation provided for in Section 2.

Sec. 5. The petitioner and the child to be adopted, if fourteen years of age or over, shall be required to attend the hearing in person, but a younger child shall not be required to attend unless the Court so orders.

Sec. 6. Except as otherwise specified in this Section, no adoption shall be permitted except with the written consent of the living parents of the

child. In the case of a child fourteen years of age or over, the consent of such child also shall be required and must be given in writing in the presence of the Court. Consent shall not be required of parents whose parental rights have been terminated by order of the Juvenile Court or other Court of Competent Jurisdiction; provided, however, that in such cases adoption shall be permitted only on consent of the Superintendent of the Home or School, or of the individual to whom the care, custody or guardianship of such child has been transferred by a Juvenile Court or other Court of Competent Jurisdiction. In case of a child not born in lawful wedlock the consent of the father shall not be necessary.

Sec. 7. Nothing in this Act shall prevent a Court of Competent Jurisdiction from taking away from such adoptive parent the custody of the adopted child and awarding the same to its natural parents, or either of them or to any other person, upon proof of the bad moral character of such adoptive parent, or upon proof of abuse, neglect or ill treatment of such adopted child by the adoptive parent.

Sec. 8. No white child can be adopted by a negro person, nor can a negro child be adopted by a white person.

Sec. 9. When a child is adopted in accordance with the provisions of this Article, all legal relationship and all rights and duties between such child and its natural parents shall cease and determine, provided, however, that nothing herein shall prevent such adopted child from inheriting from its natural parent; all adopted children shall inherit from the adopted as well as its natural parents. Said child shall thereafter be deemed and held to be, for every purpose, the child of its parent or parents by adoption as fully as though born of them in lawful wedlock. Said child shall be entitled to proper education, support, maintenance, nurture and care from said parent or parents by adoption, and shall inherit from said parent or parents by adoption, and as the child of said parent or parents by adoption, as fully as though born to them in lawful wedlock; subject, however, to the provisions of this Act. Said parent or parents by adoption shall be entitled to the services, wages, control, custody and company of said adopted child, and shall, as such adopting parent or parents, inherit from and as the parent or parents of said adopted child as fully as though the child had been born to them in lawful wedlock; provided, however, that upon the death of such adopted child, while unmarried and without issue of its body, all of its property, of whatsoever kind and nature, shall pass and descend to the adopting parent or parents, if living, but if such adopting parent or parents be not living, then all such property shall pass and descend to the next of kin of said adopting parent or parents according to the then law of descent and distribution, and not to the next of kin of such adopted child; and provided that, upon the death of such adopted child leaving surviving a husband or wife and child or children, or leaving surviving a husband or wife and no child or children, or leaving surviving a child or children and no husband or wife, then and in such event all property of whatsoever kind and nature of said adopted child shall pass and descend to said husband or wife and child or children or either of them as the case might be, according to the then law of descent and distribution; provided, further, that upon the death of a child of an adopted child without leaving a surviving father or mother, or husband or wife, or child or children, or a brother or brothers, or sister or sisters, all property of whatsoever kind of such deceased child of an adopted child shall pass and descend to the adopting parent or parents of such adopted child, if living, but if not living, then to the next of kin of such adopting parent or parents, according to the then law of descent and distribution, and not to the next of kin of such adopted child; provided, further, that if such adopting parent or parents shall have other children, both natural children and adopted children, then, in such event, the children by birth and adoption shall respectively inherit from and through each other as if all such children had been born

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

in lawful wedlock of the same parents; provided, further, that nothing in this Act shall be construed so as to prevent or debar an adopted child from disposing of its property by Will according to the laws of this State; and finally, provided, that the legal adoption of a child, according to the laws of another State of the United States, residing in the State of Texas, shall be, in all respects, valid and binding as if the adoption had occurred in the State of Texas, insofar as the effect of the adoption and the rights of inheritance may be concerned as provided in this Act.

Sec. 10. The files and records of the court in adoption proceedings shall not be open to the inspection or copy by other persons than parties interested and their attorneys, except upon order of the court especially permitting inspection of the records, except that all judgments, orders and decrees of the Court may be open to inspection by any person and certified copies may be obtained from the Clerk of the Court. [Acts 1931, 42nd Leg., p. 300, ch. 177.]

Effective 90 days after May 23, 1931, date 42nd Leg. p. 300, ch. 177, repeals title 3 of adjournment. Section 11 of Acts 1931, (arts. 42-46) of Rev. St. 1925.

#### TITLE 4—AGRICULTURE AND HORTICULTURE

[Art. 55a. Grading and classifying rough rice; cooperation with Federal Government; appointment of inspector-graders by Commissioner of Agriculture]

Sec. 1. There is hereby created under the State Department of Agriculture what shall be known as the Rice Grading Division in the Division of Marketing; and it shall be the duty upon the passage of this Act for the Commissioner of Agriculture to appoint one Chief Rough Rice Inspector-grader, and it shall be further his duty to employ two assistants to such Inspector-grader, the salary of which shall be fixed by the Commissioner of Agriculture not to exceed Five Thousand (\$5,000.00) Dollars per annum which shall be paid in equal monthly installments.

Sec. 2. It shall be the duty of the said Inspector and his assistants, under the direction and supervision of the Commissioner, to inspect and grade all rough rice grown in or produced in or imported into this State under such rules and regulations as said Commissioner may promulgate.

Sec. 3. The Commissioner of Agriculture and the proper agencies of the Federal Government shall cooperate and work together with reference to the grading and inspection of such rice, and any certificate executed by an officer of the United States Government, or of the Commissioner, or any Inspector, or Assistant Inspector provided for herein, shall be admissible as evidence of the grade or classification and as to the truth of the contents thereof in any court of judicial proceedings in this State, provided herein that incorrectness, falsity or lack of authenticity thereof may be shown. Said certificate shall be on the form prescribed by the United States Department of Agriculture and/or the Commissioner of Agriculture of the State of Texas.

Sec. 4. The purpose of this Act is to provide the rice farmers of Texas an inspector for the purpose of grading and classifying rough rice produced in Texas; and this Act shall not be considered as creating any office in the State of Texas, or causing any expense whatever to the State Government; but all expenses in administering this Act shall be borne by the rice farmers of Texas, through the Rice Growers' Association. [Acts 1931, 42nd Leg., p. 299, ch. 176.]

[Art. 55b. Commissioner of Agriculture to collect statistical information as to farms; blanks and instructions to county tax assessors; reports; cooperation with Federal Government]

Sec. 1. From and after the passage of this Act, it shall be the duty of the Commissioner of Agriculture to gather, compile, and disseminate

statistical information relating to farm areas, crop acreages, natural resources and products thereof in such form and under such rules and regulations as he may prescribe not inconsistent with the provisions of this Act.

Sec. 2. It shall be the duty of each County Tax Assessor to collect annually all information referred to in Section 1 of this Act, in such form as may be called for by the Commissioner of Agriculture.

Sec. 3. The Commissioner of Agriculture shall furnish to each Tax Assessor within this State on or before December 1, 1931, and annually thereafter not later than December 1st, such blanks and instructions as may be necessary in the collection of said statistical information referred to in Section 1 of this Act.

Sec. 4. Each Assessor or his Deputies shall gather the statistics mentioned in Section 1 of this Act by a personal interview with the owner or operator of each farm or with his manager or agent if any can be found; if not, then he shall obtain such information from the most reliable source available.

Sec. 5. The annual enumeration of the statistics, referred to in Section 1 of this Act, shall be made at the time the general assessment for taxes is being made, and the original enumeration together with all unused portions of blanks or books furnished by the Commissioner of Agriculture shall be returned to the Commissioner of Agriculture not later than June 1st. The Commissioner of Agriculture upon receipt of such books shall immediately compile or cause to be compiled and disseminate such information by counties and for the State.

Sec. 9. Cooperation with Federal Government. The Commissioner of Agriculture is authorized by this Act to enter into an agreement with the United States Department of Agriculture for cooperative work in the collections, publications, and dissemination of agricultural statistics. [Acts 1931, 42nd Leg., p. 498, ch. 278.]

Effective 90 days after May 23, 1931, date of adjournment. Sections 6-8 of said Acts 1931, 42nd Leg. p. 498, ch. 278, being penal provisions are published as Penal Code art.

395a. Section 10 makes an appropriation for the purposes of the act. Section 11 provides that if any section is held invalid, such holding shall not affect the remaining sections.

#### [Art. 67a. Registration of agricultural seed growers]

Sec. 1. The necessity for high grade planting seed for agricultural crops is hereby recognized and the purposes of this Act [Art. 67a; P. C. art. 1555a] shall be to enable farmers to secure pure bred agricultural seeds true to name and free from noxious weed seeds and free from plant diseases transmissible through the agency of planting seed.

Sec. 2. Persons, firms, associations or corporations skilled in the science of plant breeding and who voluntarily apply, and who comply with the requirements herein provided for and who produce agricultural planting seed of the quality herein provided for registered planting seed, shall upon approval by the State Seed and Plant Board be recorded as "Registered Plant Breeders" by the Commissioner of Agriculture and shall be entitled to use the words "State Registered Plant Breeder", and all bags or containers for planting seed produced by them in conformity to tests and standards provided for registered planting seed, shall have securely attached tags, to be furnished at cost by the Commissioner of Agriculture, which shall contain the Seal of the State of Texas and the words "State Registered Planting Seed" and such other information as the Commissioner of Agriculture may deem necessary for the protection of the purchaser. Persons, associations, firms or corporations engaged in the production of agricultural planting seed who voluntarily apply, and who comply with the requirements herein provided for Certified Seed Growers, and who produce agricultural planting seed of the quality herein provided for certified planting seed, shall upon approval by the State Seed and Plant Board, be recorded as "Certified Seed Growers" by the Commissioner of Agriculture, and shall be entitled to use the words "State Certified

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Seed Growers", and all bags or containers of planting seed produced by them in conformity to tests and standards provided for certified planting seed shall have securely attached tags, to be furnished at cost by the Commissioner of Agriculture, which shall contain the words "State Certified Seed" and such other informations as the said Commissioner of Agriculture may deem necessary for the protection of the purchaser.

Sec. 3. The State Board of Plant Breeder Examiners created by the Chapter 2 of Title 4, Vol. 1, of Revised Civil Statutes of 1925 to be hereafter called the State Seed and Plant Board, shall certify to the Commissioner of Agriculture the names of persons, firms, association, or corporations who are eligible to qualify as Registered Plant Breeders, and names of persons, firms, associations or corporations who are eligible to qualify as Certified Seed Growers; it shall promulgate rules, regulations, test and standards governing the production of Registered Planting Seed and Certified Planting Seed; shall prepare suitable blank forms to be used in making application for recognition as Registered Plant Breeders and Certified Seed Growers, and shall prescribe the qualifications of inspectors to be employed under the provisions of this Act [Art. 67a; P. C. art. 1555a]; it shall hear and pass upon all applications for Registered Plant Breeders and Certified Seed Growers before certifying the same to the Commissioner of Agriculture; it shall collect a fee of Ten (\$10.00) Dollars from each applicant and deposit same in the State Treasury; it shall prescribe fees to cover the cost of administering this Act [Art. 67a; P. C. art. 1555a], which shall not exceed twenty-five (25c) cents per acre for cotton, nor more than one per cent of the retail value of the average production of such other field seed on such land as may be applied on, and shall have full power and authority to determine the eligibility of persons, firms, associations or corporations applying for recognition as Registered Plant Breeders or Certified Seed Growers. Before certifying any applicant it shall consider his or its reputation for honesty, competency and fair dealing, his or its facilities for producing planting seed of a high degree, of purity and excellence, the quality of planting seed owned or controlled by the applicant to be used in the production of Registered Planting seed or Certified Planting Seed. Provided that the production of Certified Seed shall be not less than the degree of purity and excellence set for Registered Seed and in the consideration of an applicant for recognition as a Registered Plant Breeder it shall investigate his skill as a Plant Breeder or the skill of someone in his or its employment.

Sec. 4. The Commissioner of Agriculture shall appoint a sufficient number of inspectors nominated by the State Seed and Plant Board to carry into effect the provisions of this Act [Art. 67a; P. C. art. 1555a]. He shall cause inspections to be made of the fields and facilities of persons, firms, associations, or corporations certified to him by the State Seed and Plant Board as eligible to qualify as Registered Plant Breeders and Certified Seed Growers. When such inspection reveals the fact that the growing crops of a Registered Plant Breeder from which it is proposed to produce Registered Seed show the high degree of purity, excellence and freedom from plant diseases, transmissible through the agency of planting seed, that are required for Registered Seed and that such field or fields are reasonably free from noxious weed seeds and noxious grasses, and if such seed when produced show the high germination per cent determined to be necessary by the said State Seed and Plant Board for such seed, and are rendered reasonably free of foreign substances, he shall cause to be issued to such person, firm, association or corporation a certificate evidencing the fact that such persons, firms, associations, or corporations is recognized by the State as a Registered Plant Breeder, and shall cause to be printed tags for each sack or container of seed so produced and so registered, and shall furnish such tags to the applicant at cost, which tags shall bear the words "State Registered Planting Seed" and shall give in

addition thereto the true and correct varietal name of such seed and such other information as he may deem necessary for the protection of the purchaser. If an inspection of the fields and premises of persons, firms, associations or corporations certified to him as Certified Seed Growers reveals the fact that such fields are of the degree of purity and excellence required for Certified Seed by the State Seed and Plant Board, and if such fields are reasonably free from noxious weed seeds and noxious grass seeds, and free from plant diseases transmissible through the agency of planting seed, and that such seed when produced show the high germination per cent required by the State Seed and Plant Board, and are reasonably free of foreign substances, he shall issue to such applicant his certificate evidencing the fact that he or it is recognized as a Certified Seed Grower, and shall cause to be issued tags at cost of printing to the Certified Seed Grower, which tags shall bear the words "State Certified Planting Seed" and shall give the true and correct variety and such other information as he may deem necessary for the protection of the public. He shall collect prior to the making of the inspection such fees as may be determined by the said State Seed and Plant Board, which shall be deposited in the State Treasury and be credited to a fund to be known as the "Pure Seed Fund", and it shall be paid out by the Treasurer upon warrants issued by the Comptroller upon accounts approved by the Commissioner of Agriculture, for the payment of expenses incurred in the enforcement of this Act [Art. 67a; P. C. art. 1555a].

Sec. 5. When an inspector reports to the Commissioner of Agriculture that any Registered Plant Breeder or Certified Seed Grower is guilty of any exaggerated claims, unfair dealing or is failing to observe any of the rules and regulations governing the production of State Registered Seed or State Certified Seed, the said Commissioner of Agriculture shall give notice to the accused party and shall set a date for a hearing upon such charges. If such charges are sustained, then the certificate theretofore issued to such Registered Seed Breeder or Certified Seed Grower shall be cancelled and all tags shall be withdrawn. Provided, however, that in the event such Registered Seed Breeder or Certified Seed Grower is dissatisfied with the verdict of the said Commissioner of Agriculture, he shall have the right to appeal to the State Seed and Plant Board and shall be entitled to a rehearing. [Acts 1929, 41st Leg., 1st C. S., p. 229, ch. 93.]

Effective 20 days after May 21, 1929, date of adjournment. Section 6 of Acts 1929, 41st Leg., 1st C. S., p. 229, ch. 93, being a penal provision is published as Pen. Code

art. 1555a. Section 7 directs that it shall be cumulative of Rev. St. 1925, arts. 56-67 and shall not be construed as a repeal of any part thereof unless in conflict therewith.

#### Art. 74. Examination of area

Whenever the Commissioner of Agriculture shall deem it necessary to the protection of the cotton industry of Texas that the growing of cotton within any area of the State, except as provided for in the preceding articles hereof, be placed under supervision, or that cotton growing be prohibited as a means of aiding in the control and eradication of the pink boll worm, he shall cause to be made a thorough examination of such area by a competent and experienced entomologist, who shall, after going upon the premises and after making an examination in person, report the result thereof to the Commissioner of Agriculture. Should this report express the conclusion that pink boll worms exist in such numbers as to constitute a serious menace within the territory under investigation, the Commissioner of Agriculture shall certify this report to the Governor, who shall cause the Pink Boll Worm Commission hereinafter provided for, to hold a hearing at some central and easily accessible point within the area under investigation; due notice of the time and place of such hearing shall be published in some newspaper in or near the county or counties under investigation, at least ten days before such hearing. The Commis-



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

sioner of Agriculture shall present to the Commission a statement setting forth the following facts:

1. The name of the entomologist making the examination on behalf of the State Department of Agriculture.
2. The date when such examination was made.
3. The locality where the pink boll worm is alleged to exist.
4. That the inspector invited the owner of the land, or his agent, or representative, to accompany him on the inspection trip, and that the owner, or his representative, accompanied him, or declined to do so.
5. Any other information deemed necessary by the Commission for the discharge of its duties under the provisions of this Chapter.

Such statement shall be verified by oath of the person making the same and shall be filed and preserved in the office of the Commissioner of Agriculture and be open to the inspection of the public. Said Pink Boll Worm Commission shall make a report to the Governor immediately after the hearing. Should this report and recommendation be for the prevention of the planting of cotton in any area and for the establishment of a non-cotton zone, such recommendation shall specify the area to be embraced in the proposed non-cotton zone. Upon receipt of this report, the Governor shall declare the growing of cotton within such area as may be recommended by the Pink Boll Worm Commission a public menace, and thereafter it shall be unlawful to plant, cultivate or grow cotton, or to allow cotton to grow within such zone, such proclamation of the Governor to remain in effect until the Pink Boll Worm Commission, herein provided for, shall have certified that the condition of menace no longer exists. In the event of the establishment of any non-cotton zone authorized by this Chapter, all persons prevented from producing cotton in the non-cotton zones shall be entitled to receive compensation from the State in the measure of the actual and necessary losses sustained thereby. In all regulated or restricted areas now established or that may hereafter be established, all persons, firms or corporations required to comply with said regulations or restrictions imposed upon them by law or any constituted authority shall be entitled to receive compensation for the actual losses sustained and for all actual expenses incurred by reason of said restrictions or regulations. From and after July 1, 1929, the State shall own or lease and operate all fumigation and sterilization plants and shall operate same without cost to the cotton grower or gin, compress or mill owner. The Compensation Claim Board, herein provided for, shall have full power and authority to determine the amount of compensation to such persons, firms or corporations. In determining the actual and necessary losses, the Compensation Claim Board shall take into consideration the value of the average yield of cotton and other crops second in economic importance thereto in that vicinity; the total amount of land planted to crops during the year for which compensation is claimed; the percentage of such land customarily planted in cotton in that vicinity, and such other factors as they deem essential. The words "cultivated crops" as used above shall not be construed to include any small grain crops, hay or pasture crops which are not cultivated during the growing season. No person shall be entitled to compensation who does not in good faith obey the proclamation of the Governor establishing such non-cotton or regulated zone. Should the report of the Pink Boll Worm Commission express the conclusion that it will not be dangerous to the cotton industry of Texas to permit the growing of cotton within such district under such rules and regulations as it shall be deemed adequate to prevent the spread of the pink boll worm, the Governor shall proclaim such area as may be set out in the report of the Pink Boll Worm Commission a regulated zone, in which it shall be unlawful to plant, cultivate and market cotton except under such rules and regulations as shall be promulgated therefor by the Commissioner of Agriculture, which may include the planting of seed from non-infested ter-

ritory, ginning at designated gins, milling or disinfecting of all seed products within such zone marketing, cleaning of fields, and such other rules as may be found necessary; provided that no ginner shall be authorized to gin cotton from regulated zones unless he shall disinfect all seed under such rules as the Commissioner of Agriculture shall prescribe. Such proclamation of the Governor, establishing such regulated zone shall remain in effect until the Pink Boll Worm Commission shall have certified that the menace no longer exists. [As amended Acts 1929, 41st Leg., p. 85, ch. 42, § 1.]

#### Art. 75. Compensation Claim Board

Amended by inserting "and losses sustained or expenses incurred by all persons, firms or corporations in such regulated or restricted areas" after "as provided for herein" at the end of the first sentence, omitting "and except when the claim is for compensation for losses under previous acts, shall be filed in the office of the Commissioner of Agriculture not later than November 15 of the year for which claim for compensation is made" after "Commissioner of Agriculture" third mentioned in the first paragraph, and inserting "or in the county where actual losses were sustained or actual expenses were incurred" after "prevented from growing cotton" in the last paragraph. [Acts 1929, 41st Leg., p. 85, ch. 42, § 2.]

[Arts. 83-93. Repealed by Acts 1929, 41st Leg., p. 678, ch. 304, § 16]

#### [Art. 93a. Defining agricultural seeds and regulating sale, duties of Commissioner of Agriculture]

Sec. 1. That the term "agricultural seeds" or "agricultural seed," as used in this Act, shall be defined as the seeds of Canada Blue Grass, Kentucky Blue Grass, Brome Grass, Fescues, Millets, Tall Meadow Oat Grass, Orchard Grass, Red Top, Italian Rye grass, perennial Rye grass, saccharine and non-saccharine Sorghums, Sudan Grass, Rhodes, Rescue, Bermuda and Johnson Grasses, Timothy, Alfalfa, Alsike Clover, Crimson Clover, Red Clover, Sweet Clover, White Clover, Canada Field Peas, Cowpeas, Soy Beans, Velvet Beans, Vetches and other Grasses and Forage Plants, Buckwheat, Flax, Rape, Barley, Field Corn, Broom Corn, Oats, Rye, Wheat and other Cereals, Cottonseed, and Onion and Spinach Seed, which are offered or exposed for sale within this State for seeding purposes within this State. [Acts 1929, 41st Leg., p. 678, ch. 304, as amended Acts 1931, 42nd Leg., p. 262, ch. 157, § 1.]

Sec. 2. Every lot of agricultural seeds as defined in Section 1 of this Act except as herein otherwise provided, when in bulk, package or other containers of ten (10) pounds or more, shall have affixed hereto, in a conspicuous place, on the exterior of the container of such agricultural seeds, a plainly written or printed tag or label as specified in Section 6 stating:

- (a) Commonly accepted name.
- (b) The approximate percentage by weight of inert matter and foreign material.
- (c) The approximate total percentage by weight of weed seeds; the term "weed seeds," as herein used, being defined as the noxious weed seeds listed in Section 2, Subsection (f) and all seeds not listed in Section 1 as agricultural seeds.
- (d) The approximate percentage of the kind of seed purported to be offered under the label, after deducting (a) "inert matter," (b) weed seed content and "other crop seeds," except where such seed is offered as a mixture under the provisions of Section 3 of Chapter 304 of the Acts of the Regular Session of the 41st Legislature of Texas.
- (e) The name of each kind of the seeds of the noxious weed seeds hereinafter defined, which are present, singly or collectively as follows: in excess of one (1) said noxious weed seed in each five grams of Timothy,

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Red Top, Tall Meadow Oat Grass, Crested Dogtail, Sudan Grass, Orchard Grass, Canada Blue Grass, Kentucky Blue Grass, Bermuda, Johnson, Rhodès, Rescue Grasses, Fescues, Brome Grasses, Perennial and Italian Rye Grasses, Western Rye Grass, Crimson Clover, Red Clover, White Clover, Alsike Clover, Sweet Clover, Alfalfa and all other Grasses and Clovers not otherwise classified and Onions and Spinach Seed; (2) one (1) noxious weed seed in twenty-five (25) grams of Millets, Rape, Flax, and other seeds not specified in (1) or (3) of this Subsection: (3) one (1) of said noxious weed seed in one hundred (100) grams of Wheat, Oats, Rye, Barley, Buckwheat, Vetches, Saccharine and nonsaccharine Sorghums, Broom Corn, Velvet Beans, Peanuts, Corn and other seeds as large or larger than wheat.

(f) Noxious weed seeds are defined as the seeds of Dodder, (*Cuscuta*, various species), Johnson Grass (*Andropogon Halepensis*) Russian Thistle (*Salsola Kali*), Bindweed or Morning Glory (*Convolvulus*, various species), Blue Weed (*Helianthus Ciliaris*), Wire Grass (*Paspalum Distichum*), Bermuda Grass (*Cynodon Dactylon*) and such other weed seeds to be determined by the Commissioner of Agriculture and to be listed after due notice.

(g) The approximate percentage of germination of such agricultural seed together with the month and year said seed was tested and provided further, the Commissioner of Agriculture shall test and publish the results of such tests as herein provided, together with the month and year such tests were made by said Commissioner together with the date of test shown on label.

(h) The full name and address of the vendor of such agricultural seeds.

(i) Correct weight.

(j) Name of State and locality where seed was grown, and if unknown, the tag shall be marked accordingly.

(k) The year in which such seed were grown, if known, and if unknown the tag shall be marked accordingly; provided however that the provisions of Subsection (k) of Section 2 of this Act shall only apply to Onion and Spinach Seed. [Acts 1929, 41st Leg., p. 678, ch. 304, as amended Acts 1931, 42nd Leg., p. 262, ch. 157, § 2.]

Sec. 3. Mixtures of seeds offered or exposed for sale within the state for seeding purposes, in lots of ten (10) pounds or more, containing one or more kinds of the agricultural seeds defined in Section 2 of this Act in excess of five per centum, by weight, of the total mixture, shall bear a plainly written or printed statement in the English language stating:

(a) that such seed is a mixture.

(b) The approximate percentage by weight of inert matter.

(c) The name of each kind of agricultural seed which is present in proportion of five per cent or more of the total mixture.

(d) The requirements providing [provided] in paragraphs (c) (e)

(g) (h) and (i) of Section 2 of this Act.

Sec. 4. Before any agricultural seed or mixture of such seed are offered or exposed for sale, the vendor who causes it to be sold, exposed or offered for sale within this state for use within this State, shall for each kind and lot of seed defined in Section 1, file with the Commissioner of Agriculture a certified copy of the information enumerated in Section 2, and, covering the lot in question, the Commissioner of Agriculture may, for the purpose of enforcing this Act, make such inspections, either personally or through his agents or assistants; as he may deem advisable and for that purpose may require samples of any lot of agricultural seed sold or to be sold, or offered for sale, to be furnished him.

Sec. 5. The Commissioner of Agriculture is hereby empowered to adopt, from time to time, such reasonable rules and regulations, not in conflict with the law, as he may deem necessary and advisable to carry out the provisions of this act, and may promulgate same by his proclamation published in the bulletin of the Department of Agriculture, and in one or more

newspapers or farm journals of general circulation published in the State of Texas.

Sec. 6. The vendor, before any agricultural seed or mixture of such seed are offered or exposed for sale, shall pay to the Commissioner of Agriculture, an inspection tax of not to exceed one cent for each hundred pounds or fraction thereof sold, or offered for sale, in this state and shall affix to each lot shipped in bulk, and to each bag, barrel or other package of such seed, a tag to be furnished by said Commissioner, stating that all charges specified in this article have been paid. The Commissioner is hereby empowered to prescribe the form of such tags, and adopt regulations as may be necessary for the enforcement of this law, Whenever the vendor or wholesaler who prepares seed for market shall have filed a statement made as provided for in Section 4 and paid the inspection tax, and has properly tagged seed shipped or offered for sale, said agent or retailer of such properly tagged seed shall not be required to file such statement or pay such tax. The amount of the inspection tax and penalties received by said Commissioner shall be paid into the State Treasury. So much of the inspection tax and penalties [collected] under this title shall be paid by the state Treasurer to the State Commissioner of Agriculture as the Commissioner may show by his bills has been expended in performing the duties required by this title, but in no case to exceed the amount of the inspection tax and penalties received by the State Treasurer under this title.

Sec. 7. The provisions of this Act shall not apply to Agricultural seeds, or mixtures of seeds, as defined in Section 3 of this Act, when plainly labeled "Not Clean Seed" or "Not Tested Seed", or "Seeds sold to merchants to be recleaned before being sold or exposed for sale for seeding purposes", or when "in storage for the purpose of recleaning". Provided, however, that where exemption is sought under this provision and where seeds are labeled so as to show that they are not tested, then it shall be unlawful for the vendor of such seed to attach statements by either labels or otherwise pertaining to germination, mechanical purity, and weed seed content.

Sec. 8. The percentage of inert matter and mechanical purity of agricultural seed and the mixture as defined in this Act, and other percentages required by this Act, shall be based upon a test or analysis, conducted either by the State Seed Laboratory or by the vendor of the agricultural seed, or "mixture", or his agents; provided that such test or analysis made by the vendor or his agents shall conform to the reasonable regulations which said Commissioner of Agriculture is hereby authorized and directed to prescribe, or shall conform to the reasonable regulations or method of testing adopted or used by the Association of Official Seed Analysts of North America.

Sec. 9. Whoever buys or sells agricultural seeds, defined in Section 1 of this Act, or mixture of seeds as provided in Section 3 of this Act, for the use in this State for seeding purposes, may submit adequate, representative, and accurately drawn samples of such seeds to the State Seed Laboratory for examination, and test of purity and of viability, and said Commissioner of Agriculture shall cause such examination and test to be promptly made, and report thereon, and return to the sender. For the test of mechanical purity, said Commissioner shall charge a fee of twenty-five cents for the examination of each sample, and for a test of viability a fee of twenty-five cents, each or both of which fees shall be payable in advance, provided that these tests shall be made free of charge to the citizens of this State. All money received from receipt of such fees shall be paid into the Treasury of the State, to be credited to the funds of the State Department of Agriculture to be used exclusively in the administration of this Act.

Sec. 10. The enforcement of this Act shall be entrusted to the Commissioner of Agriculture, and he is authorized in person or by his inspectors,

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or assistants, to take for analysis, a sample not exceeding two pounds in weight from any lot of agricultural seeds or "mixtures" offered or exposed for sale; provided that said sample shall be drawn or taken in the presence of the vendor or parties interested, or his or their agents or representatives, and shall not be from less than ten per cent of the whole lot inspected and shall be thoroughly mixed and then divided in two samples and placed in containers, carefully sealed and a label placed on each such container stating the name of the agricultural seed or mixture sampled, the name of the vendor from whose stock said samples were taken, and the date and place of taking such samples, and said label shall be signed by said commissioner of agriculture, or his authorized agent; or said sample may be taken in the presence of disinterested witnesses if the vendor or party in interest fails or refuses to be present, when notified. One of said duplicate samples shall be left with or on the premises of the vendor or party in interest, and the other retained by the Commissioner of Agriculture for analysis and comparison with vendor's samples and labels required by Sections 2, 3, 4, and 5 of this Act.

The size of the sample required for the several crop seeds shall be determined by the said Commissioner of Agriculture in such regulations as he may promulgate for the enforcement of this Act. The owner may collect the retail price for such samples, and when samples are drawn for the enforcement of this Act without the consent of the vendor, the Commissioner of Agriculture or his agent shall tender payment at the quoted retail price for the quantity thus taken, and shall take a receipt therefor.

The Commissioner of Agriculture shall annually and prior to December 1st, make and submit to the Governor a report of the services performed by him or his assistants, together with an itemized account of all monies paid out as authorized under this Act.

Sec. 12. No action for the recovery of damages or any liability whatsoever for any violation of any of the provisions of this Act, or for the breach of any legal duty or obligation in the sale of agricultural seeds defined in Section 1 of this Act, or the sale of mixtures defined in section 3 of this Act, shall be maintained by the buyer and against the vendor of such seeds, unless the claim or claims of such buyer are based upon properly drawn samples of such seed from the bulk thereof, and examined in the way and manner provided in Sections 8 and 10 of this Act; provided that none of the provisions of this Act shall affect any right accruing prior to the time when this Act shall go into effect; providing that nothing in this Act shall be construed as preventing one farmer from selling to another farmer such seed grown on his own farm as covered by the provisions of this Act without having said seed tested and labeled as provided for herein, when such seed is not advertised in the public press outside of the vendor's home county, and is not shipped by common carrier.

Sec. 13. The result of the analysis and tests of seed made by the Commissioner of Agriculture of samples drawn by him or his inspectors shall be published annually and supplied to any citizen of the state who may request said report.

There shall be appropriated annually from the State Treasury the sum of \$—— in favor of the Department of Agriculture and the same together with the fees provided for in Section 6 of this Act, may be expended in the enforcement of this Act. So much of the monies secured as fees for tests and analysis of seed after first exhausting the monies secured from the collection of the tag fees and said appropriation as herein provided for shall be paid to the Commissioner of Agriculture as he may show by his bills has been expended in performing the duties required by this Act.

Sec. 14. The words, "persons," "vendor," and "Party in interest", and "whosoever", as used in this Act shall be construed to impart both the singular and plural, as the case may be, and shall include corporations,

companies, societies and individuals. [Acts 1929, 41st Leg., p. 678, ch. 304.]

Section 11 of said Acts 1929, 41st Leg., p. 678, ch. 304, being a penal provision is published as Penal Code, art. 1708a.

Section 15 provides that if any section is held invalid, such judgment shall not affect the validity of any remaining section.

Sections 16 and 17 repeal all conflicting laws and parts of laws, and expressly repeal Rev. Civ. St. 1925, ch. 4.

#### [Art. 117a. Inspection for protection of potato industry]

Sec. 1. In order to promote, protect and develop the commercial potato growing industry of Texas, the Commissioner of Agriculture is hereby authorized and empowered:

(1) To fix and promulgate official standards for grading, classifying and inspecting Texas grown Irish potatoes offered for shipment in carload lots in this State.

(2) To co-operate with the United States Department of Agriculture and any and all of the bureaus and divisions of said department in accomplishing the purposes of this Act [Art. 117a; P. C. Art. 1112a].

(3) To enter into agreements with the United States Department of Agriculture, and the several bureaus and divisions of that department, regulating the inspection of potatoes as herein provided, stating the duties and responsibilities of the United States Department of Agriculture, and of the Department of Agriculture of the State of Texas, each to the other, with regard to the grading, classifying and inspection of such potatoes.

(4) To make all necessary rules and regulations for the purpose of enforcing the provisions of this Act [Art. 117a; P. C. Art. 1112a].

Sec. 2. In performing his duties under this Act [Art. 117a; P. C. Art. 1112a], the Commissioner of Agriculture shall conform as nearly as possible to the regulations prescribed by the Department of Agriculture of the United States with regard to grading, classifying and inspecting potatoes, with such additions and qualifications as may be necessary under the various provisions of this Act [Art. 117a; P. C. Art. 1112a].

Sec. 3. The provisions of this Act [Art. 117a; P. C. Art. 1112a] with regard to grading, classifying and inspecting potatoes offered for shipment in carload lots shall be enforced by inspectors appointed by the Commissioner of Agriculture, and paid by the Commissioners' Court of the County within which the duties of such inspectors shall be performed, either from the general fund of the County or from the special Potato Inspection Fund herein provided, at the election of the Commissioners' Court of said County. The Commissioner of Agriculture shall appoint such inspectors only when requested to do so by resolution of the Commissioners' Court of a County desiring such inspection, which resolution shall state the number of such inspectors desired for such County, and the compensation which shall be paid to each. Upon receipt by the Commissioner of Agriculture of a duly certified copy of such resolution of the Commissioners' Court of any County, he shall thereupon appoint inspectors to the number desired by such County, and certify their appointment to the Commissioners' Court of said County. Such certificate of appointment by the Commissioner of Agriculture shall state the names of the inspectors so appointed, and the compensation to be paid to them, [which shall not exceed the compensation to be paid to them,] which shall not exceed the compensation fixed by resolution of the Court requesting such appointment, and after the filing of such certificate with the Commissioners' Court of any County, that County shall be liable for the payment of the compensation of such inspectors as in the resolution of said Court, and said certificate of the Commissioner of Agriculture provided, until the Commissioners' Court of such County shall, by certified copy of resolution to that effect, duly filed with the Commissioner of Agriculture, advise him that it desires to discontinue such inspection service, or to decrease the number of inspectors or the compensation paid to them, in which case the Commissioner of Agriculture shall conform to such resolution of the Commissioners' Court by discontinuing such inspec-

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tion service, or by reducing the number of the inspectors appointed by the Commissioner of Agriculture for such County, as such resolution may provide.

Sec. 4. It shall be the duty of the Commissioners' Court desiring such inspection service to file a certified copy of its resolution requesting the Commissioner of Agriculture to appoint such inspectors and the certificate of the Commissioner of Agriculture, making such appointment, with one duly authorized agent of each railroad company and motor truck company doing business as a common carrier, and with one duly authorized agent of each and all other common carriers receiving shipments of potatoes in said County and after such filing with any common carrier of copies of such resolution and certificate, it shall not receive or accept for shipment in car lots from any station within such County, any Texas grown Irish potatoes that have not been graded, classified and inspected by an inspector appointed by the Commissioner of Agriculture of the State of Texas, in accordance with the provisions of this Act [Art. 117a; P. C. Art. 1112a].

Sec. 5. It shall be the duty of inspectors so appointed by the Commissioner of Agriculture to carefully inspect, grade and classify all potatoes so offered for shipment in accordance with the provisions of this Act [Art. 117a; P. C. Art. 1112a] and pursuant to the rules and regulations for such inspection which shall be prescribed by the Commissioner of Agriculture, and to deliver one duly authenticated copy of his report of such inspection to the person offering such potatoes for shipment, and one duly authenticated copy to the railroad company or other common carrier receiving same for shipment, and to post in a conspicuous place on the inside of each car in which such potatoes shall be loaded for shipment, a placard showing the grade of the potatoes loaded in such car, and it shall be the duty of the agent of the railroad company or other common carrier making such shipment to endorse on the bill of lading issued by him for such potatoes, copy of a statement of the grade of such potatoes as shown by such inspectors' report.

Sec. 6. Before delivering his report of inspection to the person offering such potatoes for shipment, said inspector shall collect from him such fee for such inspection service as shall be provided by resolution of the Commissioners' Court of the County from which such shipment is made, not to exceed Three Dollars (\$3.00) for each car lot of potatoes so inspected.

Sec. 7. All fees collected by such inspector shall be paid by him forthwith into the County Treasury of the County in which such inspection is made, to be set aside by the County Treasurer of said County as a special "Potato Inspection Fund". The Commissioners' Court of such County may, at its discretion, provide for the payment of all inspectors appointed by the Commissioner of Agriculture for such County under the provisions of this Act [Art. 117a; P. C. Art. 1112a], from such Special "Potato Inspection Fund", or it may at its discretion, transfer said fund to the general fund of such County and pay such inspectors from such general fund. In any case, the general fund of the County shall be liable for the payment of all compensations actually earned by inspectors appointed by the Commissioner of Agriculture under the provisions of this Act [Art. 117a; P. C. Art. 1112a], for services within such County.

Sec. 9. A certificate of an inspector appointed under the provisions of this Act, duly authenticated by his official signature, showing the grade, classification, quality or condition of potatoes inspected by him, and all certificates issued under authority of the Congress of the United States relating to the grade, classification, quality or condition of potatoes, shall be accepted in the courts of this State as prima facie evidence of the true grade, classification, quality or condition of such potatoes at the time of such inspection. [Acts 1929, 41st Leg., 2nd C. S., p. 157, ch. 80.]

Effective 90 days after July 2, 1929, date provision is published as Pen. Code art. of adjournment. Section 8 of Act 1929, 41st 1112a.  
Leg., 2nd C. S., p. 157, ch. 80, being a penal

Arts. 135a to 135d. [Repealed by Acts 1929, 41st Leg., 2nd C. S., p. 21, ch. 15, § 13]

[Art. 135a—1. Insect pests and plant diseases, quarantine]

Sec. 1. If the Commissioner of Agriculture of this State, hereinafter called the "Commissioner", determines the fact that any dangerous insect pest or plant disease new to and not heretofore widely distributed in the State exists in any area outside of Texas, he is hereby authorized and it is made his duty to establish, maintain and enforce a quarantine at the boundaries of this State or elsewhere within the State against such infested area and shall prevent the movement from such quarantined area or areas into this State or into any part of it of any plants, plant products, things or substances liable to disseminate the pest or plant diseases under consideration; provided that nothing herein shall be construed to prevent the movement of such plants, plant products, things or substances into this State from a quarantined area under such safeguards as the Commissioner shall deem adequate to prevent the introduction into this State of dangerous insect pests or plant diseases quarantined against.

Sec. 2. If any dangerous insect pest or plant disease not heretofore widely distributed in this State shall be found within the State, the Commissioner is hereby authorized and it is made his duty to establish a quarantine against such area as may be infested, and he shall prevent the movement of such plants, plant products, things or substances from such quarantined area into any other part of the State as are liable to spread the pest under consideration, except under such safeguards as shall be deemed adequate to prevent the spread of such dangerous insect pests or plant diseases to other parts of the State.

Sec. 3. When the Commissioner determines the fact that any insect pest or plant disease of general distribution in the State does not exist in any particular area, he is hereby authorized to publish such fact, and he shall have full power and authority to place a quarantine around such "free area" and prevent the introduction therein of any plants, plant products, things or substances liable to be infested with such insect pest or plant disease. Venue in cases arising under the provisions of this Section shall be in courts of competent jurisdiction in the county in which such "pest-free" zones are established.

Sec. 4. Before any quarantine shall be established, as provided for in Sections 1, 2 and 3 herein, the said Commissioner shall cause the Chief Entomologist of the Department of Agriculture and, if he deems it advisable, one or more other persons designated and appointed by the said Commissioner, to make an investigation and hold a public hearing at some convenient and accessible point, due notice of which shall have been given at least ten (10) days prior to the day of such hearing by publication in a newspaper of general circulation in the area or areas to be considered; provided that if the quarantine under consideration shall be such as is provided by Section 1 hereof, the notice called for by this Third Section shall be sufficient if published in two newspapers of general circulation within the State of Texas (selection of which shall be made by the Commissioner of Agriculture and his selection to be determinative and final) for the time and in the form as set out in this Section. Such notice shall state the pests or plant diseases and the area to be considered, at which hearing all persons interested shall have the right to be heard. The Chief Entomologist and other persons, if any, appointed to conduct such hearing shall take the Constitutional oath of office and be empowered to administer oaths for the purpose of taking testimony and shall record the proceedings had, and shall investigate whether or not the particular pests or plant diseases under consideration constitute a menace to any valuable plants or plant products, and shall make a written report to the Commissioner of the findings there-



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of as to whether or not such pests or plant diseases as may be considered are in fact a menace to any valuable agricultural or horticultural crops and the reasons for such conclusions. Such report shall also indicate whether or not any quarantine action is necessary or desirable; and, if so, the best known means of circumscribing, controlling, preventing spread of or exterminating such pests or plant diseases. After receiving such report, the said Commissioner is authorized to promulgate such quarantine regulations as may be indicated to be necessary for the protection of the agricultural or horticultural interests of this State.

Sec. 5. Provided, that in the event any person or persons are aggrieved, and will be injuriously affected by the said quarantine, or whose property is to be destroyed by any such quarantine or order of the Commissioner, they shall have the right to appeal such matter to the District Court of any Judicial District in which such quarantine or order is promulgated by giving written notice thereof to the Commissioner, stating to what District Court said application is made, such notice to be by registered mail within ten (10) days from the date of the Commissioner's proclamation. Immediately after receipt of such notice the said Commissioner shall make a certified copy of his order and proclamation in said cause and transmit same to the District Court named in the notice. Upon receipt of said papers by the Clerk of said Court, said cause shall be docketed, "\_\_\_\_\_, Commissioner of Agriculture vs. \_\_\_\_\_, defendant", on the Civil docket of said Court, and tried in said Court in the manner provided for the trial of Civil cases, and the judgment of said Court upon final hearing shall be "that the orders and proclamations of the said Commissioner be approved and enforced", or "that said orders and proclamations be and are vacated and held for naught", as the Court or jury may determine.

Sec. 6. Provided further, that if a public emergency arises at any time in which there is likelihood of the introduction into this State [State] or dissemination within the State of any plant disease or insect pest dangerous to the interests of horticulture and agriculture within this State, the Commissioner of Agriculture is hereby authorized to immediately establish an emergency quarantine at the boundaries of this State, or elsewhere within the State, and immediately make and enforce such rules and regulations as may be deemed necessary to prevent the introduction of any dangerous insect pest or plant disease into this State, and to prevent the carrying of such dangerous insect pest or plant disease from one part of the State into another part of the State, except under safeguards deemed adequate to prevent the dissemination of the pest; provided, however, that this emergency quarantine shall not remain in effect for more than thirty (30) days from date of promulgation, unless repromulgated and perpetuated by the Commissioner after official hearing, as provided herein.

Sec. 7. Provided further, that no railway company, steamship, motor-boat, motor-bus, truck or other carrier shall be liable to any consignor or consignee for damages for refusing to receive and transport and/or deliver across and/or into the area or areas protected by the emergency and/or permanent quarantine provided for herein, any fruit, plants, shrubs, or other carrier of insect pests or plant diseases, in violation of any quarantine proclamation or regulation issued by the Commissioner of Agriculture. The transportation and/or delivery of any fruit, plants, shrubs or other carrier of insect pests or plant diseases in violation of any quarantine proclamation and/or regulations issued by the Commissioner of Agriculture as provided for in this Act [Art. 135a-1; P. C. Art. 1700a-1], by any railroad company, steamship, motor-boat, motor bus, truck or other carrier (private or common) shall subject such person, persons, association, partnership or corporation so violating, to a penalty in the sum of Five Hundred (\$500.00) Dollars to be recovered in a suit therefor to be insti-

tuted by the Attorney General on behalf of the State of Texas. Venue for such action is specific[i]ally provided for in Travis County, Texas.

Sec. 8. When so requested by the Commissioners' Court of any county in this state, the Commissioner shall cause an investigation to be made to determine whether or not any certain insect pest or pests or plant disease or diseases exist in such county or in any part thereof, and shall cause a written report to be made to the said Commissioners' Court which shall contain a statement as to the nature of the infestation, if any, the best known means or method of circumscribing, eradicating, controlling or exterminating the same, and shall state therein specifically what treatment or method is necessary to be applied in each case, as the matter may require, with detailed statement or description as to the method of making or procuring and of applying any preparation or treatment so recommended therefor, and the time and duration for such treatment. Upon receipt of such statement, the Commissioners' Court of such county is hereby authorized to cause the same to be published two (2) consecutive weeks in some newspaper of general circulation in the area or areas under consideration, together with notice of hearing to be held by said Commissioners' Court, which hearing shall be held not less than fifteen (15) days after the first notice shall have been published, at which hearing all persons interested shall have the right to be heard. After such hearing, the said Commissioners' Court shall make a report to the Commissioner, giving its conclusions. If such report approves the recommendations that shall have been made, and the Commissioners' Court of such county believes that such measures as shall have been recommended should be applied in such area or areas that may be under consideration; then the said Commissioners' Court shall, by an order duly entered in its Minutes, request the said Commissioner to establish a "control" or "eradication" zone, as the matter may require, in said area, and the Commissioner shall issue a proclamation creating such area or areas as may be designated an "eradication" zone or "control" zone, as the case may be, and shall prescribe rules and regulations governing the circumscribing, control, eradication or extermination of such pest or disease, and thereafter it shall be unlawful for any person to do any act prohibited by such rules and regulations, or refuse to do anything commanded to be done by such rules and regulations. The Commissioners' Court of the several counties shall have full power and authority to appropriate funds from the general revenue of the county and to employ such aid as may be necessary to carry into effect this provision.

Sec. 10. When any plants, plant products, things or substances are transported or carried from any area (whether within or beyond the boundary of the State of Texas) quarantined, or declared infested under the provisions of this Act [Art. 135a-1; P. C. art. 1700a-1], in violation of a quarantine order preventing such transportation or movement, it shall be the duty of the Commissioner to take possession of same and give immediate notice to the owner thereof that such plants, plant products, things or substances as have been transported are a public menace and shall be destroyed, or, if practical, returned to the point of origin; or, if any plants, plant products, things or substances moved into the State or from any part of the State to another part are discovered to be infested with an insect pest dangerous to any agricultural or horticultural product, whether or not such plants, plant products, things or substances came from an area known to be infested, it shall be the duty of the Commissioner to take possession of them and give notice to the owner thereof that same are a public menace and shall be destroyed. It is specially provided that if and whenever the name of the owner of such plants, plant products, things or substances is unknown to said Commissioner of Agriculture, then in such event, the said Commissioner shall give notice that after a certain specified date, not less than ten days after the first publication of said notice, he will proceed to cause to be destroyed such plants, plant

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products, things or substances. Said notice shall be published once a week for two consecutive weeks in a newspaper of general circulation in the county where such plants, plant products, things or substances were found, and said notice shall describe said Articles. If the owner thereof claims the said Articles prior to the date set by said notice, for destruction thereof, they shall be turned over and delivered to such owner at his own expense. If such claim is not made, the Commissioner, is hereby authorized to destroy and cause to be destroyed such Articles.

Sec. 11. All control zones or eradication zones heretofore established in the Counties of Hidalgo, Willacy and Cameron, under the provisions of Chapter 69, Acts of the Regular Session of the 40th Legislature, for the control of the Mexican fruit worm, *Anastrepha ludens*, Loew, are hereby validated and carried forward, and all quarantines, rules and regulations now in effect prohibiting the importation into this State, or dissemination within the State of any fruits, plants or other known carriers of dangerous insect pests and plant diseases are hereby validated and shall remain in full force and effect until abrogated by proclamation of the Commissioner of Agriculture, and hereafter all fruit and plants infested or contaminated with dangerous insect pests or plant diseases known to be a menace to agricultural and horticultural products in such control zones shall be destroyed or treated so as to render them free from such infestation, and when an orchard is found to be infested by such pest or diseases in said control zones, no fruit from the infested orchard or any adjoining orchards shall be moved or allowed to be moved until a committee, appointed by the Commissioners' Court of such county, shall have determined the extent of the infestation and shall have effected the destruction or processing of all contaminated fruit, and it shall be unlawful for the variety of citrus known as "sour orange," with ripe or ripening fruit thereon, to be maintained in said control zones between March 1st and October 1st, and such fruit is hereby declared to be a public nuisance, and in like manner all other citrus fruit trees neglected by the owner thereof to the extent that they may have ripe or ripening fruit thereon between the above mentioned dates are public nuisances, and the same shall be destroyed, and provided further, that all other fruit trees known hosts of the Mexican fruit worm having ripe or ripening fruit thereon between March 1st and October 1st in the said control zones are declared to be public nuisances and their destruction a public necessity, and when such trees have ripe or ripening fruit thereon between the dates of March 1st and October 1st, as evidenced by affidavits of three (3) citizens of the county, it shall be the duty of the Commissioner of Agriculture to order such tree or trees and fruit destroyed. And any person or persons who shall sell or move any fruit from any area within the control zones which has been found to be contaminated or infested with the Mexican fruit worm shall be subject to the penalties in the manner as provided in Section 9 [P. C. art. 1700a-1] hereof.

Sec. 12. In the event any person, firm or corporation owning fruit trees or fruit condemned by the Commissioner in accordance with this Act or regulation herein authorized, shall fail or refuse to destroy such trees or fruit immediately after having been instructed to do so by the Commissioner of Agriculture, or his authorized agent, or representative, or any inspector working under the Commissioner of Agriculture; then it shall be the duty of said Commissioner of Agriculture, or his authorized agent or representative, or the inspector working under the Commissioner of Agriculture, to abate the nuisance and to forthwith destroy such trees or fruit, or otherwise render them not a nuisance. And in carrying out this provision, the Commissioner of Agriculture, or his authorized agent or representative, or the inspector working under the Commissioner of Agriculture, as the case may be, shall call upon the sheriff of the county in which the fruit or fruit trees are located for such assistance in the premises as may be deemed necessary by the person seeking to destroy

such fruit or trees, and it shall be the duty of such sheriff to render all necessary assistance in destroying such trees, plants or fruit, and to cooperate with and assist the said Commissioner of Agriculture, or his authorized agent and representative, or the inspector working under the Commissioner of Agriculture, in carrying out the provisions of this Section. [Acts 1929, 41st Leg., 2nd C. S., p. 21, ch. 15.]

Section 9 of Acts 1929, 41st Leg., 2nd C. S., p. 21, ch. 15, being a penal provision is published as Pen. Code, art. 1700A-1.

Section 13 makes the act cumulative of all laws providing for quarantine regula-

tions and inspection of plants, fruits and shrubs, except arts. 135a to 135d, and art. 1700a, Pen. Code, which are expressly repealed.

#### [Art. 149a. Dairying station]

Sec. 1. That the Board of Directors of the Agricultural and Mechanical College of Texas, are hereby authorized and empowered to establish and maintain an Agricultural Experiment Station in Texas, for the purpose of making scientific investigations and experiments in the study of dairying and dairy problems applicable to that region, the study of economics in the production and utilization of feeds, including grazing and feeding, and for the purpose of studying the other impending agricultural problems of that region relating to the dairy industry.

Sec. 2. The Board of Directors of the Agricultural and Mechanical College of Texas are hereby authorized and empowered to secure a suitable site for the location of said Agricultural Experiment Station, to be located in Texas. The said Board of Directors are authorized to accept donations of land, water and money for the establishment and maintenance of said Station, and to use the appropriations herein made for the purchase of suitable lands and the erection of necessary buildings and equipment.

Sec. 3. The Agricultural Experiment Station herein provided for shall be under the general direction and supervision of the Board of Directors of the Agricultural and Mechanical College of Texas, and be operated and conducted by the Directors of Experiment Stations as all other State Experiment Stations are now conducted. [Acts 1929, 41st Leg., p. 61, ch. 27.]

#### [Art. 149b. Fruit, poultry and dairying station]

Sec. 1. That the Board of Directors of the Agricultural and Mechanical College of Texas are hereby authorized and empowered to establish and maintain a horticultural and agricultural experiment station at some point within the limits of Atascosa, Bexar, Dimmit, Frio, La Salle, Maverick, Medina, Uvalde, Webb, or Zavala counties in the State of Texas for the purpose of scientific investigations and experiments in the production of fruits, nuts, citrus fruits and vegetables and nursery stock and in determining the best methods of eradicating pests and various diseases that infest the various fruits, trees and products hereinbefore mentioned and for the purpose of studying the other impending horticultural and agricultural problems of that section, and for the purpose of making scientific investigations and experiments in poultry raising and dairying and bee culture.

Sec. 2. The Board of Directors of the Agricultural and Mechanical College are empowered to acquire a suitable site for the location of said horticultural and agricultural experiment Station within the territory described in the next preceding section of this Act containing such amount of land, not exceeding two hundred fifty acres, well adapted to growing of various fruits, trees and products in this Act mentioned and where water is available for irrigation purposes. The said Board of Directors are authorized to accept donations of land, water and money for the establishment, equipping and maintenance of said station.

Sec. 3. The horticultural and agricultural experiment station hereby provided for shall be under the general direction and supervision of the board of directors of the said Agricultural and Mechanical College of Tex-

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as and shall be operated and conducted by the directors of experiment stations as all other experiment stations are now conducted.

Sec. 4. It is specially provided, however, that unless there be contributed to the use and benefit of said horticultural and agricultural experiment station by persons interested in the establishment thereof lands suitable for the purpose of said experiment station in such acreage as to meet the requirements of such station, with water available for irrigation, or such amount of money or other property as may be necessary to purchase a tract of land suitable for said purposes having available water for irrigation purposes thereon said horticultural and agricultural experiment station shall not be established. [Acts 1929, 41st Leg., p. 508, ch. 244.]

[Art. 149c. Dairying station in Ninth Senatorial District]

Sec. 1. That the Board of Directors of the Agricultural and Mechanical College of Texas, are hereby authorized and empowered to establish and maintain an agricultural experiment station in the Ninth Senatorial District of Texas, for the purpose of making scientific investigations and experiments in the study of dairying and dairy problems applicable to that region, the study of economics in the production and utilization of feeds, including grazing and feeding, and for the purpose of studying the other impending agricultural problems of that region relating to the dairy industry.

Sec. 2. The Board of Directors of the Agricultural and Mechanical College of Texas are hereby authorized and empowered to secure a suitable site for the location of said agricultural experiment station, to be located in the Ninth Senatorial District of Texas. The said Board of Directors are authorized to accept donations of land, water and money for the establishment and maintenance of said station, and to use the appropriations herein made for the purchase of suitable lands and the erection of necessary buildings and equipment.

Sec. 3. The agricultural experiment station herein provided for shall be under the general direction and supervision of the Board of Directors of the Agricultural and Mechanical College of Texas, and be operated and conducted by the Directors of Experiment Station as all other State experiment stations are now conducted. [Acts 1929, 41st Leg., p. 541, ch. 264.]

[Art. 149d. Dairy, poultry, etc., station in Abilene district]

Sec. 1. That the Board of Directors of the Agricultural and Mechanical College of Texas is hereby authorized and empowered to establish and maintain a dairy, poultry, pecan, crops and other native products experiment station on the Miles, Roscoe and Abilene Soil Type within a radius of fifty miles of Abilene, Taylor County, Texas, for the purpose of making scientific investigations and experiments in the production and propagation of dairy, poultry, pecan crops and other native products and for the purpose of studying the other impending livestock and agricultural problems of this region.

Sec. 2. The Board of Directors of the Agricultural and Mechanical College of Texas is hereby authorized and empowered to secure a suitable site for the location of said dairy, poultry, pecan, crops and other native products experiment station on the Miles, Roscoe and Abilene Soil Type, containing a sufficient amount of lands, not less than 320 acres, well adapted to propagating, growing and improving dairy, poultry, pecan, crops, and other native products. The said Board of Directors is authorized to accept donations of lands, water, livestock, seeds, plants, and money for the establishment and maintenance of said station.

Sec. 3. The dairy, poultry, pecan, crops, and other native products experiment station here in provided for shall be under the general direction and supervision of the Board of Directors of the Agricultural and Mechan-

ical College of Texas, and be operated and conducted by the Director of the Experiment Stations, as all other State Experiment Stations are now conducted. [Acts 1929, 41st Leg., p. 623, ch. 284.]

## CHAPTER 9

### REGULATING COTTON GROWING AND SOIL CONSERVATION

[Art. 165a. Conservation and preservation of soil; legislative declaration]

It is hereby declared by the Legislature of the State of Texas that it is made mandatory upon the Legislature of the State of Texas under the Constitution of the State to enact laws to compel conservation, the preservation and development of the soil and the fertility thereof and to preserve the public interest and the general welfare and happiness of the people and in the exercise of the duty to preserve and develop the natural resources of the State and promote the general welfare of the people, this Act is passed.

The Legislature declares:

A. The most valuable natural resource of the State is its soil and the fertility thereof adapted to the raising of cotton and other useful plants;

B. The growing of cotton in the State is an industry of first importance;

C. The preservation and restoration of the soil and the fertility of the soil is essential to the welfare of the people of the State;

D. The continuous use of land for the growing of cotton and other soil exhausting plants, without rotation of crops, or without intervals during which intervals cotton and/or other soil exhausting plants are not planted has, as to much of the land of the State, caused:-

(1). Serious deterioration of the soil and the fertility thereof;

(2). Disastrous erosion of the land and loss of fertile soil;

(3). The spread over wide areas of root rot and other soil and/or plant diseases;

(4). The propagation of boll weevil, cotton flea and other harmful insects, and made their elimination or control difficult;

(5). Deterioration of the quality and quantity of the cotton and other plants raised.

That like results will follow to the other cotton raising areas unless prevented by this legislation; that the deterioration of the soil, and of the fertility of the soil, and of the loss of the soil, the presence of soil and plant diseases and harmful insects, and the deterioration in the quality and a reduction in the quantity per acre of the cotton and other plants raised has resulted in lack of ability on the part of a very large percentage of the farmers of the State to meet the obligations due upon their homes, and/or to discharge the taxes due to the State and/or counties, and/or other political subdivisions, whereby the general welfare of the people is injuriously affected, and the efficiency of the State Government greatly impaired, and the business of farming has thereby become affected and impressed with a public use; and now, therefore, in order to alleviate the evils now suffered and to prevent their further increase, the growing of cotton and other soil exhausting plants is hereby regulated. [Acts 1931, 42nd Leg., 2nd C. S., p. 2, ch. 2, § 1.]

[Art. 165b. Cultivation of cotton or other soil exhausting plants, except feed crops, restricted in acreage in 1932]

For the purpose of conserving, preserving and developing the fertility of the soil; to prevent waste of the soil; to prevent erosion of the soil;

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to more effectively prevent the spread of root rot and all other diseases of plants and soil; and to more effectively destroy insects and aid in preventing insect damage; and to preserve the interest of the public and the general welfare, peace and happiness of the people, and in order to carry out each and every other purpose set out in Section 1 of this Act, just as fully as if each of them were fully set out herein, it is hereby declared to be unlawful for any person, association of persons, firm, corporation or joint stock company, being the owner, or lessee, or occupant of any separately owned tract of land in the State, or the agent of the owner thereof or any person or persons interested therein to plant, or cultivate, or harvest on the said separately owned tract of land during the year 1932, or during said year 1932, cause to be planted, or cultivated or harvested thereon, or permit to be planted or cultivated or harvested thereon any crop of cotton, or other soil exhausting plants, excepting feed crops for man and domestic animals, or either, in excess of thirty (30) per cent of the area of such separately owned tract of land which was in cultivation in planted crops during the crop year 1931, provided, however, lands upon which agricultural products are grown and which are not annually planted and/or cultivated, shall not be construed as cultivated lands within the meaning of this Act, provided further that nothing herein contained is intended to prevent the harvesting of crops lawfully planted under the provisions of this Act. [Acts 1931, 42nd Leg., 2nd C. S., p. 2, ch. 2, § 2.]

[Art. 165c. Restrictions in 1933; separately owned tract defined]

For the purpose as set forth in Sections 1 and 2 hereof, it is hereby declared to be unlawful for any person, association of persons, firm, corporation, or joint stock company, being the owner, or lessee, or occupant of any separately owned tract of land in the State, or the agent of the owner thereof or any person or persons interested therein, to plant, or cultivate, or harvest on the said separately owned tract of land during the year 1933 or during said year 1933, cause to be planted, or cultivated, or harvested thereon any crop of cotton, or other soil exhausting plants, excepting feed crops for man and domestic animals, or either, in excess of thirty (30) per cent of the area of such separately owned tract of land which was in cultivation in planted crops during the crop year 1932, provided, however, lands upon which agricultural products are grown and which are not annually planted and/or cultivated, shall not be construed as cultivated lands within the meaning of this Act, provided further that nothing herein contained is intended to prevent the harvesting of crops lawfully planted under the provisions of this Act. Provided, however, that as to the year 1933, no person shall be denied the right to plant as great a total acreage of land to cotton and/or other soil exhausting plants except feed crops for man and domestic animals or either, as would have been permissible during the year 1932.

The words "separately owned tract" shall be held to include any single tract or two or more tracts of land in the same county in whole or in part owned in fee simple or by tenants in common or for life, or as lessee for a term of years or any other title including a right of possession and/or control, and a "separately owned tract," as herein defined, shall constitute the unit for determining the per cent of planting as authorized by this Act. [Acts 1931, 42nd Leg., 2nd C. S., p. 2, ch. 2, § 3.]

[Art. 165d. Rotation of cotton area in 1933]

For the purposes set out in Section 1 of this Act and to carry out the policies therein declared, it shall be unlawful for any person, association of persons, firm, corporation or joint stock company, being the owner, or lessee, or occupant of any separately owned tract of land in the State, or the agent of the owner thereof, or any person or persons interested

therein, to plant, or cultivate, or harvest cotton or any other soil exhausting plants, excepting feed crops for man and domestic animals, or either, on any land in this State in 1933, for the purpose of raising cotton, or other soil exhausting plants, excepting feed crops for man and domestic animals, or either, upon which said land cotton, or other soil exhausting plants were planted or grown during the year 1932; provided, however, that nothing herein contained is intended to prevent the harvesting of crops lawfully planted under the provisions of this Act. [Acts 1931, 42nd Leg., 2nd C. S., p. 2, ch. 2, § 4.]

[Art. 165e. Provision for 1934 and thereafter]

For the purposes referred to in Sections 1 and 3 herein, it shall be unlawful for any person, association of persons, firm, corporation, or joint stock company, being the owner, or lessee, or occupant of any separately owned tract of land in the State, or the agent of the owner thereof, or any person or persons interested therein, to plant, or cultivate, or harvest cotton, or any other soil exhausting plants, excepting feed crops for man and domestic animals, or either, on any land in this State in 1934, upon which said land cotton or other soil exhausting plants, excepting feed crops for man and domestic animals, or either, were planted, cultivated or harvested during the year 1933, and thereafter no such soil exhausting plants, excepting feed crops for man and domestic animals, or either, shall be planted during any year for the purpose of producing the same, on the same land upon which cotton or other soil exhausting plants, excepting feed crops for man and domestic animals, or either, were planted, or cultivated or harvested during the year immediately preceding and same shall not be planted or cultivated on the same land any two years in succession; provided, however, nothing herein contained is intended to prevent the harvesting of crops lawfully planted under the provisions of this Act. [Acts 1931, 42nd Leg., 2nd C. S., p. 2, ch. 2, § 5.]

[Art. 165f. Penalties recoverable for violation of act]

Every person, firm, corporation, or association of persons, or joint stock company, being the owner, or lessee, or occupant of any separately owned tract of land in the State, or agent of the owner thereof, or any person or persons interested therein, who shall plant, or cultivate or harvest, or permit to be planted, cultivated or harvested to cotton or any other soil exhausting plants any land in this State in violation of this Act, for each acre of land so planted, or cultivated, or harvested, or permitted to be planted, or cultivated, or harvested, in violation of this Act shall become liable and forfeit to the State and pay into the Road and Bridge Fund of the County where the violation occurs a sum of not less than Twenty-five Dollars (\$25.00) and not more than One Hundred Dollars (\$100.00) for each acre of land so planted, or cultivated, or harvested in violation of this Act, which may be recovered in the name of the State of Texas, in the District Court of any County in the State of Texas in which such violation or violations have occurred and venue is hereby given to such District Courts, and where a violation involves a county line farm the suit may be brought in any county in which any part of said farm is situated. [Acts 1931, 42nd Leg., 2nd C. S., p. 2, ch. 2, § 6.]

[Art. 165g. Injunction proceedings by County and District Attorneys on complaint for violation of act]

Upon the sworn complaint of any citizen in this State that any part of this Act is being, has been or is, threatened to be violated, or upon the request of the County Judge of any County in this State, or of the Commissioner of Agriculture of this State, it is hereby made the duty of the several County and District Attorneys of this State, to institute injunction



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proceedings in the proper courts in the county in which such violation or violations have occurred, as above specified, in the name of the State as Plaintiff, against the persons complained of as Defendants, to enforce the provisions of this Act, and collect the penalties provided for herein, and to prevent any violation thereof, and the said County and/or District Attorney instituting any suit under this Act shall pray for an injunction, and if it shall appear to the Judge from the facts stated in the petition that the provisions of this Act have been violated and are being violated or that violation is threatened or about to take place, he shall endorse thereon or annex thereto his written order directing the clerk of the proper court to issue the Writ of Injunction prayed for, upon such terms and under such modifications, limitations and restrictions as may be specified in said order; and a hearing may be had in said injunction as provided by law, and in event said injunction is not dissolved by the trial court and appeal thereon is taken, the court shall not suspend the injunction on appeal except upon the execution of a good and sufficient bond to be fixed and approved by the court in a sum not less than double the minimum amount of the penalties sued for. In such suit or suits any number of defendants residing within the same County or involving a county line farm may be made parties thereto, and the joinder of more than one defendant in the same action shall not be cause to abate said action. All actions brought under this Act on motion of attorneys for the State shall have precedence of all other business, civil or criminal, except criminal cases where the defendants are in jail. The fees for representing the State in all proceedings under this Act shall be ten (10) per cent of the amount collected for its violation, which fees shall be construed as fees of office and shall be accountable as such. It is hereby made the duty of all the inspectors of the State Department of Agriculture, to assist in the enforcement of this Act by observing the acreage planted to cotton or other soil exhausting plants, excepting feed crops for man and domestic animals, or either, as compared to the total cultivated acreage and to report any and all violations of this Act to the proper enforcement officers, and to furnish testimony upon which to base suits.

It is specially provided that except as otherwise provided herein the General Statutes of Texas relating to injunctions, shall be applicable and except where said General Statutes are inconsistent with the provisions hereof this Act is cumulative. [Acts 1931, 42nd Leg., 2nd C. S., p. 2, ch. 2, § 7.]

[Art. 165h. Attorney General's duty on failure of County or District Attorneys to act]

In the event the County and/or District Attorney fails and/or refuses to perform the duties as required by this Act, then, upon the request of the County Judge of any County or the Commissioner of Agriculture of the State of Texas, it shall be the duty of the Attorney General of Texas to carry out said provisions by the institution of said suits as provided herein. [Acts 1931, 42nd Leg., 2nd C. S., p. 2, ch. 2, § 8.]

[Art. 165i. Provisions applicable to state farms, excepting State or Federal experimental farms]

It is the intention of this Act that all farms owned and/or operated by the State of Texas, or any of its governmental agencies, shall be and are hereby declared to be subject to the provisions of this Act. Provided that all experimental farms maintained by State or Federal Governmental Agencies and all areas of land cultivated by or under the direction of either State or Federal Governmental Agencies for experimental purposes or for developing or improving varieties of cotton or other farm plants operating under State or Governmental Agencies, shall be exempt from

all the provisions of this bill. [Acts 1931, 42nd Leg., 2nd C. S., p. 2, ch. 2, § 9.]

[Art. 165j. Statement as to acreage cultivated in cotton on rendition of land for taxes; assessor's duty and penalty for neglect]

Each and every person upon the rendition of his or his principals' lands for taxes for the year 1932, shall state to the County Assessor of Taxes the total number of acres in cultivation in 1931, and also the number of acres thereof upon which cotton was grown on said land during the year 1931; and likewise and in the same manner, upon the rendition of his or his principals' lands for taxes for the year 1933, and each year thereafter, he shall state to the County Assessor of Taxes the total number of acres in cultivation during the years immediately preceding and also the number of acres thereof upon which cotton was grown on said land during the year immediately preceding. Each rendition so made shall, in addition to the requirements contained in Article 7204 of the Revised Civil Statutes of 1925, contain the questions and answers herein above required, all of which as now required by law, shall be sworn to by the person making the rendition.

The assessors of taxes are, in addition to the authority given them in Article 7184 of the Revised Statutes of 1925, to administer oaths, hereby authorized and empowered to administer all oaths necessary to procure the full and complete information as to cotton acreage provided for in this section.

And the assessor of taxes, for every failure or neglect to administer the oath or affirmation prescribed in this section to each person rendering a list of lands for taxes under this section, unless the person refuses to qualify, shall forfeit Fifty Dollars (\$50.00) to be deducted out of his commissions upon satisfactory information furnished the County Judge; and for each failure or neglect to attest the oath subscribed to as provided in this section, shall forfeit the sum of Fifty Dollars (\$50.00), upon satisfactory information furnished the County Judge. The forfeitures imposed in this section shall be deducted from the assessor's commissions on assessment for county taxes. [Acts 1931, 42nd Leg., 2nd C. S., p. 2, ch. 2, § 10.]

[Art. 165k. Application of act relating to statistical information]

As a further aid in the enforcement of this Act and for the purpose of obtaining information to enable the officers to more effectively enforce the provisions of this Act, it is declared that insofar as the requirements of Chapter 278, Acts of the Regular Session of the 42d Legislature, entitled "An Act requiring the Commissioner of Agriculture to gather, compile and disseminate statistical information relating to farm areas, crop acreage, natural resources and products thereof, etc.," is hereby made applicable hereto insofar as the same is not inconsistent with any provision of this act. [Acts 1931, 42nd Leg., 2nd C. S., p. 2, ch. 2, § 11.]

[Art. 165l. Repeals]

Any and all laws and parts of laws in conflict herewith are hereby expressly repealed. [Acts 1931, 42nd Leg., 2nd C. S., p. 2, ch. 2, § 12.]

[Art. 165m. Constitutionality; provisions separable]

If any part of this Act shall be held to be invalid, or, if any sentence, section or subsection shall be held to be invalid, it is expressly declared by the Legislature that the remaining parts, sections or subsections, shall not in any manner be affected thereby but the remaining portion of said Act and of each sentence, section or subsection shall be held to remain

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in full force and effect; and it is now declared by the Legislature that notwithstanding the invalidity, if any, of any part of this Act, or any section, or subsection, the Legislature would have enacted the remaining portions, regardless of the invalidity of any sentence, section or subsection or any other portion thereof. [Acts 1931, 42nd Leg., 2nd C. S., p. 2, ch. 2, § 13.]

## TITLE 7—ANIMALS

Art. 190a. [Bounty for destruction of predatory animals in certain counties]

It shall hereafter be lawful for the Commissioners' Court of McCulloch, San Saba, Lampasas, Mills, Erath, Limestone, Jasper, Hood, Bastrop, Brazos, Grimes and Sterling Counties to pay out of the general fund of said Counties, bounties for the destruction of wolves, wild cats, and other predatory animals within said Counties as hereinafter provided.

On the petition of two hundred resident freeholders of any one of said counties, being presented to the Commissioners' Court of such County, the Commissioners' Court may, by resolution entered upon its Minutes, provide for the destruction of such animals and the amount of bounty to be paid for the destruction of each of said predatory animals and the method of providing such destruction so as to entitle the person destroying such predatory animals to receive said bounty. Provided, that in the County of Sterling, the Commissioners' Court is authorized to act upon a petition of as many as fifty resident freeholders of said county.

The amounts paid as bounties for the destruction of predatory animals in said Counties shall be paid by warrant drawn upon the General Fund of the County by the Judge of such County on the filing with him of such proof as the Commissioners' Court may require. [As amended Acts 1929, 41st Leg., p. 208, ch. 90, § 1; Acts 1929, 41 St. Leg., 2nd C. S., p. 43, ch. 27, § 1; Acts 1930, 41st Leg., 4th C. S., p. 46, ch. 26, § 1.]

[Art. 190b. Bounties for destruction of predatory animals in Clay and other counties]

Sec. 1. It shall hereafter be lawful for the Commissioners' Court of Clay, Archer, Baylor, Young, Wise, Wilbarger, Wichita, Coryell, Callahan, Jackson, Eastland, Wharton, Taylor and Brazos Counties to pay out of the General Fund of said counties, bounties for the destruction of wolves, wildcats and other predatory animals within said counties, as hereinafter provided.

Sec. 2. On petition of two hundred resident freeholders of any one of said counties, being presented to the Commissioners' Court of such county, the Commissioners' Court may, by resolution entered upon its Minutes, provide that any person who shall kill or catch in any of the above counties any wolf coyote, jack-rabbit, panther or wildcat shall be paid not to exceed \$5.00 for each panther, wolf or wildcat scalp, and not to exceed ten cents (10¢) for each jack-rabbit scalp.

Sec. 3. The amounts paid as bounties for the destruction of predatory animals in said counties shall be paid by warrant drawn upon the General Fund of the County Judge of such county on the filing with him of such proof as the Commissioners' Court may require. [Acts 1929, 41st Leg., p. 69, ch. 35.]

See, also, art. 190e, post.

[Art. 190c. Destruction of predatory animals in counties having population of 11,800 to 12,000, bounties]

Sec. 1. That from and after the passage of this Act it shall be lawful for the Commissioners' Court of any county in this State having a population of not less than 11,800 and not more than 12,000 according to the

last 1920 Federal Census, to pay a bounty for the destruction of wolves, wildcats and other predatory animals within said County.

Sec. 2. That the payment of the Bounties herein authorized shall be made from a fund created by the levy of taxes which the Commissioners' Court of said county is hereby authorized to levy, at a rate of not to exceed one-fourth of one mill on the total assessed valuation of the county. [Acts 1929, 41st Leg., 1st C. S., p. 257, ch. 107.]

Section 3 of Acts 1929, 41st Leg., 1st C. S., p. 257, ch. 107, provides that it shall be cumulative of other acts relating to destruction of predatory animals and not as repeal thereof.

[Art. 190d. Wolf bounties in Shackelford county]

The Commissioners' Court of Shackelford County, in order to preserve game, is hereby authorized to pay out of the general fund, bounties on the scalps of wolves, in such sum as they deem necessary not to exceed Fifty (\$50.00) Dollars for each scalp. Said Commissioners' Court may require such proof and adopt such rules and regulations as are necessary in order to protect the interest of the County and make assurance that one wolf has been killed for each scalp paid for. [Acts 1930, 41st Leg., 5th C. S., p. 191, ch. 48, § 1.]

[Art. 190e. Bounties on wolf scalps in Jack and other counties]

In Wise, Jack and Young Counties the Commissioners' Court of the County, in order to preserve game, is hereby authorized to pay out of the General County Fund bounties on the scalps of wolves killed in the county, not to exceed Fifty Dollars for each scalp. Said Commissioners' Court may require such proof and adopt such rules and regulations as are necessary in order to protect the interest of the county and make assurance that one animal has been killed for each scalp paid for. [Acts 1930, 41st Leg., 4th C. S., p. 88, ch. 47, § 1.]

See, also, art. 190b, ante.

Art. 192. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 235, ch. 96, § 14]

Art. 192a. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 235, ch. 96, § 14]

[Art. 192b. Co-operation between state and federal agencies in destruction of predatory animals]

Sec. 1. That the State of Texas will cooperate through the Live Stock Sanitary Commission of Texas with United States Department of Agriculture, Bureau of Biological Survey, in destroying coyotes, wolves, mountain lions, bobcats and other predatory animals, and through the Agricultural and Mechanical College of Texas will cooperate with the United States Department of Agriculture, Bureau of Biological Survey, in destroying prairie dogs, pocket gophers (Salamanders), jack rabbits, ground squirrels and other rodent pests in the interest of the protection of live stock, crops and ranges.

Sec. 2. It is hereby authorized that an appropriation out of any sum in the State Treasury not otherwise appropriated in the sum of \$\_\_\_\_\_ for the fiscal year ending August 31, 1930, for said purpose, and the sum of \$\_\_\_\_\_ is hereby authorized to be appropriated from any sum in the State Treasury not otherwise appropriated for the fiscal year ending August 31, 1931, for the same purpose, provided that such monies so appropriated shall not be expended as hereinafter provided unless the Federal Congress shall appropriate adequate funds from the United States Treasury for each.

Sec. 3. The funds hereby authorized to be appropriated shall be apportioned each year between the two divisions of predatory animal con-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

control and rodent control as follows: eighty-five (85%) per cent for predatory animal control and fifteen (15%) per cent for rodent control. These funds shall be expended in amounts as authorized by the Chairman of the Live Stock Sanitary Commission of Texas and disbursed by warrants issued by the State Comptroller upon vouchers or pay rolls certified by the Chairman of the Live Stock Sanitary Commission of Texas for the predatory animal control division of the work, and in amounts as authorized by the President of the Agricultural and Mechanical College of Texas, and disbursed by warrants issued by the State Comptroller upon vouchers or pay rolls certified by the Director of Rodent Control for the Rodent Control division of the work. The work of destroying predatory animals and rodent pests is to be carried on under the direction of the Bureau of Biological Survey of the United States Department of Agriculture.

Sec. 4. The Chairman of the Live Stock Sanitary Commission of Texas is hereby authorized and directed to execute a cooperative agreement with the Secretary of Agriculture of the United States of America or the Bureau of Biological Survey of the United States of America for carrying out such cooperative work in predatory animal control in such manner and under such regulations as may be stated in said agreement. The president of the Agricultural and Mechanical College of Texas is hereby authorized and directed to execute a cooperative agreement with the Secretary of Agriculture or the Bureau of Biological Survey for carrying out such cooperative work in rodent control in such manner and under such regulations as may be stated in said agreement.

Sec. 5. That the Commissioners' Court of any county within the State or the governing body of any incorporated city or town within the State is empowered and authorized at its discretion to appropriate funds for the prosecution of the predatory animal and rodent control work contemplated by this Act [Art. 192b; P. C. art. 1378a] and in cooperation with State and Federal authorities to employ labor and to purchase and provide supplies required for the effective prosecution of this work.

Sec. 6. All furs, skins and specimens taken by hunters or trappers paid from State funds shall be sold under rules prescribed by the Live Stock Sanitary Commission of Texas and the proceeds of such sales shall be paid into the State Treasury to be credited and added to said predatory animal fund. All furs, skins, and specimens taken by hunters or trappers paid from county funds shall be sold as prescribed by the Commissioners' Court of the county, and the proceeds of such sale shall be paid into the County Treasury to be credited and added to such predatory animal fund, provided that any specimen so taken may be presented free of charge to the Agricultural and Mechanical College, or any other State institution or to the United States National Museum for scientific purposes.

Sec. 7. No bounty is to be collected from any county or other source for animals taken by hunters or trappers operating under this Act [Art. 192b; P. C. art. 1378a]. Scalps of all animals taken are to be destroyed and all skins of commercial value sold, and every precaution taken to prohibit the collection of bounty by any person herein mentioned.

Sec. 8. Any person working under the direction of the Bureau of the Biological Survey, United States Department of Agriculture, the Agricultural and Mechanical College of Texas, or the Live Stock Sanitary Commission of Texas, shall be authorized to enter upon public or private lands within this State for the purpose of carrying on the work of extermination of predatory animals and injurious rodents named in this Act [Art. 192b; P. C. art. 1378a], provided the same is done without violating the State or Federal Constitution.

Sec. 9. The provisions, restrictions and penalties of Chapter 149, Acts of the Regular Session of the 39th Legislature and of Articles 923r, 1377 and 1378 of the Penal Code shall not be construed as applying to hunters and trappers under this Act [Art. 192b; P. C. art. 1378a], provided they are acting in performance of duties contemplated under the terms of this

Act [Art. 192b; P. C. art. 1378a]. [Acts 1929, 41st Leg., 1st C. S., p. 235, ch. 96].

Effective May 17, 1929. Section 15 of Acts 1929, 41st Leg., 1st C. S., p. 235, ch. 96, provides that if any provision is held invalid, such holding shall not affect the re-

mainder. Sections 10-13 being penal provisions are published as Pen. Code art. 1378a.

**TITLE 8—APPORTIONMENT**

	Senatorial District.	Representative District.	Congressional District.	Judicial District.	Sup. Judicial District.		Senatorial District.	Representative District.	Congressional District.	Judicial District.	Sup. Judicial District.
Anderson	6	55	7	3	1	Dawson	30	119	18	106	11
Andrews	30	88	16	70	8	Deaf Smith	31	123	18	69	7
Angelina	3	12	2	2	9	Delta	8	126	1	8, 62	6
Aransas	18	70	14	36	4	Denton	22	49, 102	13	16	2
Archer	23	110	13	30	2	DeWitt	18	68	9	24	1
Armstrong	31	123	18	47	7	Dickens	30	118	18	110	7
Atascosa	18	76	15	81	4	Dimmit	27	77	15	49	4
Austin	15	25	10	22	1	Donley	31	122	18	100	7
Bailey	30	120	18	64	7	Duval	27	71	15	79	4
Bandera	26	86	16	38	4	Eastland	24	106, 107	17	88, 91	11
Bastrop	14	127	10	21	3	Ector	29	88	16	70	8
Baylor	23	113	13	50	11	Edwards	29	86	16	63	4
Bee	18	70	14	36	4	Ellis	12	100	5	40	5
Bell	21	95, 96	11	27	3	El Paso	29	89, 90	16	34, 41, 65	8
Bexar	26	78	14	37, 45, 57, 73, 94	4	Erath	21	105	12	29	11
Blanco	19	85	14	33	3	Falls	13	62, 96	11	82	10
Borden	30	118	18	32	11	Fannin	9	38, 41	4	6	6
Bosque	21	98	11	18	10	Fayette	15	66	9	22	3
Bowie	1	3, 1	1	5, 102	6	Fisher	24	117	18	104	11
Brazoria	17	21	9	23	1	Floyd	30	120	18	110	7
Brazos	14	26	6	85	10	Foard	23	114	18	46	7
Brewster	29	87	16	83	8	Fort Bend	17	20	8	23	1
Briscoe	31	120	18	110	7	Franklin	8	126	1	76	6
Brooks	27	74	15	79	4	Freestone	6	57	6	77, 87	10
Brown	25	125	17	35	3	Frio	27	76	15	81	4
Burleson	14	65	10	21	1	Gaines	30	119	18	106	8
Burnet	20	84	17	33	3	Galveston	17	17, 18	7	10, 56	1
Caldwell	19	81	10	22	3	Garza	30	118	18	106	7
Calhoun	18	69	9	24	4	Gillespie	25	85	16	33	4
Callahan	24	107	17	42	11	Glasscock	29	91	16	70	8
Cameron	27	72	15	103	4	Goliad	13	69	9	24	4
Camp	7	4	1	76	6	Gonzales	19	67	9	25	4
Carson	31	123	18	84, 114	7	Gray	31	122	18	31, 114	7
Cass	1	2, 3	1	5	6	Grayson	9	44, 45	4	15, 59	5
Castro	31	120	18	64	6	Gregg	2	6, 33	3	71, 124	6
Chambers	17	17	7	75	7	Grimes	5	26, 27	8	12	1
Cherokee	3	31	2	2	1	Guadalupe	19	80	14	25	4
Childress	31	121	18	100	6	Hale	30	120	18	64	7
Clay	23	110	13	97	7	Hall	31	121	18	100	7
Cochran	30	119	18	72	2	Hamilton	21	94	11	52	10
Coke	25	92	16	51	7	Hansford	31	124	18	84	7
Coleman	25	125	17	35, 119	3	Hardeman	23	114	13	46	7
Collin	10	43, 45	4	59	3	Hardin	4	14	2	75	9
Collingsworth	31	122	18	100	5	Harris	16	19	8	11, 55, 61, 80, 113	1
Colorado	15	25	9	25	7	Harrison	2	5, 6	2	71	6
Comal	19	80	14	22	1	Hartley	31	124	18	69	7
Comanche	25	104	17	52	3	Haskell	24	113	18	39	11
Concho	25	92	17	119	11	Hays	19	81	10	22	3
Cooke	9	46	13	16	3	Hemphill	31	124	18	84	7
Coryell	21	94	11	52	2	Henderson	6	54	3	3	5
Cottle	30	121	18	50	10	Hidalgo	27	73	15	92, 93	4
Crane	29	88	16	109	7	Hill	12	59, 60	6	66	10
Crockett	29	86	16	112	8	Hockley	30	119	18	72	7
Crosby	30	119	18	72	8	Hoop	12	105	12	29	2
Culberson	29	90	16	34	7	Hopkins	8	39, 126	1	8	6
Dallam	31	124	18	69	8	Houston	5	30	7	3	1
Dallas	11	50, 51	5	14, 44, 68, 95, 101, 116	7	Howard	30	91	16	32	11
					5	Hudspeth	29	90	16	34	8

APPORTIONMENT

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

	Sena- torial District.	Repre- sentative District.	Congres- sional District.	Judicial District.	Sup. Ju- dicial District.		Sena- torial District.	Repre- sentative District.	Congres- sional District.	Judicial District.	Sup. Ju- dicial District.
Hunt	10	40, 42	4	8, 62	6	Pecos	29	88	16, 83, 112	8	8
Hutchinson	31	124	18	84, 114	7	Polk	5	28	7	9	9
Irion	25	91	16	51	3	Potter	31	123	18, 47, 108	7	7
Jack	22	109	13	43	2	Presidio	29	88	16	83	8
Jackson	18	22	9	24	1	Rains	10	42	4	8	6
Jasper	3	13	2	1	9	Randall	31	123	18	47	7
Jefferson	4	15, 16	2	58, 60	9	Reagan	29	91	16	83	8
Jeff Davis	29	88	16	83	8	Real	29	86	16	38	4
Jim Hogg	27	74	15	49	4	Red River	8	36	1	102	6
Jim Wells	27	71	15	79	4	Reeves	29	83	16	109	8
Johnson	12	98, 99	12	18	10	Refugio	18	70	9	24	4
Jones	24	115	17	104	11	Roberts	31	124	18	31	7
Karnes	18	79	14	81	4	Robertson	14	63	6	85	10
Kaufman	6	51, 52	3	86	5	Rockwall	10	51	5	86	5
Kendall	26	85	14	38	4	Runnels	25	92	17	119	3
Kenedy	27	74	15	28	4	Rusk	2	8	3	4	6
Kent	30	118	18	39	7	Sabine	3	11	2	1	9
Kerr	26	86	16	38	4	San Augustine	3	11	2	1	9
Kimble	25	86	16	112	4	San Jacinto	5	29	7	9	9
King	30	114	18	50	7	San Patricio	18	70	14	36	4
Kinney	29	87	15	63	4	San Saba	20	93	17	33	3
Kleberg	27	74	15	28	4	Schleicher	25	86	16	51	3
Knox	23	114	18	50	11	Scurry	24	118	18	32	11
Lamar	8	37, 38	1	6, 62	6	Shackelford	24	115	17	42	11
Lamb	30	120	18	64	7	Shelby	2	10	2	123	9
Lampasas	20	93	17	27	3	Sherman	31	124	18	69	7
LaSalle	27	76	15	81	4	Smith	7	32, 33	3	7	6
Lavaca	15	23	9	25	1	Somervell	12	98	12	18	10
Lee	14	65	10	21	3	Starr	27	74	15	79	4
Leon	5	56	6	12	10	Stephens	24	108	17	90	11
Liberty	4	14	7	75	9	Sterling	25	91	16	51	3
Limestone	13	61	6	77, 87	10	Stonewall	30	118	18	39	11
Lipscomb	31	124	18	31	7	Sutton	29	86	16	112	4
Live Oak	18	76	15	36	4	Swisher	31	120	18	64	7
Llano	20	85	17	33	3	Tarrant	28	101, 102	12, 17, 48, 67, 96	2	2
Loving	29	88	16	109	8	Taylor	24	116	17	42, 104	11
Lubbock	30	119	18	72, 99	7	Terrell	29	87	16	63	8
Lynn	30	119	18	106	7	Terry	30	119	18	106	7
Madison	5	56	6	12	10	Throckmorton	24	113	13	39	11
Marion	1	3	1	76	6	Titus	1	35	1	76	6
Martin	30	88	16	70	8	Tom Green	25	91	16	51, 119	3
Mason	25	86	16	33	4	Travis	20	82	10	58, 98, 126	3
Matagorda	17	21	9	23	1	Trinity	5	28	7	12	1
Maverick	29	87	15	63	4	Tyler	3	12	2	75	9
McCulloch	25	93	17	35	3	Upshur	7	4	3	7	6
McLennan	13	96, 97	11	19, 54, 74	10	Upton	29	88	16	83, 112	8
McMullen	27	76	15	36	4	Uvalde	29	77	15	38	4
Medina	29	77	15	38	4	Val Verde	29	87	16	63	4
Menard	25	86	16	33	4	Van Zandt	7	53	3	86	5
Midland	29	88	16	70	8	Victoria	18	69	9	24	4
Milam	13	64, 65	6	20	3	Walker	5	29	7	12	1
Mills	25	104	17	27	3	Waller	15	20	8	9	1
Mitchell	24	117	16	32	11	Ward	29	88	16	109	8
Montague	22	47	13	97	2	Washington	14	24	10	21	1
Montgomery	5	27	7	9	9	Webb	27	75	15	49, 111	4
Moore	31	124	18	69	7	Wharton	17	22	9	23	1
Morris	1	35	1	76	6	Wheeler	31	122	18	31	7
Motley	30	121	18	110	7	Wichita	23	112	13	30, 78, 89	2
Nacogdoches	3	9	2	2	9	Wilbarger	23	112	13	46	7
Navarro	6	58, 60	6	13	10	Willacy	27	74	15	103	4
Newton	3	13	2	1	9	Williamson	20	83, 84	10	26	3
Nolan	24	117	17	32	11	Wilson	18	79	14	81	4
Nueces	27	71	14	28, 117	4	Winkler	29	83	16	109	8
Ochiltree	31	124	18	84	7	Wise	22	48	13	43	2
Oldham	31	123	18	69	7	Wood	7	34	3	7	6
Orange	4	15	2	1	9	Yoakum	30	119	18	106	7
Palo Pinto	22	108	17	29	11	Young	23	109	13	30	2
Panola	2	7	2	123	6	Zapata	27	75	15	49	4
Parker	22	103	12	43	2	Zavala	27	77	15	38	4
Farmer	31	120	18	69	7						

Art. 194. [Repealed by Acts 1931, 42nd Leg., p. 309, ch. 183, § 1]

[Art. 194a. Returns made to Secretary of State; certificate of election]

In all cases of election of State Senator, returns shall be made to the Secretary of State who shall receive the returns and count the votes, and issue certificates of election to persons receiving the highest number of votes for Senator at any election in their respective districts. [Acts 1931, 42nd Leg., p. 309, ch. 183, § 2.]

Article 198. [29] [21] [16] [Supreme Judicial Districts]

This State shall be divided into eleven Supreme Judicial Districts composed of the following named counties for the purpose of constituting and organizing a Court of Civil Appeals in each of the several Supreme Judicial Districts as follows, to-wit:

First: Trinity, Walker, Grimes, Burleson, Washington, Waller, Harris, Chambers, Austin, Colorado, Lavaca, DeWitt, Jackson, Matagorda, Wharton, Brazoria, Fort Bend, Galveston, Anderson, Houston.

Second: Wichita, Clay, Montague, Wise, Tarrant, Cooke, Denton, Parker, Archer, Young, Jack, Hood.

Third: Milam, Lee, Bastrop, Caldwell, Hays, Travis, Williamson, Bell, Burnet, Blanco, Llano, San Saba, Lampasas, Mills, McCulloch, Brown, Coleman, Runnels, Tom Green, Concho, Comal, Fayette, Coke, Sterling, Irion, Schleicher.

Fourth: Val Verde, Guadalupe, Sutton, Edwards, Kinney, Maverick, Menard, Kemble, Kerr, Bandera, Uvalde, Zavalla, Dimmit, Webb, LaSalle, Frio, Medina, Duval, McMullen, Atascosa, Bexar, Kendall, Wilson, Live Oak, Zapata, Bee, Karnes, Victoria, Goliad, Hidalgo, Cameron, Starr, Jim Hogg, Real, Brooks, Jim Wells, Kleberg, Kenedy, Willacy, Gillespie, Mason, Gonzales, Calhoun, Refugio, San Patricio, Aransas, Nueces.

Fifth: Grayson, Collin, Dallas, Rockwell, Henderson, Kaufman, Van Zandt, Ellis.

Sixth: Fannin, Lamar, Red River, Bowie, Delta, Hopkins, Franklin, Titus, Morris, Cass, Raines, Wood, Upshur, Marion, Harrison, Gregg, Smith, Cherokee, Rusk; Panola, Camp, Hunt.

Seventh: Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childress, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Foard, Hardeman, Wilbarger, Crosby, Lubbock, Hockley, Cochran, Yoakum, Terry, Lynn, Garza, Dickens, Kent, King.

Eighth: Crockett, Gaines, Andrews, Martin, Loving, Winkler, Midland, Glasscock, Reeves, Ward, Crane, Upton, Reagan, Terrell, Pecos, Brewster, Presidio, Jeff Davis, El Paso, Ector, Culberson, Hudspeth.

Ninth: Shelby, Nacogdoches, Angelina, San Jacinto, Montgomery, Liberty, Jefferson, Orange, Hardin, Newton, Jasper, Tyler, Polk, Sabine, San Augustine.

Tenth: McLennan, Freestone, Coryell, Hamilton, Bosque, Navarro, Johnson, Somervell, Falls, Limestone, Hill, Brazos, Leon, Madison, Robertson.

Eleventh: Dawson, Howard, Mitchell, Scurry, Nolan, Fisher, Stonewall, Taylor, Jones, Haskell, Knox; Callahan, Shackelford, Throckmorton, Baylor, Comanche, Eastland, Stephens, Erath, Palo Pinto, Borden. [As amended Acts 1929, 41st Leg., p. 106, ch. 51, § 1.]

Section 2 of said Acts 1929, 41st Leg., p. 106, ch. 51, directs that all appeals perfected from the counties of Borden, Dawson and Howard prior to September 1, 1929, shall be taken to the Court of Civil Appeals for the Eighth Supreme Judicial District, and all appeals thereafter to the Court of Civil Appeals for the Eleventh Supreme Judicial District.

Section 2a directs that all appeals perfected from Hood County prior to September 1, 1929, shall be taken to the Court of Civil Appeals for the Tenth Supreme Judicial District, and all appeals thereafter to the Court of Civil Appeals for the Second Supreme Judicial District.



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Art. 199. [30] [22] [17] [Judicial Districts]

1. San Augustine, Orange, Newton, Jasper and Sabine.

San Augustine County: Beginning the first Monday in January, and the twenty-fifth Monday after the first Monday in January, and continue four weeks.

Orange County: Beginning the fourth Monday after the first Monday in January, the twenty-first Monday after the first Monday in January, and the thirty-seventh Monday after the first Monday in January, and continue four weeks.

Newton County: Beginning the eighth Monday after the first Monday in January, and the thirty-third Monday after the first Monday in January, and continue [continue] four weeks.

Jasper County: Beginning the twelfth Monday after the first Monday in January, and the twenty-ninth Monday after the first Monday in January, and the forty-sixth Monday after the first Monday in January, and continue [continue] four weeks.

Sabine County: Beginning the sixteenth Monday after the first Monday in January, and the forty-first Monday after the first Monday in January, and continue five weeks.

Sec. 2. That all process and writs heretofore issued out of said District Court and returnable to terms of said Court respectively, according to existing laws, are hereby made returnable to the terms of said Court as said terms are fixed by this Act, and all bonds executed and recognizances entered into in said Court shall bind the parties for their appearances, or to fulfill the obligations of such bonds and recognizances, at the terms of said Court as they are fixed by this Act, and all process heretofore issued or taken in said District Court shall be as valid as though no change was made in the number of terms or the time of holding said Court herein, and all grand and petit jurors drawn and selected and summoned under existing laws for said Court are hereby declared lawfully drawn and selected and summoned for the first term of said District Court held in each county of said District in conformity with this Act. [As amended Acts 1930, 41st Leg., 4th C. S., p. 92, ch. 51.]

2. Angelina, Cherokee and Nacogdoches.

Cherokee County. On the first (1) Monday in January, and may continue eight (8) weeks, and on the twenty-fourth (24th) Monday after the first Monday in January, and may continue eight (8) weeks.

Nacogdoches County. On the eighth (8th) Monday after the first Monday in January, and may continue eight (8) weeks, and on the thirty-sixth (36th) Monday after the first Monday in January, and may continue eight (8) weeks.

Angelina County. On the sixteenth (16th) Monday after the first Monday in January, and may continue eight (8) weeks, and on the forty-fourth (44th) Monday after the first Monday in January, and may continue eight (8) weeks.

Sec. 2. All processes, all writs and bonds, Civil and Criminal, issued or executed prior or subsequent to the taking effect of this Act and returnable to the terms of said Court as heretofore fixed by Law in the several counties composing the said Second Judicial District, as well as all Grand and Petit jurors, are hereby made returnable to the terms of said Courts, as said terms are here now fixed by this Act, and in conformity with the change herein made, and all bonds executed and recognizances entered into in said Courts, shall bind the parties for their appearances or to fulfill the obligations of such bonds and recognizances at the terms of said Courts, as they are fixed by this Act, and all process of every kind heretofore taken or hereafter entered into after this Act takes effect in any of said Courts, in said District, shall be as valid and as binding as if no change

had been made in the time of holding said Court. [As amended Acts 1931, 42nd Leg., p. 824, ch. 341.]

Section 3 of said act 1931 repeals all conflicting laws and parts of laws. This article was also amended by Acts 1927, 40th Leg., p. 196, ch. 128 (effective 90 days after March 16, 1927, date of adjournment).

### 3. Houston, Henderson and Anderson.

Three. The Third Judicial District of the State of Texas shall be composed of the counties of Anderson, Henderson and Houston, and from and after December 2, 1929, A. D., the terms of the District Courts within said counties shall be held therein as follows: In the county of Anderson, on the first Monday in December, and may continue in session eight weeks; on the 18th Monday after the first Monday in December, and may continue in session eight weeks; and on the thirty-first Monday after the first Monday in December, and may continue in session six weeks;

In the county of Henderson on the eighth Monday after the first Monday in December and may continue in session five weeks; on the twenty-sixth Monday after the first Monday in December, and may continue in session five weeks; and on the forty-first Monday after the first Monday in December and may continue in session five weeks;

In the county of Houston on the thirteenth Monday after the first Monday in December and may continue in session five weeks; on the thirty-sixth Monday after the first Monday in December, and may continue in session five weeks; and on the forty-sixth Monday after the first Monday in December and may continue in session five weeks.

Sec. 2. All processes, writs and bonds issued, served or executed prior to the taking effect of this Act and returnable to the terms of said court in each of said counties comprising the said judicial district, and all processes heretofore returnable as well as all bonds and recognizances heretofore entered into in any of said judicial district shall be valid and binding. All processes issued or served before this Act goes into effect, including recognizances and bonds returnable after December 2, 1929, to the district courts or any of said courts shall be considered as returnable to said courts in accordance with the term prescribed by this Act and all such processes are hereby validated and legalized and all grand and petit jurors drawn and selected under existing laws of any of the counties in said judicial district for a term of court after December 2, 1929, shall be considered lawfully drawn and selected for the next term of the district court for their respective counties, as held in accordance with this Act. Provided, however, that if there should be a term of court being held at the time this Act goes into effect, said term of court shall remain and continue in session until said term shall have ended and terminated under the law, as it existed at the opening of said term, for holding court in the said Third Judicial District. [As amended Acts 1929, 41st Leg., 1st C. S., p. 76, ch. 35.]

### 4. Rusk.

Sec. 1. That from and after the passage of this Act, the 4th Judicial District shall be composed of and confined to the County of Rusk only and the terms of the District Court of said Rusk County, Texas, shall be held therein each year as follows: on the first Monday in January, March, May, July, September and November of each year; and each term of said Court shall continue in session until the Saturday before the next succeeding term or until all the business is disposed of; provided, however, that a regular term of said Court shall be and become in session immediately upon final passage of this Act and the appointment and qualification of a Judge as hereinafter provided for.

Sec. 2. The Judge and Clerk of the 4th Judicial District now elected and acting as such shall continue to hold the offices of District Judge and District Clerk respectively of said 4th Judicial District in and for Rusk

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County until the time for which they have been elected expires and until their successors are duly elected and qualified.

Sec. 3. The County Attorney of Rusk County, Texas, duly elected and now acting as such shall do and perform all the duties of County and District Attorney of said 4th Judicial District of Rusk County, Texas, until the next general election and until his successor is duly elected and qualified, and shall receive such fees for his services as are now or may hereafter be provided for County Attorneys performing like duties under and by virtue of the General Laws of this State. [As amended Acts 1931, 42nd Leg., p. 873, ch. 369.]

Effective 90 days after May 23, 1931, date of adjournment. Said act, 1931 transfers Panola and Shelby Counties to the 123rd

Judicial District. This subd. was also amended by Acts 1929, 41st Leg., p. 471, ch. 220, § 2 (effective March 18, 1929).

#### 5. Cass and Bowie.

Historical.—Acts 1st C. S. 1921, ch. 11, p. 20, § 1, cited to the text, also contained provisions as to Bowie County as follows:

In the County of Bowie, beginning on the First Monday in January of each year, and may continue in session for ten weeks.

In the County of Bowie on the eighteenth Monday after the first Monday in

January of each year, and may continue in session until the first Monday in September.

In the County of Bowie, on the seventh Monday after the First Monday in September of each year, and may continue in session until the first Monday in January following.

#### 6. Fannin and Lamar.

Sec. 1. Terms of court in and for the Sixth Judicial District shall be hereafter held therein each year as follows:

In the County of Fannin on the second Monday in January of each year and may continue in session for six weeks;

In the County of Fannin on the seventh Monday after the second Monday in January of each year and may continue in session for four weeks;

In the County of Lamar on the eleventh Monday after the second Monday in January of each year and may continue in session for ten weeks;

In the County of Fannin on the twenty-first Monday after the second Monday in January of each year and may continue in session for eight weeks;

In the County of Lamar on the fifth Monday after the second Monday in August in each year and may continue in session six weeks;

In the County of Fannin on the eleventh Monday after the second Monday in August of each year and may continue in session six weeks;

In the County of Lamar on the seventeenth Monday after the second Monday in August of each year and may continue in session until the second Monday in January the following year;

Sec. 2. The Judge of the Sixth Judicial District shall convene a Grand Jury in the County of Lamar at only two terms of court in each year unless in his judgment it be necessary for a Grand Jury the third term, and the said Judge shall convene a Grand Jury in the County of Fannin at only two terms of court in each year unless in his judgment it be necessary for a Grand Jury for either or both of the other two terms. [As amended Acts 1931, 42nd Leg., p. 767, ch. 306.]

Effective March 27, 1931. Section 3 of said acts repeals all conflicting laws and parts of laws. This subd. was also amend-

ed Acts 1927, 40th Leg., p. 225, ch. 154, § 1 (effective March 25, 1927).

#### 12.—Trinity, Leon, Walker, Madison and Grimes.

The Twelfth Judicial District of the State of Texas shall be composed of the Counties of Grimes, Trinity, Leon, Walker, and Madison, and from and after August 1, A. D. 1931, the terms of the District Courts within said Counties shall be held therein as follows:

In the County of Grimes on the first Monday in September and may continue in session three weeks; and on the first Monday in January and may

continue in session four weeks; and on the sixteenth Monday after the first Monday in January and may continue in session four weeks;

In the County of Trinity on the third Monday after the first Monday in September and may continue in session four weeks; and on the seventh Monday after the first Monday in January and may continue in session four weeks;

In the County of Leon on the seventh Monday after the first Monday in September and may continue in session three weeks; and on the fourth Monday after the first Monday in January and may continue in session three weeks; and on the twentieth Monday after the first Monday in January and may continue in session three weeks;

In the County of Walker on the tenth Monday after the first Monday in September and may continue in session three weeks; and on the eleventh Monday after the first Monday in January and may continue in session three weeks; and on the twenty-third Monday after the first Monday in January and may continue in session three weeks;

In the County of Madison on the thirteenth Monday after the first Monday in September and may continue in session three weeks; and on the fourteenth Monday after the first Monday in January and may continue in session two weeks; and on the twenty-sixth Monday after the first Monday in January and may continue in session two weeks.

Sec. 2. All processes, writs, and bonds issued, served, or executed prior to the taking effect of this Act and returnable to the terms of said Court in each or any of said Counties comprising the said Judicial District, and all processes heretofore returnable, as well as all bonds and recognizances heretofore entered into in any county of said Judicial District, shall be valid and binding. All processes issued or served before this Act goes into effect, including recognizances and bonds returnable after August 1, 1931, to the District Courts or any of said Courts of said District, shall be considered as returnable to said Courts in accordance with the terms prescribed by this Act, and all such processes are hereby validated and legalized, and all Grand and Petit Jurors drawn and selected under existing laws for the District Courts of any of the Counties in said Judicial District for a term of Court after August 1, 1931, shall be considered lawfully drawn and selected for the next term of the District Court for their respective Counties, as same may be held in accordance with this Act. [As amended Acts 1931, 42nd Leg., p. 775, ch. 310.]

14, 44, 68, 95, 101, 116.—Dallas.

See, also, 116 Judicial District, post.

23.—Brazoria, Fort Bend, Wharton and Matagorda.

That the 23rd Judicial District of Texas shall be composed of the Counties of Brazoria, Fort Bend, Wharton and Matagorda and the terms of the District Court in said Counties shall be held therein each year as follows:

In the County of Matagorda, beginning on the first Monday in October of each year and may continue in session for five weeks.

In the County of Fort Bend, beginning on the fifth Monday after the first Monday in October of each year and may continue in session five weeks.

In the County of Wharton, beginning on the tenth Monday after the first Monday in October of each year and may continue in session seven weeks.

In the County of Brazoria, beginning on the seventeenth Monday after the first Monday in October of each year and may continue in session five weeks.

In the County of Matagorda, beginning on the second Monday in March of each year and may continue in session five weeks.

In the County of Fort Bend, beginning on the fifth Monday after the

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second Monday in March of each year, and may continue in session five weeks.

In the County of Wharton, beginning on the tenth Monday after the second Monday in March of each year and may continue in session for five weeks.

In the County of Brazoria, beginning on the fifteenth Monday after the second Monday in March of each year and may continue in session for five weeks. [As amended Acts 1931, 42nd Leg., p. 746, ch. 293, § 1.]

24. Goliad, Jackson, Refugio, Calhoun, Victoria and De Witt.

Goliad County: On the second Monday in February and the first Monday in September and may continue three weeks.

Jackson County: On the third Monday after the second Monday in February and the third Monday after the first Monday in September and may continue three weeks.

Refugio County: On the sixth Monday after the second Monday in February and the sixth Monday after the first Monday in September and may continue three weeks.

Calhoun County: On the ninth Monday after the second Monday in February, and the ninth Monday after the first Monday in September and may continue two weeks.

Victoria County: On the eleventh Monday after the second Monday in February, and the eleventh Monday after the first Monday in September and may continue five weeks.

De Witt County: On the first Monday in January, such term to continue five weeks, and on the sixteenth Monday after the second Monday in February and may continue five weeks.

Section 2. All processes, all writs and bonds, civil and criminal, issued or executed prior or subsequent to the taking effect of this Act and returnable to the terms of said Court as heretofore fixed by law in the County of Calhoun in said Twenty-fourth Judicial District, as well as all grand and petit jurors, are hereby made returnable to the terms of said court, as said terms are here now fixed by this Act, and in conformity with the change herein made, and all bonds executed and recognizances entered into in said Court, shall bind the parties for their appearances or to fulfill the obligations of such bonds and recognizances at the terms of said Court as they are fixed by this Act, and all processes of every kind heretofore returned to, as well as all bonds and recognizances heretofore taken or hereafter entered into after this Act takes effect in said Court, in said District, shall be as valid and as binding as if no change had been made in the time of holding said court. [As amended Acts 1929, 41st Leg., p. 348, ch. 163, §§ 1, 2.]

Effective March 9, 1929. Section 3 of repeals all conflicting laws and parts of said Acts 1929, 41st Leg., p. 348, ch. 163, laws.

25. Gonzales, Colorado, Lavaca and Guadalupe.

Gonzales County. On the first Monday in January and on the twenty-first Monday after the first Monday in January and may continue in session five weeks.

Colorado County. On the fifth Monday after the first Monday in January and on the first Monday in September and may continue in session four weeks.

Lavaca County. On the 9th Monday after the first Monday in January and on the 4th Monday after the first Monday in September and may continue in session five weeks.

Guadalupe County. On the 14th Monday after the first Monday in January and on the 9th Monday after the first Monday in September and may continue in session six weeks.

Sec. 2. All processes, all writs and bonds, Civil and Criminal, issued or executed prior or subsequent to the taking effect of this Act and returnable to the terms of said Court as heretofore fixed by Law in the

several counties composing the 25th Judicial District, as well as all Grand and Petit Jurors, are hereby made returnable to the terms of said Court as said terms are here now fixed by this Act and in conformity with the change herein made, and all bonds executed and recognizances entered into in said Court shall bind the parties for their appearances or to fulfill the obligations of such bonds and recognizances at the terms of said Courts as they are fixed by this Act, and all process of every kind and character heretofore taken or hereafter entered into after this Act takes effect in any of said Courts in said district shall be as valid and as binding as if no change had been made in the time of holding said Courts.

It is further provided, that if any Court in any county of said district shall be in session at the time this Act takes effect, such Court or Courts affected hereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter the Court in such county shall conform to the requirements of this act. [As amended Acts 1929, 41st Leg., p. 396, ch. 182.]

Section 3 of said Acts 1929, 41st Leg., p. 396, ch. 182, repeals all conflicting laws and parts of laws.

#### 27. Bell, Lampasas and Mills.

Bell County: On the third Monday in January and may continue in session six weeks; on the sixth Monday after the third Monday in January and may continue in session seven weeks; on the seventeenth Monday after the third Monday in January, and may continue in session eleven weeks; on the sixth Monday after the first Monday in September and may continue in session seven weeks.

Lampasas County: On the fifteenth Monday after the first Monday in January and may continue in session two weeks; on the first Monday in September and may continue in session three weeks; on the thirteenth Monday after the first Monday in September and may continue in session two weeks.

Mills County: On the first Monday in January and may continue in session two weeks; on the seventeenth Monday after the first Monday in January and may continue in session two weeks; on the fourth Monday in September and may continue in session three weeks.

Sec. 2. That all process and writs heretofore issued out of said District Court and returnable to terms of said Court respectively, according to existing laws, are hereby made returnable to the terms of said Court as said terms are fixed by this Act, and all bonds executed and recognizances entered into in said Court shall bind the parties for their appearances, or to fulfill the obligations of such bonds and recognizances, at the terms of said Court as they are fixed by this Act, and all process heretofore issued or taken in said District Court shall be as valid as though no change was made in the number of terms or the time of holding said Court herein, and all grand and petit jurors drawn and selected and summoned under existing laws for said Court are hereby declared lawfully drawn and selected and summoned for the first term of said District Court held in each County of said District, in conformity with this Act. [As amended Acts 1931, 42nd Leg., p. 766, ch. 305.]

Effective Sept. 1, 1931. Section 2a of said act makes it effective Sept. 1, 1931. Section 3 repeals all conflicting laws and parts of laws.

#### 28.—Nueces, Kleberg and Kenedy.

See 117 Judicial District, post.

#### 29.—Hood, Palo Pinto and Erath.

In the County of Erath: On the first Monday in January and may continue in session until and including the last Saturday before the first Monday in March; on the first Monday after the third Saturday in May and

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may continue in session until and including the third Saturday in June; On the first Monday after the fourth Saturday in August and may continue in session until and including the fourth Saturday in October.

In the County of Palo Pinto: On the first Monday in March and may continue in session until and including the third Saturday in April; On the first Monday after the third Saturday in June and may continue in session until and including the fourth Saturday in July; On the first Monday after the fourth Saturday in October, and may continue in session until and including the second Saturday in December.

In the County of Hood: On the first Monday after the third Saturday in April and may continue in session until and including the third Saturday in May; on the first Monday after the fourth Saturday in July and may continue in session until and including the fourth Saturday in August; on the first Monday after the second Saturday in December and may continue in session until and including Saturday before the first Monday in January.

Sec. 2. All process issued or served before this Act goes into effect, including recognizances and bonds, returnable to the District Court of any of said counties, shall be considered as returnable to said courts, in accordance with the terms prescribed by this Act, and all such process is hereby legalized; and all grand and petit juries drawn and selected under existing laws in any of the counties in said Judicial District shall be considered lawfully drawn and selected for the next term of the District Court for their respective counties, held in accordance with this Act; provided, that if any court in any county of said Judicial District shall be in session at the time this Act takes effect, said Court shall continue in session until the term thereof shall expire under the terms of the existing law. Thereafter the courts of said counties shall conform to the requirements of this Act.

Sec. 3. No Grand Jury shall be drawn for the term in Erath County beginning on the first Monday after the third Saturday in May; and no Grand Jury shall be drawn for the term in Palo Pinto County beginning on the first Monday after the third Saturday in June; and no Grand Jury shall be drawn for the term in Hood County beginning on the first Monday after the fourth Saturday in July, provided however, that the Judge of said court may in his discretion from time to time order Grand Juries drawn for said terms of any of them. [As amended Acts 1931, 42nd Leg., p. 807, ch. 331.]

### 31.—Roberts, Wheeler, Gray, and Lipscomb.

Sec. 1. The 31st Judicial District of the State of Texas shall be composed of the Counties of Roberts, Wheeler, Gray and Lipscomb.

Sec. 2. The terms of District Court for the 31st Judicial District of the State of Texas shall for and during the year A. D. 1929, be held as follows:

Beginning in Wheeler County on Monday, January 28, 1929, and may continue in session seven weeks; and beginning in Wheeler County on Monday, August 5th, 1929, and may continue in session seven weeks.

Beginning in Gray County, on Monday, March 18th, 1929, and may continue in session ten weeks; and beginning in Gray County, on Monday, September 23, 1929, and may continue in session ten weeks.

Beginning in Roberts County, on Monday, May 27th, 1929, and may continue in session one week; and beginning in Roberts County on Monday, July 22, 1929, and may continue in session two weeks.

Beginning in Lipscomb County, on Monday, June 3rd, 1929, and may continue in session two weeks; and beginning in Lipscomb County on Monday, December 2nd, 1929, and may continue in session two weeks.

Sec. 3. The terms of the District Court of the 31st Judicial District of the State of Texas for and during the year A. D. 1930, and each year thereafter shall be held in said District for the said year 1930, and each year thereafter as follows:

Beginning in Roberts County, on the 1st Monday in January of each year, and may continue in session two weeks; and also beginning in Roberts County on the 3rd Monday in July of each year, and may continue in session two weeks.

Beginning in Wheeler County on the second Monday after the first Monday in January of each year, and may continue in session seven weeks; and also beginning in Wheeler County on the second Monday after the third Monday in July of each year, and may continue in session seven weeks.

Beginning in Gray County on the ninth Monday after the first Monday in January of each year, and may continue in session twelve weeks; and also beginning in Gray County on the ninth Monday after the third Monday in July of each year and may continue in session twelve weeks.

Beginning in Lipscomb County on the twenty-first Monday after the first Monday in January of each year, and may continue in session two weeks; and also beginning in Lipscomb County on the twenty-first Monday after the third Monday in July of each year, and may continue in session two weeks. [Acts 1929, 41st Leg., p. 11, ch. 6.]

Sections 1-15 of Acts 1929, 41st Leg., p. 11, ch. 6, reorganized the 31st Judicial District as created by Acts 1927, 40th Leg., p. 60, ch. 42, by transferring the counties of Carson, Hutchinson, Hansford, Ochiltree, and Hemphill to the 84th Judicial District. See, also, 114 Judicial District.

### 32. Nolan, Scurry, Mitchell, Howard and Borden.

Sec. 1. The 32nd Judicial District of Texas shall be composed of the counties of Nolan, Scurry, Mitchell, Howard, and Borden, and the terms of the District Court of said District shall be held therein each year as follows:

In the County of Nolan on the first Monday in January of each year and may continue in session eight weeks; on the second Monday after the first Monday in September of each year and may continue in session four weeks.

In the County of Howard on the twelfth Monday after the first Monday in January of each year and may continue in session eight weeks; on the ninth Monday after the first Monday in September of each year, and may continue in session four weeks.

In the County of Scurry on the eighth Monday after the first Monday in January of each year and may continue in session four weeks; on the sixth Monday after the first Monday in September of each year and may continue in session three weeks.

In the County of Mitchell on the twentieth Monday after the first Monday in January of each year and may continue in session four weeks; on the thirteenth Monday after the first Monday in September of each year and may continue in session four weeks.

In the County of Borden on the twenty-fourth Monday after the first Monday in January of each year and may continue in session two weeks; on the thirty-fifth Monday after the first Monday in January of each year and may continue in session two weeks. [As amended Acts 1931, 42nd Leg., 1st C. S., p. 27, ch. 14, § 1.]

Sec. 2. That there is hereby created a Court to be held in each of the several Counties now composing the 32nd Judicial District of Texas, to be called a "Special District Court of the 32nd Judicial District of Texas."

Sec. 3. Said Special District Court of the 32nd Judicial District of Texas shall have jurisdiction concurrent with the District Court of the 32nd Judicial District of all matters and causes of a civil and criminal nature over which under the Constitution and General Laws of the State of Texas, the District Court of said 32nd Judicial District of Texas has original and appellate jurisdiction.

Sec. 4. The Judge of the 32nd Judicial District of Texas may, in his discretion, either in term time or in vacation, order entered upon the Min-



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utes of the District Court of the respective Counties of said District, transfer any case or cases, that may at any time be pending in said District Court of that County to the Special District Court of the 32nd Judicial District of Texas, created by this Act, and holding sessions in that County, and said Special District Court shall have the same powers and authority to try and finally dispose of such case so transferred as the Court from which the same were transferred, possessed, and the Judge of said Special District Court may at any time in his discretion, either in term time or in vacation, by an order or orders entered upon the Minutes of his Court in any of the Counties of the 32nd Judicial District, transfer any cause pending upon his docket to the District Court of the 32nd Judicial District holding sessions in the County, and when said cause or causes are transferred, the court to which transfer is made shall have the same right and authority to try and finally dispose of same as originally had by said Special District Court.

Sec. 5. Any party or person desiring to bring a suit over which the District Court of the 32nd Judicial District has jurisdiction, shall have the right to file the same either in the District Court of the 32nd Judicial District in the County where said suit is brought, or in said Special District Court hereby created in the County where said suit is brought, subject to the right of the Judges of said Courts to transfer the same as herein provided.

Sec. 6. The Clerk of the District Court of each of the Counties now composing the 32nd Judicial District of Texas, and his successors in office shall be the Clerk of the 32nd Judicial District Court in his County, and also the clerk of the Special District Court in his County, hereby created, and shall perform all duties pertaining to the clerkship of each of said Courts.

Sec. 7. The District Attorney of the 32nd Judicial District of Texas shall represent the State in all cases wherein the State of Texas is a party in said Special District Court, and in case of the absence or inability of said District Attorney to so represent the State in any case pending in said Special District Court, then the County Attorney of the County in which said case is pending, shall represent the State.

Sec. 8. The Governor of the State of Texas is hereby authorized and empowered to appoint some person having the qualification provided by law for District Judge, as Judge of said Special District Court, who shall hold his office until the first day of August, 1933. The compensation of the Judge of said Special District Court of the said 32nd Judicial District hereby created, shall be the same as paid to the Judges of other District Courts.

Sec. 9. There is hereby conferred upon said Special District Court and upon the Judge thereof, all of the rights, powers, and duties that are given by Law to the District Courts and District Judges of this State, and all Laws of the State of Texas in reference to District Courts and District Judges shall be deemed and held equally applicable to said Special District Court and the Judge hereto, except as herein specially excepted.

Sec. 10. The terms of said Special District Court created by this Act in the various Counties of the 32nd Judicial District shall be as follows:

In the County of Howard on the first Monday in January of each year and may continue in session eight weeks; on the first Monday in September of each year and may continue in session four weeks.

In the County of Nolan on the fourteenth Monday after the first Monday in January of each year and may continue in session eight weeks; on the ninth Monday after the first Monday in September of each year and may continue in session four weeks.

In the County of Mitchell on the eighth Monday after the first Monday in January of each year and may continue in session four weeks; on the fourth Monday after the first Monday in September of each year and may continue in session three weeks.

In the County of Scurry on the twenty-second Monday after the first Monday in January of each year and may continue in session four weeks; on the thirteenth Monday after the first Monday in September of each year and may continue in session four weeks.

In the County of Borden on the twelfth Monday after the first Monday in January of each year and may continue in session two weeks; on the seventh Monday after the first Monday in September of each year and may continue in session two weeks.

Sec. 11. Said Special District Court of the 32nd Judicial District, created by this Act, shall cease to exist on the first day of August, 1933, at which time the term of office of the Judge of said Court shall expire by limitation of Law, and the provisions of this Act, except those as embodied in Section 12 herein.

Sec. 12. That, at the expiration of the term for which said Special District Court is created, the Judge thereof shall deliver all the dockets and records of said Court to the Clerks of the District Courts of the respective Counties of the 32nd Judicial District for preservation, and any cause or causes pending upon the dockets of the said Court at the time shall be, by said Clerks, transferred to the docket of the District Court of the 32nd Judicial District of the County in which said causes are pending. Said Judge shall also have authority and power, after the expiration of his term of office, to approve any and all statements of facts, bills of exceptions, or make any other order necessary in cases tried in said Special District Court and appealed.

Sec. 13. That all laws and parts of laws in conflict with the provisions of this Act be, and the same are hereby repealed, but nothing in this Act shall be construed as in any way affecting the process, terms, jurisdiction or authority of the District Court of the 32nd Judicial District of Texas, except as herein specially conferred upon said Special District Court hereby created, and all process issued in any case pending in the District Court of the said 32nd Judicial District shall be equally valid in any cause transferred to said Special District Court.

Sec. 14. There shall be no Grand Jury drawn in the Special District Court for the four weeks' term of Court convening in Howard County on the first Monday in September of each year; neither shall there be any Grand Jury drawn for the four weeks' term of Court in Nolan County convening on the ninth Monday after the first Monday of September of each year in the said Special District Court herein provided for; neither shall there be any Grand Jury drawn for the said Special District Court in the County of Mitchell for the three weeks' term of Court beginning on the fourth Monday after the first Monday in September of each year; neither shall there be any Grand Jury drawn for said Special District Court in the County of Scurry for the four weeks' term of Court beginning on the twenty-second Monday after the first Monday in January of each year; providing further, that there shall be no Grand Jury drawn each year for the said Special District Court in the County of Borden, and providing further, that the Judge of said Special District Court may, in his discretion, from time to time order drawn such additional Grand Jury in the several counties herein named, as he may deem proper and necessary. [As amended Acts 1931, 42nd Leg., p. 860, ch. 366.]

Effective June 1, 1931. Section 15 of said act repeals all conflicting laws and parts of laws. Section 16 provides that if any provision of the act is held invalid, such de-

cision shall not affect the remainder.

This subd. was also amended by Acts 1929, 41st Leg., p. 30, ch. 10. (effective Feb. 9, 1929).

33.—Gillespie, Mason, Blanco, Menard, San Saba, Llano and Burnet.

The Thirty-third Judicial District shall be composed of Gillespie, Mason, Blanco, Menard, San Saba, Llano and Burnet Counties, and the terms of the District Court shall be held therein as follows:

In Gillespie County: Beginning on the second Monday after the first

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Monday in February and August of each year, and may continue in session three weeks.

In Mason County: Beginning on the fifth Monday after the first Monday in February and August of each year, and may continue in session two weeks.

In Blanco County: Beginning on the Seventh Monday after the first Monday in February and August of each year, and may continue in session two weeks.

In Menard County: Beginning on the ninth Monday after the first Monday in February and August of each year, and may continue in session two weeks.

In San Saba County: Beginning on the eleventh Monday after the first Monday in February and August of each year, and may continue in session three weeks.

In Llano County: Beginning on the fourteenth Monday after the first Monday in February and August, and may continue in session three weeks.

In Burnet County: Beginning on the seventeenth Monday after the first Monday in February and August of each year, and may continue in session three weeks. [As amended Acts 1929, 41st Leg., 3rd C. S., p. 245, ch. 11, § 2.]

Effective 90 days after July 20, 1929, date of adjournment. Sections 1, 4-12 of Acts 1929, 41st Leg., 3rd C. S., p. 245, ch. 11, creates the One hundred and twelfth Judicial District and fixes the time for holding court therein. Section 3 reorganizes the Eighty-third Judicial District and fixes the time

for holding court therein. Section 13 repeals all conflicting laws and parts of laws.

Kimble county transferred to 112 Judicial District by Acts 1929 cited to the text.

Change in jurisdiction of Menard county court affecting Menard District Court, see article 1970-302.

### 34, 41, 65.—El Paso.

Amended by changing the time for holding courts in the thirty fourth district "Thirty-fourth District: (a) El Paso County: On the third Monday in September and may continue four weeks; on the first Monday in November and may continue until the last Saturday before the 25th day of December; on the first Monday in January and may continue until the last Saturday before the third Monday in March; and on the third Monday in April and may continue until the last Saturday in June. (b) Culberson County: On the third Monday in October and may continue two weeks; and on the first Monday in April and may continue two weeks. (c) Hudspeth County: On the third Monday in March and may continue two weeks; and on the first Monday in September and may continue two weeks; and the terms of Court in Culberson County and in Hudspeth County may, by order of the Court entered in the Minutes, be continued for such time as may be fixed by said order." [Acts 1929, 41st Leg., p. 211, ch. 92, § 1.]

Acts 1929, 41st Leg., 1st C. S., p. 193, ch. 76, § 1, validates proceedings of the District Court of the Thirty-Fourth Judicial

of Texas, sitting at El Paso, in regard to perfecting appeals in criminal cases.

### 35. McCulloch, Brown and Coleman.

Sec. 4. The Terms of said District Court shall be held in said Counties as follows, to-wit:

McCulloch County: A term beginning on the first Monday in January of each year and continuing for four weeks.

Brown County: A term beginning on the fourth Monday after the first Monday in January of each year and continuing for eight weeks.

Coleman County: A term beginning on the twelfth Monday after the first Monday in January of each year and continuing for four weeks.

McCulloch County: A term beginning on the sixteenth Monday after the first Monday in January of each year and continuing for four weeks.

Brown County: A term beginning on the twentieth Monday after the first Monday in January of each year and continuing for eight weeks.

Coleman County: A term beginning on the first Monday in September of each year and continuing for four weeks.

McCulloch County: A term beginning on the fourth Monday after the first Monday in September of each year and continuing for four weeks.

Brown County: A term beginning on the eighth Monday after the first Monday in September of each year and continuing for eight weeks.

Sec. 1a. All process and writs issued out of and all bonds and recognizances made and entered into and all grand and petit jurors drawn before this Act shall take effect, shall be held valid and returnable to the next succeeding terms of the District Court in and for the several counties hereinabove specified as herein fixed, the same as though issued and served for such term and the same as if made returnable and drawn for the terms herein fixed and all such process, writs, bonds and recognizances issued or taken before this Act takes effect in the District Court of the several counties affected by this Act, shall be held valid as though no change had been made in the time of holding courts in the district herein affected, and all parties shall take notice of the change in the terms of the court and shall answer in response to all writs and process to the terms of court as herein specified the same as if said writs and process, bonds and recognizances had been executed, issued or entered into after the taking effect of this Act. [As amended Acts 1931, 42nd Leg., 2nd C. S., p. 17, ch. 9.]

This subd. was also amended by Acts 1931, 42nd Leg., p. 364, ch. 367, § 1, effective 90 days after May 23, 1931, date of adjournment.

Effective 90 days after May 23, 1931, date of adjournment. Sections 1, 2, 5-15 relate to the 51st judicial district and the newly created 119th judicial district. See 119th judicial district.

38. Medina, Uvalde, Kendall, Kerr, Bandera, Zavalla and Real.

Medina County: On the first Monday in January, and may continue four weeks; and on the first Monday in August, and may continue three weeks.

Uvalde County: On the fourth Monday after the first Monday in January, and may continue six weeks; and on the third Monday after the first Monday in August, and may continue four weeks.

Kendall County: On the tenth Monday after the first Monday in January, and on the seventh Monday after the first Monday in August and may continue two weeks.

Kerr County: On the twelfth Monday after the first Monday in January, and may continue four weeks; and on the ninth Monday after the first Monday in August, and may continue three weeks.

Bandera County: On the sixteenth Monday after the first Monday in January, and on the twelfth Monday after the first Monday in August and may continue two weeks.

Zavalla County: On the eighteenth Monday after the first Monday in January, and on the fourteenth Monday after the first Monday in August, and may continue three weeks.

Real County: On the twenty-first Monday after the first Monday in January, and on the seventeenth Monday after the first Monday in August; and may continue two weeks.

Sec. 3. All processes, all writs and bonds, Civil and Criminal, issued or executed prior or subsequent to the taking effect of this Act and returnable to the terms of said Courts as heretofore fixed by law in the several counties composing said 38th Judicial District, as well as all Grand and Petit Jurors, are hereby made returnable to the terms of said Courts as said terms are here now fixed by this Act, and in conformity with the changes herein made, and all bonds executed and recognizances entered into in said Courts shall bind the parties for their appearances or to fulfill the obligations of such bonds and recognizances at the terms of said Courts as they are fixed by this Act, and all process of any kind heretofore issued or returned, as well as all bonds and recog-

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nizances heretofore or hereafter taken or entered into in any of the Courts of said district, shall be as valid and as binding as if no change had been made in the time of holding said Courts. [As amended Acts 1929, 41st Leg., p. 125, ch. 60, §§ 1, 3.]

Section 2 of said Acts 1929, 41st Leg., p. 125, ch. 60, makes it effective July 1, 1929, and provides that before taking effect the terms of court in said counties shall be held as provided by art. 199, subd. 33.

Section 4 repeals all conflicting laws and parts of laws.

Changing jurisdiction of County Court affecting District Court of Kerr County, see Article 1970-307.

#### 42.—Taylor, Callahan and Shackelford.

The 42nd Judicial District of the State of Texas is composed of the Counties of Taylor, Callahan and Shackelford, and the District Courts therein shall hold their terms and sessions as follows:

Said court shall convene in Taylor County on the first Monday in January of each year, and may continue in session eight weeks; and on the 15th Monday after the first Monday in January of each year, and may continue in session seven weeks; and on the first Monday in September and may continue in session eight weeks.

Said Court shall convene in Callahan County on the 8th Monday after the first Monday in January of each year, and may continue in session for three weeks; and on the 22nd Monday after the first Monday in January, and may continue in session three weeks; and on the 8th Monday after the first Monday in September, and may continue in session four weeks.

Said Court shall convene in Shackelford County on the 11th Monday after the first Monday in January of each year and may continue in session four weeks; and on the 25th Monday after the first Monday in January, and may continue in session four weeks; and on the 12th Monday after the first Monday in September, and may continue in session four weeks. [Acts 1929, 41st Leg., p. 467, ch. 217, § 1.]

Sec. 3. All process issued out of the District Courts of any of the counties named in this Act, issued or served before this Act takes effect, including recognizances and bonds, returnable to the District Courts of any of such respective counties, shall be considered as returnable to such respective Courts in accordance with the terms and times of holding same as prescribed in and fixed by this Act; and all such process is hereby legalized. And all grand and petit juries drawn and selected under existing laws for any of the counties of said districts shall be considered lawfully drawn and selected for the next of the respective District Courts held after this Act takes effect, and all such process is hereby legalized and validated. [Acts 1929, 41st Leg., p. 467, ch. 217, § 3.]

Section 2 of said Acts 1929, 41st Leg., p. 467, ch. 217, prescribes the time for holding courts in the 104th Judicial District.

Section 4 repeals all conflicting laws and parts of laws. Section 5 makes the act effective Sept. 1, 1929.

#### 46.—Wilbarger, Hardeman and Foard.

##### In the County of Wilbarger

First Term, beginning on the first Monday in January and may continue in session six weeks.

Second Term, beginning on the eleventh Monday after the first Monday in January and may continue in session six weeks.

Third Term, beginning on the twenty-second Monday after the first Monday in January and may continue in session four weeks.

Fourth Term, beginning on the forty-first Monday after the first Monday in January and may continue in session six weeks.

##### In the County of Foard

First Term, beginning on the sixth Monday after the first Monday in January and may continue in session two weeks.

Second Term, beginning on the seventeenth Monday after the first Monday in January and may continue in session two weeks.

Third Term, beginning on the thirty-sixth Monday after the first Monday in January and may continue in session two weeks.

In the County of Hardeman

First Term, beginning on the eighth Monday after the first Monday in January and may continue in session three weeks.

Second Term, beginning on the nineteenth Monday after the first Monday in January and may continue in session three weeks.

Third Term, beginning on the thirty-eighth Monday after the first Monday in January and may continue in session three weeks.

Fourth Term, beginning on the forty-seventh Monday after the first Monday in January and may continue in session three weeks.

Sec. 2. All processes, all writs and bonds, civil and criminal, issued or executed prior or subsequent to the taking effect of this Act and returnable to the terms of said Court as heretofore fixed by law in said counties in said Forty-sixth Judicial District as well as all grand and petit jurors, are hereby made returnable to the terms of said Court, as said terms are here now fixed by this Act, and in conformity with the change herein made, and all bonds executed and recognizances entered into said court, shall bind the parties for their appearances or to fulfill the obligations of such bonds and recognizances at the terms of said Court as they are fixed by this Act, and all processes of every kind heretofore returned to, as well as all bonds and recognizances heretofore taken or hereafter entered into after this Act takes effect in said Court, in said District, shall be as valid and as binding as if no change had been made in the time of holding said Court. [As amended Acts 1931, 42nd Leg., p. 748, ch. 294.]

Effective 90 days after May 23, 1931, date of adjournment. Section 3 of said act repeals all conflicting laws and parts of laws.

49.—Dimmit, Zapata, Jim Hogg and Webb.

Acts 1929, 41st Leg., p. 73, ch. 39, created the 111th Judicial District composed of Webb County with concurrent jurisdiction with the existing district court of

Webb County in the 49th judicial district. See 111th Judicial District, post. Effective Feb. 12, 1929.

50.—Baylor, Knox, King and Cottle.

Sec. 7. The Fiftieth (50) Judicial District of the State of Texas shall hereafter be composed of the Counties of Baylor, Knox, King, and Cottle, and shall have the jurisdiction of the district court under the Constitution and General Laws of this State.

Sec. 8. The terms of said Court shall be held in said counties as follows:

In the county of Baylor on the first (1) Monday in January, and may continue six weeks; on the eighteenth (18) Monday after the first (1) Monday in January, and may continue four (4) weeks; and on the third (3) Monday after the first (1) Monday in August, and may continue six (6) weeks.

In Knox County on the sixth (6) Monday after the first Monday in January, and may continue in session for six (6) weeks; on the 22nd Monday after the first (1) Monday in January, and may continue in session for four (4) weeks; and on the ninth (9) Monday after the first (1) Monday in August, and may continue for six (6) weeks.

In the county of King on the twelfth (12) Monday after the first (1) Monday in January, and may continue two weeks; and on the fifteenth Monday after the first (1) Monday in August, and may continue two weeks each term.

In the county of Cottle on the fourteenth (14) Monday after the first (1) Monday in January, and may continue four (4) weeks; on the first Monday in August and may continue three (3) weeks; and on the seven-

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teenth (17) Monday after the first (1) Monday in August, and may continue until Saturday preceding the first Monday in January.

Sec. 9. The present Judge and the present District Attorney of the fiftieth (50) Judicial district as now constituted by law, shall be the judge and district attorney, respectively, of the 50th judicial district as created by this Act.

Sec. 10. All writs and process issued or served by any of the courts or officers thereof, of said district, as created by this Act before the taking effect hereof, shall be valid and in all things considered as returnable to the proper terms of said court as hereby created, and all juries and jury panels chosen or selected before this Act takes effect are hereby validated, and shall be considered as returnable to the respective term of said court as created under this Act. [As amended Acts 1929, 41st Leg., p. 39, ch. 14.]

Acts 1929, 41st Leg., p. 39, ch. 14, transferred Motley and Dickens Counties to the 110th judicial district. Effective Feb. 11, 1929.

51.—Tom Green, Irion, Schleicher, Coke and Sterling.

Sec. 1. The following Counties shall hereafter constitute the Fifty-first (51) Judicial District of the State of Texas, to-wit: Tom Green, Irion, Schleicher, Coke and Sterling.

Sec. 2. The terms of said District Court shall be held in said Counties as follows, to-wit:

Tom Green County: A term to begin on the first Monday in January of each year and may continue in session ten weeks.

Irion County: A term to begin on the tenth Monday after the first Monday in January of each year and may continue in session two weeks.

Schleicher County: A term to begin on the twelfth Monday after the first Monday in January of each year and may continue in session three weeks.

Coke County: A term to begin on the fifteenth Monday after the first Monday in January of each year and may continue in session two weeks.

Sterling County: A term to begin on the seventeenth Monday after the first Monday in January of each year and may continue in session two weeks.

Tom Green County: A term to begin on the nineteenth Monday after the first Monday in January of each year and may continue in session eight weeks.

Irion County: A term to begin on the first Monday in September of each year and may continue in session two weeks.

Schleicher County: A term to begin on the second Monday after the first Monday in September of each year and may continue in session three weeks.

Coke County: A term to begin on the fifth Monday after the first Monday in September of each year and may continue in session two weeks.

Sterling County: A term to begin on the seventh Monday after the first Monday in September of each year and may continue in session two weeks.

Tom Green County: A term to begin on the ninth Monday after the first Monday in September of each year and may continue in session six weeks. [As amended Acts 1931, 42nd Leg., p. 864, ch. 367.]

Effective 90 days after May 23, 1931, date of adjournment. Sections 3-15 of said act 1931 relate to the 35th Judicial district, the 119th judicial district, and contain provisions affecting the judges, clerks and ju-

risdiction of the 51st judicial district. See 119 judicial district. This subd. was also amended by Acts 1927, 40th Leg., 1st C. S., p. 22, ch. 12 (effective June 6, 1927).

53, 98, 126.—Travis.

Sec. 1. The 53rd Judicial District shall continue as it is now, to be composed of the County of Travis and the terms of said Court shall remain unchanged and shall be as follows: On the first Monday in January and may continue until and including the last Saturday before the

first Monday in March; on the first Monday in March and may continue until and including the last Saturday before the first Monday in May; on the first Monday in May and may continue until and including the last Saturday in July; provided, that said May term may by order of the Court entered in the minutes be continued for such time as may be fixed by said order; and on the first Monday in October and may continue until the last Saturday before the 25th day of December. [As amended Acts 1931, 42nd Leg., 1st C. S., p. 13, ch. 8, § 1.]

See note to 199-126, post.

Sec. 2. The name of the Criminal District Court of Travis County is hereby changed to the 98th District Court of Travis County, and shall continue to be composed of the County of Travis; and the terms of said court shall be held as follows; on the first Monday in February and may continue until and including the last Saturday in March; on the first Monday in April and may continue until and including the last Saturday in May; on the first Monday in June and may continue until and including the last Saturday in July; provided, that said June term may by order of the court entered in the Minutes be continued for such time as may be fixed by said order; on the first Monday in October and may continue until and including the last Saturday in November; and on the first Monday in December and may continue until and including the last Saturday in January.

Sec. 3. The two said district courts aforesaid shall have concurrent jurisdiction with each other throughout the limits of the County of Travis of all matters, civil and criminal, of which jurisdiction is given to the district court by the Constitution and the laws of the State of Texas.

Sec. 4. Both of said district courts shall have the right to select jury commissioners and impanel grand juries. The district judge of the Fifty-third District Court shall order drawn a grand jury for the January and May terms of said court; and the district judge of the 98th district court of Travis County shall order drawn a grand jury for the April and October terms of said court. The respective judges of said courts may order juries to be drawn for such other terms of his said court as in his judgment is necessary, by an order entered in the minutes of the court.

Sec. 5. The judge of each of said courts may, in his discretion, either in term time or in vacation, on motion of any party or on agreement of the parties, or on his own motion, transfer any cause, civil or criminal, on his docket to the docket of the other of said district courts.

Sec. 6. The district clerk of Travis County shall be the clerk of the district courts of the fifty-third Judicial District and of the 98th District Court of Travis County and shall perform all the duties of clerk of said two courts; and the district attorney for the Fifty-third Judicial District shall represent the State in all criminal cases in the 98th District Court of Travis County as well as in the Fifty-third District Court, and perform such other duties as are or may be provided by law governing district attorneys.

Sec. 7. The present judges of the Fifty-third District Court and the Criminal District Court of Travis County, as the same now exist, shall remain and continue district judges of their respective districts and courts as renamed and equalized under the provisions of this Act and hold their respective offices of district judge until the term for which he has been elected expires and until his successor is elected and qualified, and this Act shall not be treated or construed as creating a new judicial district or a new district court but only as changing the name of the Criminal District Court of Travis County and equalizing the jurisdiction of said Criminal District Court and the Fifty-third District Court.

Sec. 8. The judges of each of said two district courts, each for his own court, shall have the right to appoint an official court reporter who shall have the qualifications and receive the same compensation as are now, or may hereafter be, fixed by law, for court reporters in district courts.



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Sec. 9. All writs, process, bonds, recognizances, orders, decrees and judgments in civil and criminal cases and matters, issued, executed, entered into, required or rendered prior to the taking effect of this Act, in either of said district courts and returnable to terms of said courts, as heretofore fix [fixed] by law, are hereby made returnable to said respective courts as if no change had been made in said courts, and all bonds executed and recognizances entered in said courts shall bind the parties to their appearances or to fulfill the obligations of such bonds and recognizances at the terms of said courts, as heretofore fixed by law and continued by this Act, and all bonds and cognizances [recognizances] taken in either of said courts and all orders, decrees and judgments entered in either of said courts shall be as valid as though no change had been made in said District Courts, and all grand and petit jurors drawn or selected under existing laws in either of said courts for a term of court that may be in session when this Act takes effect or for any term that may be held after this Act takes effect shall be considered lawfully drawn and selected in accordance with this Act. [As amended Acts 1929, 41st Leg., p. 379, ch. 172.]

Section 10 of said Acts 1929, 41st Leg., p. 379, ch. 172, repeals all conflicting laws and parts of laws. Section 11 provides that the act shall not prevent the holding under the

present laws of any term of court that may be in session when it takes effect, and said term shall be held under the law existing at the beginning of said term.

#### 58, 60.—Jefferson.

Jefferson County shall constitute the Fifty-eighth Judicial District as well as the Sixtieth Judicial District. Neither of said two district courts shall have or exercise any criminal jurisdiction in Jefferson County, such criminal jurisdiction having been by law vested exclusively in a criminal district court. Said district courts of the Fifty-eighth and Sixtieth Judicial Districts shall have and exercise concurrent jurisdiction coextensive within the limits of Jefferson County in all civil cases, proceedings and matters of which district courts are given jurisdiction by the Constitution and laws of this State. There shall be two terms of each of said two civil district courts in Jefferson County in each year, and the first term, which shall be known as the January-June term, shall be begun in each of said courts on the first Monday in January and shall continue until and including Sunday next before the first Monday in July; and the second term, which shall be known as the July-December term, shall begin in each of said courts on the first Monday in July, and shall continue until and including Sunday next before the first Monday in the following January.

The Clerk of the district court of Jefferson County shall perform the duties of the clerk of the courts of both the Fifty-eighth and Sixtieth Judicial Districts, and in case of vacancy in said office of said clerk, the same shall be filled by appointment by the judge of the Fifty-eighth Judicial District.

In all suits, actions or proceedings it shall be sufficient for the address and designation to be merely the "District Court of Jefferson County," and the clerk of said court shall file and docket the even numbers thereof in the court of the Fifty-eighth Judicial District, and the odd numbers thereof in the court of the Sixtieth Judicial District, but any cases pending in either of said courts may, in the discretion of the judge thereof, be transferred from one of said district courts to the other, and so on from time to time. In case of the disqualification of the judge of either of said courts, in any case, such case on the suggestion of such judge of this disqualification entered on the docket, shall stand transferred to the other of said courts, and be docketed by the clerk accordingly.

Sec. 2. That all process and writs heretofore issued out of said two district courts and returnable to terms of said courts respectively according to existing laws, are hereby made returnable to the terms of said courts as said terms are fixed by this Act, and all bonds executed and re-

cognizances entered in said courts shall bind the parties for their appearance, or to fulfill the obligations of such bonds and recognizances at the terms of said courts as they are fixed by this Act, and all process heretofore returned, as well as all bonds and recognizances heretofore taken in said two district courts shall be as valid as though no change was made in the number of terms or the time of holding said courts herein, and all petit jurors drawn and selected under existing laws for either of said courts are hereby declared lawfully drawn and selected for the first term of said district courts held in conformity with this Act.

Sec. 3. Should either the court of the Fifty-eighth Judicial District or of the Sixtieth Judicial District be in session under existing laws when this Act takes effect, such court shall continue and end its term under existing law as if no change had been made in the number of terms or time for holding such court and all process, writs, judgments, decrees and other proceedings in said court during such time, shall be valid to all intents and purposes, and shall not be affected by the changes in number of terms and time for holding such court herein made by this Act, and from and after the expiration of the term of court in session at the time this Act takes effect as provided for above, such court shall be held in conformity with the terms of this Act. [As amended Acts 1929, 41st Leg., 2nd C. S., p. 166, ch. 84.]

Effective 20 days after July 2, 1929, date 41st Leg., 2nd C. S., p. 166, ch. 84, repeals of adjournment. Section 4 of Acts 1929, all conflicting laws and parts of laws.

63.—Terrell, Kinney, Maverick, Edwards and Val Verde.

Amended as to terms of court in Val Verde County: On the first Monday in January and may continue three weeks; on the thirteenth Monday after the first Monday in January and may continue three weeks; on the eleventh Monday after the first Monday in July and may continue three weeks; and on the fifteenth Monday after the first Monday in July and may continue until business is disposed of. [As amended Acts 1929, 41st Leg., p. 397, ch. 183, § 1.]

64.—Hale, Swisher, Lamb, Castro and Bailey.

Sec. 11. The Sixty Fourth (64) judicial district of the State of Texas shall hereafter be composed of the counties of Hale, Swisher, Lamb, Castro, and Bailey. The term of court in said district shall be held in the counties thereof as follows:

In the county of Hale on the second (2) Monday in January, and may continue six (6) weeks; on the 19th Monday after the second Monday in January and may continue in session for six weeks and on the seventh Monday after the first (1) Monday in August, and may continue for five weeks.

In the county of Lamb on the sixth Monday after the second Monday in January, and continue in session for three (3) weeks and on the first (1) Monday in August and may continue three (3) weeks, and on the eighteenth (18) Monday after the first Monday in August and may continue in session for three (3) weeks.

In the county of Swisher, on the ninth (9) Monday after the second Monday in January, and on the Third Monday after the first Monday in August and may continue in session for four weeks.

In Castro County on the thirteenth Monday after the second Monday in January, and on the twelfth Monday after the first Monday in August and may continue in session for three weeks.

In the county of Bailey on the sixteenth Monday after the second Monday in January and on the fifteenth Monday after the first Monday in August, and may continue in session three (3) weeks.

Sec. 12. The present judge and district attorney of the sixth [sixty] fourth (64) judicial district shall be the judge of and district attorney, respectively of the said 64th judicial district as created by this Act, until their successors are elected and qualified as provided by law.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Sec. 13. All writs and process issued out of any of the courts in the 64th judicial district, under the present law, are hereby validated and in all things shall be returnable to the respective terms of said court as hereby created; and all juries or jury panels chosen or selected before this Act takes effect, are hereby validated and shall be returnable to the respective terms of said court, as created by this Act. [As amended Acts 1929, 41st Leg., p. 39, ch. 14.]

Acts 1929, 41st Leg., p. 39, ch. 14, transferred Briscoe and Floyd Counties to the 110th judicial districts. Effective Feb. 11, 1929.

70.—Midland, Ector, Andrews, Martin and Glasscock.

Sec. 1. That the following counties, to-wit, Midland, Ector, Andrews, Martin and Glasscock shall hereafter constitute the Seventieth Judicial District of Texas, and the terms of court shall be held in said counties as follows, to-wit:

In Midland County: on the first Monday in February and September, and may continue in session four weeks; on the eleventh Monday after the first Monday in February and September, and may continue in session three weeks.

In Ector County: on the fourth Monday after the first Monday in February and September, and may continue in session three weeks; and on the fourteenth Monday after the first Monday in February and September, and may continue in session two weeks.

In Andrews County: on the seventh Monday after the first Monday in February and September, and may continue in session one week; and on the sixteenth Monday after the first Monday in February and September, and may continue in session one week.

In Martin County: on the eighth Monday after the first Monday in February and September, and may continue in session two weeks; and on the seventeenth Monday after the first Monday in February and September, and may continue in session two weeks.

In Glasscock County: on the tenth Monday after the first Monday in February and September, and may continue in session one week; and on the nineteenth Monday after the first Monday in February and September, and may continue in session one week. [As amended Acts 1929, 41st Leg., p. 50, ch. 19.]

72.—Crosby, Lubbock, Hockley and Cochran.

The 72nd Judicial District of this State shall be composed of Crosby, Lubbock, Hockley and Cochran Counties, and the terms of District Court in said counties shall be held as follows:

In the County of Crosby on the second Monday in January, and may continue in session four weeks; and on the fifteenth Monday after the second Monday in January, and continue in session four weeks; and on the third Monday after the first Monday in September, and may continue in session four weeks.

In the County of Lubbock on the fourth Monday after the second Monday in January, and may continue in session six weeks; on the nineteenth Monday after the second Monday in January, and may continue in session five weeks; and on the ninth Monday after the first Monday in September, and may continue in session seven weeks.

In the County of Hockley on the tenth Monday after the second Monday in January, and may continue in session three weeks; and on the first Monday in September, and may continue in session three weeks.

In the County of Cochran on the thirteenth Monday after the second Monday in January, and may continue in session two weeks; and on the seventh Monday after the first Monday in September, and may continue in session two weeks. [As amended Acts 1929, 41st Leg., p. 104, ch. 49, § 1.]

## 78.—Wichita.

The Seventy Eighth Judicial District of Texas shall be composed of Wichita County as now constituted, and the District Court and terms thereof shall be held therein as follows: Beginning the First Mondays in March, June September and December, in each year, and each of said terms shall continue until, and close at midnight of the Saturday preceding the Monday for the opening of the new and succeeding term, but nothing herein shall prevent the judge of said court from adjourning the same prior to the end of the term if the work of the court has been finished.

Sec. 2. That all process issued out of the said District Court in the said District before this act takes effect is hereby made returnable to the terms of said court as fixed by this act, and all bonds heretofore executed and recognizances entered of record in said court shall bind the parties for their appearance or to fulfill the obligation of such bonds and recognizances at the terms of said court as fixed by this act, and all process heretofore returned, as well as all bonds and recognizances heretofore taken in the district court of said Seventy Eighth Judicial District shall be as valid as if no change had been made in the time of holding said court in said District. [As amended Acts 1929, 41st Leg., p. 405, ch. 186, §§ 1, 2.]

Section 3 of said Acts 1929, 41st Leg., p. parts of laws.  
405, ch. 186, repeals all conflicting laws and

## 79.—Starr, Brooks, Duval and Jim Wells.

The Seventy-ninth Judicial District shall, after this act takes effect, be composed of the counties of Starr, Brooks, Duval and Jim Wells, and the Seventy-ninth District Court shall be held in the said counties as follows:

## In Starr County.

One term, beginning on the first Monday in January and may continue in session three weeks; one term beginning on the twelfth Monday after the first Monday in January, and may continue in session three weeks; one term beginning on the twenty-fourth Monday after the first Monday in January, and may continue in session three weeks; one term beginning on the sixth Monday after the first Monday in September, and may continue in session three weeks.

## In Brooks County.

One term beginning on the third Monday after the first Monday in January, and may continue in session three weeks; one term beginning on the fifteenth Monday after the first Monday in January, and may continue in session three weeks; one term beginning on the twenty-seventh Monday after the first Monday in January, and may continue in session three weeks; one term beginning on the ninth Monday after the first Monday in September, and may continue in session three weeks.

## In Duval County.

One term beginning on the ninth Monday after the first Monday in January, and may continue in session three weeks; one term beginning on the twenty-first Monday after the first Monday in January, and may continue in session three weeks; one term beginning on the third Monday after the first Monday in September, and may continue in session three weeks; one term beginning on the fifteenth Monday after the first Monday in September, and may continue in session through the last Saturday before the first Monday of the succeeding year.

## In Jim Wells County.

One term beginning on the sixth Monday after the first Monday in January, and may continue in session three weeks; one term beginning on the eighteenth Monday after the first Monday in January, and may continue in

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session three weeks; one term beginning on the first Monday in September, and may continue in session three weeks; one term beginning on the twelfth Monday after the first Monday in September, and may continue in session three weeks.

All processes, recognizances, writs and bonds issued, served or entered into for the district court of any of the counties constituting the Seventy-ninth Judicial District before this act goes into effect shall be returned to the proper court from which they were issued in accordance with the provisions thereof. [As amended Acts 1931, 42nd Leg., p. 876, ch. 370, § 1.]

Effective Jan. 1, 1932. Section 2 of said coextensive with the limits of Hidalgo act 1931, creates the 92nd judicial district County.

83.—Jeff Davis, Presidio, Brewster, Pecos, Upton and Reagan.

That the following counties to-wit: Jeff Davis, Presidio, Brewster, Pecos, Upton and Reagan, shall hereafter constitute the Eighty-Third Judicial District of Texas, and the terms of Court shall be held in said Counties as follows, to-wit:

In Jeff Davis County: On the second Monday in January and July of each year and may continue two weeks.

In Presidio County: On the Third Monday after the first Monday in January and July of each year, and may continue three weeks.

In Brewster County: On the sixth Monday after the first Monday in January and July of each year and may continue three weeks.

In Pecos County; on the ninth Monday after the first Monday in January and July of each year and may continue three weeks.

In Upton County; on the twelfth Monday after the first Monday in January and July of each year, and may continue two weeks.

In Reagan County; on the fourteenth Monday after the first Monday in January and July of each year and may continue two weeks. [As amended Acts 1929, 41st Leg., 3rd C. S., p. 245, ch. 11, § 3.]

Effective 90 days after July 20, 1929, date of adjournment. Sections 1, 4-12 of Acts 1929, 41st Leg., 3rd C. S., p. 245, ch. 11, creates the One hundred and twelfth Judicial District and fixes the time for holding court

therein. Section 2 reorganizes the Thirty-third Judicial District and fixes the time for holding court therein. Section 13 repeals all conflicting laws and parts of laws.

84.—Carson, Hutchinson, Hansford, Ochiltree and Hemphill.

The 84th Judicial District shall be composed of the Counties of Carson, Hutchinson, Hansford, Ochiltree and Hemphill, and the terms of the District Court shall be held therein as follows:

Beginning in Carson County on the first Monday in January of each year and may continue in session four weeks; and also beginning in Carson County on the fourth Monday in July of every year and may continue in session four weeks;

Beginning in Hansford County on the fourth Monday after the first Monday in January of each year and may continue in session two weeks; and also beginning in Hansford County on the fourth Monday after the fourth Monday in July of each year and may continue in session two weeks;

Beginning in Ochiltree County on the sixth Monday after the first Monday in January of each year and may continue in session three weeks; and also beginning in Ochiltree County on the sixth Monday after the fourth Monday in July of each year and may continue in session three weeks;

Beginning in Hemphill County on the ninth Monday after the first Monday in January of each year and may continue in session four weeks; and also beginning in Hemphill County on the ninth Monday after the fourth Monday in July of each year and may continue in session four weeks;

Beginning in Hutchinson County on the thirteenth Monday after the first Monday in January of each year and may continue in session nine weeks; and also beginning in Hutchinson County on the thirteenth Mon-

day after the fourth Monday in July of each year and may continue in session nine weeks.

Sec. 3. That all processes, writs and bonds issued, served or executed prior to the taking effect of this Act and returnable to the terms of said Court in each of said counties comprising the 84th Judicial District, and also process heretofore returnable, as well as all bonds and recognizances heretofore entered into in any of said Courts in said Judicial Districts, shall be valid and binding.

All process issued or served before this Act goes into effect to the District Court of any of said counties shall be considered as returnable to said Court in accordance with the terms prescribed by this Act, and also such process is hereby legalized and all Grand and Petit Jurors drawn and selected under existing laws in any of the counties of said Judicial District for a term of Court after this Act becomes effective, shall be considered lawfully drawn and selected for the next term of the District Court for these prescribed counties held in accordance with this Act; provided, however, that if there should be a term of Court being held at the time said Act goes into effect; said term of Court shall remain and continue in session until said term has ended and terminated under the Law as it now exists for holding terms of court in said counties in said Judicial District. [As amended Acts 1931, 42nd Leg., p. 826, ch. 342.]

Effective May 18, 1931. Section 4 of said act 1931 repeals all conflicting laws and parts of laws. This subd. was also amended by Acts 1929, 41st Leg., p. 11, ch. 6 (effective Jan. 31, 1929).

89.—(No 89th Judicial District.)

92.—Hidalgo.

Sec. 2. This act shall be in effect from and after January 1, 1932; provided, that upon the taking effect of this act there shall be, and there is, created the Ninety-second Judicial District, the limits of which shall be co-extensive with limits of Hidalgo County.

(a) The district court of the Ninety-second Judicial District shall have and exercise the jurisdiction prescribed by the Constitution and laws of this State for district courts in general, and the judge thereof shall have and exercise the powers conferred by the Constitution and laws of this State on the judges of district courts. Its jurisdiction shall be concurrent with that of the district court of Hidalgo county for the Ninety-first Judicial District. From and after the effective date of this act the county attorney of Hidalgo county shall act as and perform the duties of district attorney for the Ninety-second and Ninety-third Judicial Districts.

(b) The terms of the district court, Ninety-second Judicial District, shall begin on the first Mondays, respectively, in January, 1932; March, 1932; May, 1932; September, 1932; November, 1932; and thereafter on the first Mondays of January, March, May, September and November of each year; and each term of said court may continue in session for eight weeks.

(c) In addition to the jurisdiction vested in the district court for the Ninety-second Judicial District under the Constitution and general laws of this State, said court shall have and exercise jurisdiction over all civil matters over which, by general law, the county court of Hidalgo county would have original jurisdiction, except as in this act otherwise specially provided.

(d) From and after the taking effect of this act, the county court of Hidalgo county shall cease to have or exercise any civil jurisdiction, except as hereinafter specified and enumerated, nor shall the judge thereof be restricted or deprived of any duties, rights or powers now vested in him or required of him by the general laws except the civil jurisdiction by this act transferred from said court to the district court of the Ninety-second Judicial District.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

The county court of Hidalgo county, shall have and retain jurisdiction of all cases appealed from the justice courts, and the general jurisdiction of a probate court as provided by the Constitution and laws of this State, and the county court or the judge thereof shall have power to issue all writs necessary to the enforcement of the jurisdiction of said court in all matters the jurisdiction of which, by this act, is not transferred from said court to the district court of the Ninety-second Judicial District.

(e) The clerk of the district courts of Hidalgo county shall, upon the taking effect of this act assume the duties of clerk of the Ninety-second District Court, and shall thereafter perform the duties of such, as though the court had existed at the time of his election. He shall promptly prepare a docket for the Ninety-second District Court, placing thereon all cases then on file in the Seventy-ninth District Court, such cases as may be filed in the Ninety-second District Court, and such cases as may be transferred to said court.

(f) The letters "A" and "B" shall be placed upon the docket and court papers in the respective district courts of Hidalgo county to distinguish them; "A" being used in connection with the Ninety-second District Court, and "B" being used in connection with the Ninety-third District Court.

(g) All suits and proceedings hereafter instituted in the district courts of Hidalgo county shall be numbered consecutively beginning with the next number after the last file number on the docket of any existing court, and shall be entered upon the dockets of said courts in the same manner as provided in paragraph (f) of this section.

(h) All civil and criminal cases on the docket of the district court of Hidalgo county for the Seventy-ninth Judicial District at the time of the taking effect of this act are hereby transferred to the district court for the Ninety-second Judicial District hereby created, and all processes and writs issued out of the district court of Hidalgo county, Seventy-ninth Judicial District, are hereby made returnable to the district court of Hidalgo county, Ninety-second Judicial District, and said writs and processes, as well as all judgments, orders and decrees thereof, are hereby legalized in all respects, and shall be enforced as if had in or issued out of the district court of the Ninety-second Judicial District, such cases so transferred shall take their numbers on the docket of the district court of Hidalgo county, Ninety-second Judicial District, in the order in which they at the time of transference appear on the docket of the district court of Hidalgo county, Seventy-ninth Judicial District, as though filed in the district court of Hidalgo county, Ninety-second Judicial District, as new cases.

(i) All civil cases, the jurisdiction of which are transferred by this act to the court herein created, on the docket of the county court of Hidalgo county at the time this act becomes effective are hereby transferred to the district court of Hidalgo county, Ninety-second Judicial District, and the judge of the county court shall promptly make the proper orders transferring same; and all processes and writs issued out of the county court of Hidalgo county in matters over which jurisdiction is hereby transferred to the court created hereby shall be considered returnable to the district court of Hidalgo county, Ninety-second Judicial District, and said writs and processes are hereby legalized in all respects. Such cases so transferred shall take their numbers on the docket of the district court of Hidalgo county, Ninety-second Judicial District, in the order in which they then appear on the docket of the county court of Hidalgo county, as though filed in the district court of Hidalgo county, Ninety-second Judicial District, as new cases; provided, that their numbers shall follow and be successive of those numbers assigned to cases transferred from the district court of Hidalgo county, Seventy-ninth Judicial District, to the district court of Hidalgo county, Ninety-second Judicial District.

(j) The respective judges of the Ninety-third and Ninety-second Judicial Districts shall, from time to time, as occasion may require, transfer

cases or other proceedings from one court to the other in order that business may be equally distributed between them, that the judges of both said courts may at all times be provided with cases, or other proceedings to be tried or otherwise considered, and that the trial of no case or other proceedings need be delayed because of the disqualifications of the judge in whose court it is pending; and the judges of such courts may, in their discretion, exchange benches or districts from time to time, and either of them may in his own court room try and determine any case or proceeding pending in the other court without having the case transferred, or may sit in the other court and there hear and determine any case pending, and every judgment and order shall be entered in the minutes of the court in which the case is pending, and at the time the judgment or order is rendered. The judge of either of said courts may issue restraining orders and injunctions returnable to the other judge or court.

(k) The district judge and the district attorney of the Seventy-ninth Judicial District as of the effective date of this act shall continue to hold their offices until their successors shall have been elected and qualified, but the Governor, upon this act taking effect, shall appoint a suitable person possessing qualifications prescribed by the Constitution and laws of this State as judge of the district court of the Ninety-second Judicial District of Texas, as herein constituted, and such person shall hold said office until the next general election, and until his successor shall have been elected and qualified, and thereafter the judge of the district court of the Ninety-second Judicial District of Texas shall be elected as prescribed by the Constitution and laws of this State for the election of district judges. There shall be elected for four years by the qualified voters of Hidalgo county, beginning with the next general election after the taking effect of this act, a judge for the Ninety-second Judicial District of Texas, whose powers and duties shall be the same as other district judges, together with all the additional powers and duties prescribed by this act, and who shall receive such salary as is now or may hereafter be prescribed by law for district judges. [As amended Acts 1931, 42nd Leg., p. 876, ch. 370.]

Effective Jan. 1, 1932. Section 1 of said act 1931 relates to the 79th judicial district.

#### 98.—Travis.

Sec. 2. The 98th District Court of Travis County shall continue to be composed of the County of Travis; and the terms of said Court shall be held as follows; on the first Monday in February and may continue until and including the last Saturday in March; on the first Monday in April and may continue until and including the last Saturday in May; on the first Monday in June and may continue until and including the last Saturday in July; provided, that said June term may by order of the Court entered in the minutes be continued for such time as may be fixed by said order; on the first Monday in October and may continue until and including the last Saturday in November; and on the first Monday in December and may continue until and including the last Saturday in January. [As amended Acts 1931, 42nd Leg., 1st C. S., p. 13, ch. 8, § 2.]

See note to 199-126, post.

Name of Criminal District Court of Travis County. Effective Feb. 26, 1929.  
is county changed to 98th District Court of See 53d Judicial District.

#### 102.—Red River and Bowie.

Changing jurisdiction of county court affecting District Court of Bowie County, see article 1970—306.

#### 104.—Jones, Fisher and Taylor.

Sec. 2. The 104th Judicial District of the State of Texas is composed of the Counties of Jones, Fisher and Taylor, and the District Courts and the terms thereof in said counties, shall be held in said counties as follows:

Said Court shall convene in Jones County on the first Monday in Jan-



*For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes*

uary of each year, and may continue in session five weeks; and on the 15th Monday after the first Monday in January, and may continue in session for four weeks; and on the first Monday in September, and may continue in session five weeks.

Said Court shall convene in Fisher County on the 5th Monday after the first Monday in January of each year, and may continue in session three weeks; and on the 19th Monday after the first Monday in January, and may continue in session three weeks; and on the 5th Monday after the first Monday in September, and may continue in session three weeks.

Said Court shall convene in Taylor County on the 8th Monday after the first Monday in January of each year, and may continue in session seven weeks; and on the 22nd Monday after the first Monday in January, and may continue in session seven weeks; and on the 8th Monday after the first Monday in September, and may continue in session eight weeks. [As amended Acts 1929, 41st Leg., p. 467, ch. 217, § 2.]

This section changes the time of holding courts in the 104th Judicial District as created by Act 1927, 40th Leg., p. 44, ch. 32, § 2.

Section 1 of Acts 1929, 41st Leg., p. 467, ch. 217, prescribes the time for holding courts in the 42nd Judicial District.

Section 3 related to process issued by the District Courts of any of the counties named in the act as set out under 42nd Judicial District.

Section 4 repeals all conflicting laws and parts of laws. Section 5 makes it effective Sept. 1, 1929.

107.—(No 107th Judicial District.)

109.—Reeves, Ward, Winkler, Crane and Loving.

Sec. 2. The One Hundred and Ninth Judicial District of Texas is hereby created by this act, and said Judicial District shall be composed of the following counties; to-wit: Reeves, Ward, Winkler, Crane and the unorganized county of Loving, which is hereby attached to the County of Reeves for judicial and all other purposes; and the terms of court in said counties shall convene and be held as follows, to-wit:

In Reeves County: on the first Monday in February and September, and may continue in session four weeks; and on the eleventh Monday after the first Monday in February and September, and may continue in session three weeks.

In Ward County: on the fourth Monday after the first Monday in February and September, and may continue in session three weeks; and on the fourteenth Monday after the first Monday in February and September, and may continue in session two weeks.

In Winkler County: on the seventh Monday after the first Monday in February and September, and may continue in session three weeks; and on the sixteenth Monday after the first Monday in February and September, and may continue in session three weeks.

In Crane County: on the tenth Monday after the first Monday in February and September, and may continue in session one week; and on the nineteenth Monday after the first Monday in February and September, and may continue in session one week.

Sec. 3. The Judge of the Seventieth Judicial District of Texas, who resides in Midland County, shall be the judge of said Seventieth Judicial District of Texas until the expiration of the term for which he was elected, and until his successor is duly elected and qualified, as provided by law. The District Attorney of the Seventieth District of Texas, who resides in Reeves County, shall be District Attorney of the newly created One Hundred and Ninth Judicial District of Texas until the next general election, when his successor shall have been elected and qualified, as provided by law.

Sec. 4. Immediately after this act shall have gone into effect, it shall be the duty of the Governor of this state to appoint a person qualified by law to act as judge of the said One Hundred and Ninth Judicial District of Texas, and to appoint a person qualified by law to act as District Attorney for the Seventieth Judicial District of Texas, which said

appointees may hold their respective offices until the next general election in this State; their successors to be elected as now provided by law.

Sec. 5. The said Seventieth Judicial District and the One Hundred and Ninth Judicial District as herein constituted shall each respectively elect a District Attorney at the next general election, and each two years thereafter.

Sec. 6. All process and writs issued out of, and bond and recognizances entered into, and all grand and petit jurors drawn before this act takes effect, shall be valid for and returnable to the next succeeding term of the district court in and for the several counties, as herein fixed, as though issued and served for such terms, and returnable to and drawn for the same, and all such process, writs, bonds and recognizances taken before or issued by the various counties effected [affected] by this act, shall be as valid as though no change had been made in the District Courts herein in the time of the holding the court herein.

Sec. 7. It is further provided that if any court in any county of said Seventieth Judicial District as same existed prior to the passage of this act, shall be in session at the time this act takes effect, such court or courts effected [affected] thereby, shall continue in session until the term thereof shall expire under the provision of existing laws, but thereafter the court in such county or counties shall conform to the terms of this act. [Acts 1929, 41st Leg., p. 50, ch. 19.]

#### 110.—Briscoe, Floyd, Motley and Dickens.

Sec. 1. There is hereby created the one hundred tenth (110) Judicial District of the State of Texas, to be composed of the counties of Briscoe, Floyd, Motley and Dickens, and the District Court therein shall have the jurisdiction and powers of the District Court under the Constitution and General Laws of this State.

Sec. 2. The terms of said Court shall be held in said counties as follows:

In the County of Briscoe on the first Monday in January, the sixteenth (16) Monday after the first Monday in January, and on the eighth (8) Monday after the fourth (4) Monday in July, and may continue in session for three weeks each term.

Sec. 3. In the County of Floyd on the third (3) Monday after the first (1) Monday in January on the 19th Monday after the 1st Monday in January; and on the eleventh (11) Monday after the fourth (4) Monday in July, and may continue five (5) weeks each term.

Sec. 4. In the County of Motley on the eighth (8) Monday after the first (1) Monday in January; on the fourth (4) Monday in July, and on the sixteenth (16) Monday after the fourth (4) Monday in July, and may continue in session four (4) weeks each term.

Sec. 5. In the County of Dickens on the twelfth (12) Monday after the first Monday in January, on the fourth (4) Monday after the fourth (4) Monday in July, and on the twentieth (20) Monday after the fourth (4) Monday in July, and may continue four (4) weeks each term. [Acts 1929, 41st Leg., p. 39, ch. 14.]

Sec. 6. There shall be appointed by the Governor of the State of Texas as a judge and a district attorney for the said one hundred tenth (110) Judicial District hereby created, who shall possess the qualifications prescribed by the Constitution and laws of this State for such officers, who shall hold their offices respectively until the next general election held in this State, and until their successors shall be elected and qualified.

All subpoenas, writs and process issued out of, and bonds and recognizances made and entered into before this Act takes effect and returnable to the district courts of the respective counties above enumerated as same are now constituted shall be returnable to the next succeeding term of the district court respectively of the various counties as created and established by this Act; and all such subpoenas, writs and process,

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bonds and recognizances are hereby validated, and all juries heretofore drawn and jury lists heretofore prepared in any County in said one hundred tenth (110) Judicial District under the present laws are hereby validated and shall be considered lawfully drawn and prepared for the district courts in the respective counties as created by this Act. [As amended Acts 1929, 41st Leg., p. 385, ch. 175, § 1.]

Section 1 of said Act 1929, 41st Leg., p. 41st Leg., p. 39, ch. 14, to read as above. 385, ch. 175, amends section 6 of Act 1929,

111.—Webb.

Sec. 1. The 111th Judicial District of Texas is hereby created to be composed of the County of Webb in the State of Texas, and a District Court is established therein to be known as the District Court of Webb County, Texas, in and for the 111th Judicial District of Texas.

Sec. 2. The District Court hereby created shall have jurisdiction over all matters, both Civil and Criminal, over which the District Courts of this State are given jurisdiction by the Constitution and laws of this State, and shall have concurrent jurisdiction in Webb County, Texas, with the District Court of Webb County, Texas, in and for the 49th Judicial District of Texas in all Civil and Criminal matters over which the said 49th District Court now has jurisdiction under the Constitution and laws of this State; provided that the Judge of the 111th District Court shall never impanel a grand jury unless in his judgment he thinks it necessary to do so.

Sec. 3. The terms of the 111th District Court hereby created shall begin on the first Mondays, respectively, in January, March, May, July, September and November of each year, and each term may continue in session until the Sunday immediately preceding the date for the beginning of the next term thereof as provided in this Section.

Sec. 4. The Clerk of the District Court of Webb County in and for the 49th Judicial District shall, upon the taking effect of this Act, in addition to the duties now performed by him as Clerk of said 49th District Court, assume the duties of Clerk of said 111th District Court and said Clerk shall thereafter be known and designated as Clerk of the District Courts of Webb County, Texas, and shall perform the duties of Clerk of said 49th District Court and said 111th District Court, and said Clerk shall thereupon promptly prepare a docket for the 111th District Court, placing upon said docket all Civil cases, except tax suits, pending on the docket of said 49th District Court up to and including No. 8000, and also place on the docket of said 111th District Court all Civil cases pending in said 49th District Court in which the Judge of said latter Court shall have entered his disqualification, and also place on said docket every odd numbered Civil case, except tax suits, then pending on the docket of said 49th District Court following Cause No. 8000 on docket thereof; provided, however, that no case then on trial in said 49th District Court nor any case pending on appeal from said latter Court shall be transferred to the docket of the said 111th District Court. The cases to be so transferred shall bear the same docket numbers in the 111th District Court as they now bear in the 49th District Court, and the Judge of the 49th District Court shall make proper orders transferring the said cases from said latter Court to the 111th District Court.

Sec. 5. After the organization of the 111th District Court and the transfers of cases have been made as herein provided, then all Civil cases, except tax suits, thereafter [be] filed with the Clerk of said District Courts shall be noted and listed upon one file docket to be kept by said Clerk to be known as the Clerk's Civil File Docket and such cases shall be numbered consecutively, and each Civil case, except tax suits, so filed shall be assigned to and docketed in the Court designated by the attorney filing the same. The Clerk shall keep a separate file docket for Criminal cases, to be known as the Clerk's Criminal File Docket and a separate file docket for tax suits to be known as the Clerk's Tax Suit Docket,

and all Criminal cases and tax suits shall be by the Clerk filed and docketed in the 49th District Court. The cases on the Clerk's Tax Suit File Docket shall bear a separate series of numbers and shall be numbered consecutively. The cases on the Clerk's Criminal File Docket shall bear a separate series of numbers and shall be numbered consecutively.

Sec. 6. The sheriff of Webb County, Texas, and all other officers shall, in addition to the duties now performed by them, perform the duties in connection with the 111th District Court as provided by law for sheriffs and other officers to perform in connection with District Courts, and the Judge of the 111th District Court shall appoint some legally qualified person as official shorthand reporter for said Court and such person shall hold his office at the pleasure of the Court and shall be entitled to the same fees and salary and perform the same duties and take the same oath as now or may hereafter be provided by the General Laws of this State relating to stenographers for District Courts in this State.

Sec. 7. The District Attorney of the 49th Judicial District of Texas shall, in addition to the duties now performed by him, prosecute all Criminal cases that may be filed in or transferred to the 111th District Court, and he shall also represent the State in said latter Court in all matters where the State is a party and he shall receive such fees for his services as are now or may hereafter be provided for district attorneys by the General Laws of the State of Texas.

Sec. 8. All process and writs issued or served before this Act takes effect, including recognizances, bonds and undertakings of all kinds, made returnable to the now existing 49th District Court shall, as to all cases that may be transferred to the docket of the 111th District Court under any of the provisions of this Act be considered as returnable to the said 111th District Court, and all such process, writs, recognizances, bonds and undertakings are hereby legalized as though the same were issued by or undertaken in the 111th District Court.

Sec. 9. The Judge of the 49th District Court in his discretion is hereby authorized upon his own motion or upon the motion of any party, either in term time or vacation, to transfer any Civil or Criminal case pending in Webb County on the dockets of the 49th District Court to the 111th District Court, and in like manner the Judge of the 111th District Court in his discretion is hereby authorized upon his own motion or upon the motion of any party, either in term time or vacation, to transfer to the 49th District Court any Civil or Criminal case pending on the dockets of the 111th District Court, and when any such transfer is made, proper orders shall be entered on the Minutes of the Court from which the case is transferred as evidence of such transfer and notice of the transfer shall be given in writing by the Clerk to the attorneys of record of all parties to said cause, and in all cases pending on the dockets of either of said Courts, in which the Judge of said Court has entered or may enter his disqualification, the Judge of the other of said Courts may sit in the Court in which said cause is pending for the purpose of ordering the transfer of all such cases.

Sec. 10. The Governor of this State shall, upon the taking effect of this Act, appoint a Judge of the 111th District Court who shall hold the office of Judge of said Court until the next general election and until his successor shall have been elected and qualified, and thereafter the Judge of said 111th District Court shall be elected as provided by the Constitution and Laws of this State for the election of District Judges. [Acts 1929, 41st Leg., p. 73, ch. 39.]

Section 11 of said Acts 1929, 41st Leg., p. 73, ch. 39, declares the purpose of the act to be the creation of a new district court for Webb County with concurrent jurisdiction with the existing district court of Webb County in and for the 49th Judicial District.

Section 12 provides that if any section of the act is held unconstitutional, such fact shall not affect the other sections. Section 13 repeals all conflicting laws and parts of laws.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

112.—Pecos, Upton, Kimble, Sutton and Crockett.

The One Hundred Twelfth Judicial District of Texas, is hereby created by this Act, and said Judicial District shall be composed of the following counties, to-wit: Pecos, Upton; Kimble, Sutton and Crockett, and the terms of Court shall be held in the said Counties as follows, to-wit:

In Pecos County: On the 1st Monday in January, May and November and the 2nd Monday in July of each year, and may continue four weeks, at the January and July Terms and five weeks at the May and November terms.

In Upton County: On the First Monday in February and the second Monday in June of each year and may continue three weeks.

In Kimble County: On the Fourth Monday in February and the second Monday in August of each year and may continue three weeks.

In Sutton County: On the third Monday in March and the first Monday in September of each year and may continue two weeks.

In Crockett County: On the first Monday in April and the third Monday in September of each year and may continue two weeks.

Sec. 4. The District Judge and the District Attorney of the said Thirty-third, and the said Eighty-third Judicial Districts of Texas, shall be and remain the District Judge and District Attorney of their respective Districts, until the expiration of the term for which they were respectively elected, and until their respective successor is duly elected and qualified as provided by law.

Sec. 5. Immediately after this Act shall have gone into effect, it shall be the duty of the Governor of this State to appoint a person qualified by law to act as Judge, of said One Hundred Twelfth Judicial District of Texas, and to appoint a person qualified by law to act as District Attorney of said One Hundred Twelfth Judicial District of Texas, which appointees may hold their respective offices until the next general election in this State, their successor to be elected as now provided by law.

Sec. 6. The said Thirty-third, Eighty-third and One Hundred Twelfth Judicial Districts of Texas, as herein constituted shall each respectively elect a District Attorney at the next general election and each two years thereafter.

Sec. 7. All processes and writs issued out of, and bonds and recognizances entered into, and all grand and petit jurors drawn and selected before this Act takes effect, shall be valid and returnable to the next succeeding term of the District Court in and for the several counties, as herein fixed, as though issued and served for such terms, and returnable to and drawn for the same, and all such processes, writs, bonds and recognizances taken before or issued by the various counties affected by this Act shall be as valid as though no change had been made in the District Courts herein, in the time of holding courts therein.

Sec. 8. It is further provided that if any Court in any County in said Thirty-third Judicial District and/or Eighty-third Judicial District as existed prior to the passage of this Act shall be in session at the time this Act takes effect, such court or courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter the court in such county or counties shall conform to the terms of this Act.

Sec. 9. Immediately after this bill goes into effect, the dockets of the District Court of Pecos County shall be equalized by the present Judge of the 83rd Judicial District in the following manner:

He shall in open court for the District Court of Pecos County, by an order to be entered in the minutes of said court, transfer to the District Court of Pecos County for the 112th Judicial District one half of all the cases now pending on the Dockets of the present District Court of Pecos County.

The dockets of the District Court of Upton County shall be equalized by the present Judge of the 83rd Judicial District in the same manner as

that hereinabove provided for the equalization of the dockets of the District Court of Pecos County, Texas.

The Clerk of the District Court of both Upton County and Pecos County respectively, shall transfer any case on either the Civil or Criminal docket thereof to the docket of the other District Court of said County, either in term time, or vacation, on the order of the District Judge of such Court. Such Order of Transfer to be noted by the Clerk on the minutes of said Courts.

Sec. 10. It shall hereafter be sufficient to address a petition or other pleading to be filed in the District Court of said Pecos County, TO THE DISTRICT COURT OF PECOS COUNTY, TEXAS, or if to be filed in the District Court of said Upton County, TO THE DISTRICT COURT OF UPTON COUNTY, TEXAS, without giving the number of the District Court in such address.

Sec. 11. The District Courts of the Eighty-Third Judicial District and the One Hundred and Twelfth Judicial Districts herein created in Pecos and Upton Counties shall have concurrent jurisdiction with each other throughout the limits of each of said counties of all matters civil and criminal of which jurisdiction is given to the District Courts by the Constitution and laws of this State. The Clerk of the District Court of Pecos County, Texas, as heretofore constituted and his successors in office shall be the clerk of both the Eighty-Third and the One Hundred Twelfth District Courts of said Pecos County and shall perform all the duties pertaining to the clerkship of both of said Courts. The Clerk of the District Court of Upton County, Texas, as heretofore constituted and his successors in office shall be the clerk of both the Eighty-Third and One Hundred Twelfth District Courts of said Upton County and shall perform all the duties pertaining to the clerkship of both of said Courts.

Sec. 12. There shall be elected at the next general election and every four years thereafter, a Judge of the One Hundred Twelfth Judicial Districts of Texas. [Acts 1929, 41st Leg., 3rd C. S., p. 245, ch. 11.]

Effective 90 days after July 20, 1929, date of adjournment. Section 2 of Acts 1929, 41st Leg., 3rd C. S., p. 245, ch. 11, reorganizes the Thirty-third Judicial District and fixes the time for holding court therein. Section 3 reorganizes the Eighty-third Judicial District and fixes the time for holding court therein. Section 13 repeals all conflicting laws and parts of laws.

### 113.—Harris.

Sec. 1. An additional District Court is hereby created in and for Harris County, the limits of which shall be co-extensive with the limits of the county. That said District Court shall be known as the One Hundred and Thirteenth District Court.

Sec. 2. The said One Hundred and Thirteenth District Court hereby created by this Act shall not have or exercise any criminal jurisdiction, but in all other respects it shall have and exercise the jurisdiction prescribed by the Constitution and laws of the State for District Courts in general, and the Judge thereof shall have and exercise the powers conferred by the Constitution and laws of the State on the judges of District Courts. Its jurisdiction shall be concurrent with that of the existing District Courts of Harris County.

Sec. 3. There shall be two terms of said District Court in each year, and the first term shall be known as the January and June Term, and shall begin on the first Monday in January and shall continue until and including Sunday next before the first Monday in July, and the second term shall be known as the July-December Term, and shall begin on the first Monday in July and shall continue until and including Sunday next before the first Monday in the following January. That the first term of said Court known as the January-June term, shall commence immediately upon the passage of this law and shall continue until and including Sunday before the first Monday in July, and hereafter the terms of said Court shall be as prescribed in this law.

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Sec. 4. That immediately upon the passage of this law the Governor shall appoint a suitable person as Judge of said additional District Court for Harris County created by this Act, who shall hold office as Judge until the next general election and until his successor shall be elected and qualified. Thereafter the said Judge of said newly created court shall be elected as provided by the Constitution and laws of the State for the election of District Judges.

Sec. 5. The Clerk of the District Courts of Harris County shall, upon the taking effect of this Act, assume the duties of such position as if this Court had existed at the time of his election. He shall promptly prepare dockets for the court created by this Act and shall place on the dockets of the said One Hundred and Thirteenth Court created by this Act, every fifth pending case on the respective dockets of the Eleventh, Fifty-fifth, Sixty-first and Eightieth District Court, and shall continue in this manner through said dockets until all the cases thereon are exhausted, and the dockets of the five courts are equalized as near as may be; provided, that no case then on trial in any of the existing District Courts nor any case pending on appeal therefrom shall be transferred to the docket of the Court created hereby. The cases so transferred shall bear the same docket numbers as in the court from which they are transferred, and the judges of the existing District Courts, respectively, shall make proper orders transferring from said courts, to the One Hundred and Thirteenth District Court the said cases which shall have been placed upon the docket of the latter court in pursuance of this Act.

Sec. 6. The letters A, B, C, D and E shall be placed on the dockets and the court papers in the respective District Courts of Harris County, to distinguish them, A being used in connection with the Eleventh District Court; B, the Fifty-fifth District Court; C, the Sixty-first District Court; D, the Eightieth District Court, and E, the One Hundred and Thirteenth District Court.

Sec. 7. All suits, prosecutions and proceedings hereafter instituted in the District Courts of Harris County shall be numbered consecutively, beginning with the next number after the last file number on the dockets of the existing courts, and shall be entered by the District Clerk upon the dockets of said courts alternately, beginning with the Eleventh District Court; next, the Fifty-fifth; third, the Sixty-first District Court; Fourth, the Eightieth District Court; and Fifth, the One Hundred and Thirteenth District Court.

Sec. 8. The respective judges of the District Courts of Harris County shall from time to time as occasion may require, transfer cases from any one of such Courts to any other such Court in order that the business may be equally distributed among them, that the judges thereof may at all times be provided with cases to be tried or otherwise considered, and that the trial of no case need be delayed because of the disqualification of the judge in whose court it is pending; provided, however, that no case shall be transferred from one court to another [another] without the consent of the judge of the Court to which it is transferred. When any transfer is made, proper order shall be entered on the minutes of the Court as evidence thereof and notice of the transfer shall be given in writing by the Clerk to the attorneys of record of all parties to the cause.

Sec. 9. In case of the disqualification of the Judge of any of the five Civil Courts in any case or proceeding, such case or proceeding, on his suggestion of disqualification, shall be transferred to another of said Courts and the Order of transfer may be made by any Judge of another of said Courts and may be transferred to any other of said Courts; or instead of transferring the case the Judge of any of said Courts may sit in the Court in which the case is then pending and there try the same and all transferred cases or proceedings shall be docketed by the Clerk accordingly. The Judges of said five Civil Courts shall sign the minutes of each Term of

the Courts in Harris County within thirty days after the end of the term, and shall also sign the Minutes at the end of each volume of the Minutes, and each Judge sitting in said Courts shall sign the Minutes of such proceedings as were had before him.

Sec. 10. Each Judge of said five District Courts may take a vacation and not attend Court for six weeks between the first day of July and the first day of October in each year, during which time the term of the Court of which he is the Judge shall remain open, and the Judge of any other Civil District Court in Harris County may hold such Court during the vacation of the Judge thereof. During the period of such vacation it shall not be lawful for a special Judge of such Court to be elected by the practicing lawyers of such Court because of the absence of the Judge on his vacation, unless no Judge of said Civil District Courts is in the county. The Judges of said Courts shall, by agreement among themselves, take their vacations alternately so that there shall at all times be at least one of said Judges in the County; and in the absence, sickness or disqualification of the Judge of any of said District Courts any of the other Judges of the said District Courts may act and preside or any legally practicing lawyer of the bar of Harris County, Texas, may be elected who has all the qualifications of the District Judge, to act and preside over any of said Courts during such absence, sickness or inability of any of the regular Judges to act and preside therein; such Special Judge shall be elected according to Title 40 of the Revised Civil Statutes of the State of Texas of 1925. [Acts 1930, 41st Leg., 5th C. S., p. 131, ch. 14.]

114.—Gray, Hutchinson and Carson.

The 114th Judicial District of Texas is hereby created to be composed of the counties of Gray, Hutchinson and Carson, in the State of Texas.

Sec. 2. The District Court hereby created shall have jurisdiction over all matters, both civil and criminal, over which the district courts of this State are given jurisdiction by the Constitution and laws of this State, and shall have concurrent jurisdiction in Gray County, Texas, with the District Court of the 31st Judicial District in said Gray County, and shall have concurrent jurisdiction in Hutchinson and Carson Counties with the 84th Judicial District Court in said Hutchinson and Carson Counties, in all civil and criminal matters over which the said 31st and 84th District Courts now have jurisdiction under the Constitution and laws of this State; provided that the judge of the 114th Judicial District shall never empanel a grand jury in either of the three counties mentioned above unless in his judgment he thinks it necessary so to do.

Sec. 3. The terms of the 114th Judicial District Court hereby created for the year 1930 shall be held in said district as follows:

Beginning in Hutchinson County on the 3rd Monday in March, 1930, and may continue in session four weeks; and beginning in Hutchinson County on the 4th Monday in September, 1930, and may continue in session six weeks.

Beginning in Carson County on the 2nd Monday in April, 1930, and may continue in session one week; and beginning in Carson County on the 1st Monday in November, 1930, and may continue in session two weeks.

Beginning in Gray County on the Third Monday in April, 1930, and may continue in session eight weeks; and beginning in Gray County on the Fourth Monday in July, 1930, and may continue in session eight weeks; and beginning in Gray County on the Third Monday in November, 1930, and may continue in session five weeks.

The terms of the District Court for the 114th Judicial District of the State of Texas for and during the year 1931 and each year thereafter shall be held in said district for said years 1931 and each year thereafter as follows:

Beginning in Gray County on the first Monday in January, and may continue in session eight weeks; and beginning in Gray County on the six-



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teenth Monday after the first Monday in January and may continue in session eight weeks; and beginning in Gray County on the fourth Monday in July, and may continue in session seven weeks; and beginning in Gray County on the nineteenth Monday after the fourth Monday in July and may continue in session two weeks.

Beginning in Hutchinson County on the eighth Monday after the first Monday in January and may continue in session six weeks; and beginning in Hutchinson County on the seventh Monday after the fourth Monday in July and may continue in session six weeks; and beginning in Hutchinson County on the fifteenth Monday after the fourth Monday in July and may continue in session four weeks.

Beginning in Carson County on the fourteenth Monday after the first Monday in January, and may continue in session two weeks; and beginning in Carson County on the thirteenth Monday after the fourth Monday in July and may continue in session two weeks.

Sec. 4. The clerk of the District Court of Gray County in the 31st Judicial District shall, upon the taking effect of this Act, in addition to the duties now performed by him as clerk of said 31st District Court, assume the duties of clerk of 114th District Court in Gray County, and said clerk shall thereafter be known and designated as clerk of the District Courts of Gray County and shall perform the duties of clerk of said 31st and 114th District Courts; the clerk of the District Court of Hutchinson County in and for the 84th Judicial District shall, upon the taking effect of this Act, in addition to the duties now performed by him as clerk of said 84th District Court, assume the duties of the clerk of the 114th District Court in said county and said clerk shall thereafter be known and designated as clerk of the District Courts of Hutchinson County and shall perform the duties of clerk of said 84th and said 114th District Courts; and the clerk of the District Court of Carson County in and for the 84th Judicial District shall, upon the taking effect of this act, in addition to the duties now performed by him as clerk of the 84th District Court in said county assume the duties of clerk of the 114th District Court in said county and said clerk shall thereafter be known and designated as clerk of the District Courts of Carson County, Texas, and shall perform the duties of clerk of said 84th and said 114th District Courts. Upon the taking effect of this Act, the judge of the 31st Judicial District shall in term time or vacation transfer to the 114th District Court such cases then pending in the 31st District Court in Gray County as will in the opinion of said Judge properly equalize the work in said county between the said two courts and the clerk of the District Courts of Gray County shall thereupon promptly prepare a docket for the 114th Judicial District Court, placing upon said docket the cases so transferred. In like manner the judge of the 84th Judicial District shall, in term time or vacation, transfer to the 114th District Court such cases then pending in the 84th Judicial District in Carson and Hutchinson Counties as will in the opinion of said Judge equalize the work in said counties between said courts, and the clerks of the district courts of Carson County and of Hutchinson County shall thereupon promptly prepare dockets for the 114th Judicial District in said Carson and Hutchinson Counties, placing upon the respective dockets the cases so transferred. The cases so transferred shall bear the same docket numbers in the 114th District Court as they bore in the 31st or the 84th District Courts, as the case may be, and in each instance the judge transferring a case shall make proper orders transferring the same to the 114th District Court.

Sec. 5. After the organization of the 114th District Court and the transfer of cases have been made as herein provided then all civil cases shall thereafter be filed with the clerks of the District Courts in and for Carson, Gray and Hutchinson Counties, and shall be noted and listed upon one file docket to be kept by said clerks to be known as the clerks' civil

file docket, and such cases shall be numbered consecutively and each case so filed shall be assigned to and docketed in the court designated by the attorney filing the same. The clerk in each county shall keep a separate criminal file docket for each of said courts in said respective counties, and all criminal cases shall be placed upon the docket of the court in which the indictment was returned.

Sec. 6. The judge of the 31st District Court and the judge of the 84th District Court, in their discretion, are hereby authorized, upon the motion of such judge, either in term time or vacation, to transfer any civil or criminal case pending in their respective courts in Gray, Hutchinson and Carson Counties, to the 114th District Court, and in like manner the judge of the 114th District Court, in his discretion, is hereby authorized upon his own motion, either in term time or vacation, to transfer causes pending in Gray County in the 114th District to the 31st District Court, and in Carson and Hutchinson Counties to the 84th District Court, in said counties, and when any such transfer is made proper order shall be entered on the minutes of the court from which the case is transferred as evidence of such transfer and notice of the transfer shall be given in writing by the clerk to the attorneys of record for all parties to said cause, and in all cases pending on the dockets of either of said courts, in which the judge of said court has entered or may enter his disqualification, the judge of the other of said courts may sit in the court in which said cause is pending for the purpose of ordering the transfer of all such cases.

Sec. 7. The respective sheriffs of Gray, Hutchinson and Carson Counties and all other officers in said respective counties shall, in addition to the duties now performed by them, perform the duties in connection with the 114th District Court as provided by law for sheriffs and other officers to perform in connection with district courts and the judge of the 114th District Court shall appoint some legally qualified person as official shorthand reporter for said court and such person shall hold his office at the pleasure of the court and shall be entitled to the same fees and salary and perform the same duties and take the same oath as now, or may hereafter be provided by the general laws of this State relating to stenographers of district courts in this State.

Sec. 8. The District Attorney of the 31st District Court shall, in addition to the duties now performed by him, prosecute all criminal cases that may be filed in or transferred to the 114th District Court in Gray County, Texas, and he shall also represent the State in said latter court in all matters where the State is a party in Gray County, Texas, without additional compensation to the compensation now received by him, under the constitution and laws of the State of Texas as District Attorney in and for the 31st District of Texas. And the District Attorney of the 84th District Court shall, in addition to the duties now performed by him prosecute all criminal cases that may be filed in or transferred to the 114th District Court in Carson and Hutchinson Counties, Texas, and he shall also represent the State in said latter court in all matters where the State is a party in Carson and Hutchinson Counties, Texas, without additional compensation to the compensation now received by him under the constitution and laws of the State of Texas as District Attorney in and for the 84th District Court of Texas.

Sec. 9. All process and writs issued or served before this Act takes effect, including recognizances, bonds and undertakings of all kind, made returnable to the now existing 31st and 84th District Courts, respectively, shall, as to all cases, that may be transferred to the docket of the 114th District Court, in said respective counties, under any of the provisions of this Act, be considered as returnable to the said 114th District Court and all such process, writs, recognizances, bonds and undertakings whatsoever are hereby legalized as though the same were issued by or undertaken in the said 114th District Court.

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Sec. 10. The Governor of this State shall, upon the taking effect of this Act, appoint a Judge of the 114th District Court who shall hold the office of Judge of said Court until the next general election and until his successor shall have been elected and qualified, and thereafter the judge of the said 114th District Court shall be elected as provided by the Constitution and Laws of this State for the election of District Judges. [Acts 1930, 41st Leg., 5th C. S., p. 246, ch. 81.]

Section 11 of acts 1930, 41st Leg., 5th C. S., p. 246, ch. 81, provides that if any section or part of the act is held invalid, such holding shall not affect the remainder of the act.

Section 12 repeals all conflicting laws and parts of laws and section 13 makes an appropriation for the salary and expense account of the judge of the 114th Judicial District for the remainder of the current biennium.

115.—(No 115th Judicial District.)

116.—Dallas.

Sec. 1. One additional District Court is hereby created in and for Dallas County, the limits of which shall be co-extensive with the limits of the County. The District shall be known as the One Hundred and Sixteenth Judicial District.

Sec. 2. The One Hundred and Sixteenth District Court shall not have or exercise any Criminal jurisdiction, but in all other respects it shall have and exercise the powers conferred by the Constitution and Laws of the State on the Judges of District Courts. No jurisdiction shall be concurrent with that of the existing District Courts of Dallas County.

Sec. 3. The terms of the One Hundred and Sixteenth District Court shall begin on the first Monday, respectively in January, April, July and October of each year, and each term of said Court shall continue until the Sunday immediately preceding the date set for the beginning of the next term thereof.

Sec. 4. The Governor shall appoint a suitable person as Judge for said office until the next general election, and until his successor shall have been provided by the Constitution and Laws of the State for the election of District Judges.

Sec. 5. The Clerk of the District Courts of Dallas County shall, upon the taking effect of this Act, assume the duties of Clerk of the One Hundred and Sixteenth District Court, and shall thereafter perform the duties of such position as if the Court had existed at the time of his election. He shall promptly prepare a docket for the One Hundred and Sixteenth District Court, placing thereon every sixth pending case on the respective dockets of the Fourteenth, Forty-Fourth, Sixty-Eighth, Ninety-Fifth, One Hundred and First District, and One Hundred and Sixteenth District Courts, continuing in this manner through said dockets until all the cases thereon are exhausted and the dockets of the six Courts are equalized as nearly as may be; provided, that no case on trial in any of the existing District Courts, nor any case pending on appeal therefrom, shall be transferred to the docket of the Court created hereby. The cases so transferred shall bear the same docket numbers as in the Court from which they are transferred, and the Judges of the existing Courts, respectively, shall make proper orders transferring from said Courts to the One Hundred and Sixteenth District Court the cases which shall have been placed upon the docket of the latter Court in pursuance of this Act.

Sec. 6. The letters A, B, C, D, E, and F, shall be placed on the docket and Court papers in the respective District Courts of Dallas County to distinguish them; A, being used in connection with the Fourteenth District Court; B, the Forty-Fourth District Court; C, the Sixty-Eighth District Court; D, the Ninety-Fifth District Court; E, the One Hundred and First District Court and F, the One Hundred and Sixteenth District Court.

Sec. 7. All suits, prosecutions and proceedings hereafter instituted in the District Courts of Dallas County shall be numbered consecutively, beginning with the next number after the last file number on the dockets of the existing Courts, and shall be entered by the District Clerk upon the dockets of said Courts, alternatively, beginning with the Fourteenth District Court; next the Forty-Fourth District Court, third the Sixty-Eighth District Court; fourth, the Ninety-First District Court; fifth, the One Hundred and First District Court; sixth, the One Hundred and Sixteenth District Court.

Sec. 8. The respective Judges of the District Courts of Dallas County shall, from time to time, as occasion may require; transfer cases from any one of such Courts to any other such Court in order that the business may be equally distributed among them, that the Judges thereof may, at all times, be provided with cases to be tried or otherwise considered, and that the trial of no case need be delayed because of the disqualification of the Judge in whose Court it is pending; provided, however, no case shall be transferred from one Court to another without the consent of the Judge of the Court to which it is transferred. When any transfer is made, proper order shall be entered on the Minutes of the Court as evidence thereof, and notice of the transfer shall be given in writing by the Clerk to the attorneys of record of all parties to the cause. [Acts 1930, 41st Leg., 5th C. S., p. 228, ch. 71.]

117.—Nueces.

Sec. 1. There is hereby created for and within Nueces County the 117th Judicial District of Texas, and a District Court for said Judicial District, the limits of which shall be co-extensive with the limits of Nueces County.

Sec. 2. The District Court for the 117th Judicial District shall have and exercise the jurisdiction prescribed by the Constitution and the laws of this State for District Courts in general, and the Judge thereof shall have and exercise the powers conferred by the Constitution and Laws of this State on the Judges of District Courts. Its jurisdiction shall be concurrent with that of the District Court of Nueces County for the 28th Judicial District.

Sec. 3. The terms of the 117th District Court shall begin on the first Mondays respectively in January, March, May, July, September and November of each year, and each term may continue for eight weeks.

Sec. 4. In addition to the jurisdiction vested in the District Court for the 117th Judicial District under the Constitution and General Laws of this State, said Court shall have and exercise exclusive jurisdiction in all Civil matters over which, by General Law, the County Court of Nueces County would have original jurisdiction, except as in this Act otherwise specially provided.

Sec. 5. From and after the passage of this Act the County Court of Nueces County shall cease to have or exercise any Civil jurisdiction, except as hereinafter specified and enumerated, provided that said Court shall not be restricted nor deprived of any jurisdiction now vested in it by the General Laws, nor shall the Judge thereof be restricted nor deprived of any duties, rights or powers now vested in or required of him by the General Laws except the Civil jurisdiction by this Act transferred from said Court to the District Court for the 117th Judicial District. The County Court of Nueces County shall have and retain jurisdiction of all cases appealed from the Justice Courts, and the general jurisdiction of a Probate Court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle accounts of executors; transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons; and

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to apprentice minors as provided by Law, and the County Court or the Judge thereof shall have power to issue all writs necessary to the enforcement of the jurisdiction of said Court in all matters the jurisdiction of which, by this Act, is not transferred from said Court to the District Court of the 117th Judicial District.

Sec. 6. The Clerk of the District Court of Nueces County shall, upon the taking effect of this Act, assume the duties of Clerk of the 117th District Court, and shall thereafter perform the duties of such, as if the Court had existed at the time of his election. He shall promptly prepare a docket for the 117th District Court, placing thereon such cases as may be filed in said Court and as may be transferred to said Court; provided, that no case then on trial in the 28th District Court of Nueces County nor any case pending on appeal therefrom shall be transferred to the docket of the Court created hereby.

Sec. 7. The letters "A" and "B" shall be placed upon the dockets and Court papers in the respective District Courts of Nueces County to distinguish them; "A" being used in connection with the 28th District Court and "B" the 117th District Court.

Sec. 8. All suits and proceedings hereafter instituted in the District Courts of Nueces County shall be numbered consecutively, beginning with the next number after the last file number on the docket of the existing Court, and shall be entered upon the dockets of said Courts in the same manner as provided in Section 7 of this Act.

Sec. 9. All Civil cases, the jurisdiction of which by this Act are transferred to the Court herein created, on the docket of the County Court of Nueces County at the time this Act becomes effective are hereby transferred to the District Court for the 117th Judicial District, and the Judge of the County Court shall promptly make the proper orders transferring the same; and all process and writs issued out of the County Court of Nueces County in matters over which jurisdiction is hereby transferred to the Court created hereby shall be considered returnable to the District Court for the 117th Judicial District, and said writs and process are hereby legalized in all respects. Such cases so transferred shall take their numbers, on the docket of the District Court for the 117th Judicial District, in the order in which they are transferred, as though filed in said Court as new cases.

Sec. 10. The respective Judges of the 28th and 117th Judicial Districts shall from time to time, as occasion may require, transfer cases from one to the other in order that the business may be equally distributed among them, that the Judges of both of said Courts may at all times be provided with cases to be tried or otherwise considered, and that the trial of no case need be delayed because of the disqualification of the Judge in whose Court it is pending; provided, however, no case shall be transferred from one Court to another without the consent of the Judge of the Court to which it is transferred. When any transfer is made, proper order shall be entered on the Minutes of the Court as evidence thereof, and notice of the transfer shall be given in writing by the Clerk to the attorneys of record of all parties to the cause.

Sec. 11. This Act shall not, in any manner, affect the status of the Criminal District Court of Nueces County, nor the Judge or District Attorney thereof.

Sec. 12. The Governor, upon this Act taking effect, shall appoint a suitable person possessing qualifications prescribed by the Constitution and Laws of this State as Judge of the District Court of the 117th Judicial District of Texas, as herein constituted, and such person shall hold said office until the next general election, and until his successor shall have been elected and qualified, and thereafter the Judges of the District Court of the 117th Judicial District of Texas shall be elected as prescribed by the Constitution and Laws of this State for the election of District

Judges. There shall be elected for four years by the qualified voters of Nueces County, beginning with the next general election after this Act takes effect, a Judge for the District Court of the 117th Judicial District of Texas, whose power and duties shall be the same as other District Judges, and who shall receive such salary as is now or may hereafter be prescribed by Law for District Judges of the District Courts of the State of Texas, to be paid in the same manner. [Acts 1930, 41st Leg., 5th C. S., p. 224, ch. 69.]

118.—(No 118th Judicial District.)

119.—Coleman, Concho, Runnels and Tom Green.

Sec. 5. There is hereby created, organized and established the One Hundred and Nineteenth (119) Judicial District of Texas. Said One Hundred and Nineteenth (119) Judicial District of Texas shall be composed of the following Counties, to-wit: Coleman, Concho, Runnels and Tom Green, and the terms of said District Court shall be held in said Counties as follows, to-wit:

Coleman County: A term to begin on the first Monday in January of each year and may continue in session six weeks.

Concho County: A term to begin on the sixth Monday after the first Monday in January of each year and may continue in session two weeks.

Runnels County: A term to begin on the eighth Monday after the first Monday in January of each year and may continue in session five weeks.

Tom Green County: A term to begin on the thirteenth Monday after the first Monday in January of each year and may continue in session ten weeks.

Concho County: A term to begin on the first Monday in September of each year and may continue in session two weeks.

Tom Green County: A term to begin on the second Monday after the first Monday in September of each year and may continue in session five weeks.

Coleman County: A term to begin on the seventh Monday after the first Monday in September of each year and may continue in session five weeks.

Runnels County: A term to begin on the twelfth Monday after the first Monday in September of each year and may continue in session five weeks.

Sec. 6. The Judge of the Fifty-first (51) Judicial District of Texas shall continue to be the Judge of said Fifty-first (51) Judicial District of Texas until the expiration of the term for which he was elected and until his successor is duly elected and qualified, as provided by Law; that the Judge of the Thirty-fifth (35) Judicial District of Texas shall continue to be the Judge of said Thirty-fifth (35) Judicial District of Texas, until the expiration of the term for which he was elected and until his successor is duly elected and qualified, as provided by Law.

Sec. 7. That the District Attorney of the Fifty-first (51) Judicial District of Texas shall continue to be District Attorney of said Fifty-first (51) Judicial District of Texas until the expiration of the term for which he was elected and until his successor is duly elected and qualified, as provided by Law; that the District Attorney of the Thirty-fifth (35) Judicial District of Texas shall continue to be the District Attorney of said Thirty-fifth (35) Judicial District of Texas until the expiration of the term for which he was elected and until his successor is duly elected and qualified, as provided by Law.

Sec. 8. After this Act shall have been approved by the Governor, it shall be his duty to appoint a person duly qualified as required by Law to act as Judge of said One Hundred and Nineteenth (119) Judicial District of Texas and to appoint a person duly qualified as required by Law to act as District Attorney of the One Hundred and Nineteenth (119) Judicial District of Texas; said appointees to hold their said respective offices until the next general election in this State, their successors to be then elected as provided by Law.

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Sec. 9. All process and writs issued out of and all bonds and recognizances made and entered into and all Grand and Petit jurors drawn before this Act takes effect, shall be held valid for and returnable to the next succeeding term of the District Court in and for the several counties in the several Districts as herein fixed, the same as though issued and served for such terms and returnable to and drawn for the same; all such process, writs, bonds and recognizances taken before or issued in the various counties affected by this Act, shall be valid as though no change had been made in the various Districts or in the time of holding the terms of Court therein.

Sec. 10. The District Clerk of Tom Green County, Texas, shall act as Clerk of the newly created One Hundred and Nineteenth (119) Judicial District of Texas in Tom Green County, as well as District Clerk of the Fifty-first (51) Judicial District of Texas in Tom Green County, Texas, and in filing Civil suits said Clerk shall file same in the court as directed by the Attorney filing said suit and in order to distinguish cases filed in said Courts, the Clerk shall place after the number of each suit filed in the Fifty-first (51) District Court, the capital letter "A" and after each suit filed in the One Hundred and Nineteenth (119) District Court, the capital letter "B."

Sec. 11. The District Clerk of Coleman County, Texas, shall act as Clerk of the newly created One Hundred and Nineteenth (119) Judicial District of Texas in Coleman County, as well as District Clerk of the Thirty-fifth (35) Judicial District of Texas in Coleman County, Texas, and in filing Civil Suits said Clerk shall file same in the Court as directed by the Attorney filing said suit and in order to distinguish cases filed in said Courts, the Clerk shall place after the number of each suit filed in the Thirty-fifth (35) District Court, the capital letter "A" and after each suit filed in the One Hundred and Nineteenth District Court, the capital letter "B."

Sec. 12. The Fifty-first (51) Judicial District of Texas and the One Hundred and Nineteenth (119) Judicial District of Texas and the Courts of said Judicial Districts in and for Tom Green County, Texas, shall have concurrent Civil and Criminal Jurisdiction with each other in said Tom Green County, in all matters over which Jurisdiction is given or shall hereafter be given by the Constitution and laws of this State to District Courts.

The Thirty-fifth (35) Judicial District of Texas and the One Hundred and Nineteenth (119) Judicial District of Texas and the Courts of said Judicial District in and for Coleman County, Texas, shall have concurrent Civil and Criminal jurisdiction with each other in said Counties in all matters over which jurisdiction is given or shall hereafter be given by the Constitution and Laws of this State to District Courts.

Sec. 13. The Judges of said Fifty-first (51) and One Hundred and Nineteenth (119) Judicial Districts respectively in and for Tom Green County and the Judges of said Thirty-fifth (35) and One Hundred and Nineteenth (119) Judicial Districts respectively in and for Coleman County, Texas, may in their respective Districts and in said respective Counties aforesaid, either in term time or in vacation, transfer any case or cases, Civil or criminal, to said other District Courts in said Counties respectively by an order entered upon the Minutes of their respective Courts and from which said case or cases are transferred; said Order to be entered upon the Minutes and the Court to which the same shall have been transferred shall have like Jurisdiction over said case or cases, the same as if originally filed in said Court and the Judges of the Fifty-first (51) and One Hundred and Nineteenth (119) Judicial Districts in Tom Green County, Texas, and the Judges of the Thirty-fifth (35) and One Hundred and Nineteenth (119) Judicial Districts in Coleman County, Texas, or the parties to any cause by agreement, shall have the right, in order to prevent unreasonable delay in the trial of cases, to transfer Civil and Criminal cases from one Court to the other in said Counties respectively and in all respects to equal-

ize the dockets of the Courts in their respective Districts so as to facilitate the dispatch of business in said respective Counties and in their respective Districts.

Sec. 14. In Tom Green County the District Attorney of the Fifty-first (51) Judicial District shall represent the State in all Criminal cases, including habeas corpus cases which are tried by the Judge of said Fifty-first (51) Judicial District or by any regular or special Judge presiding in said County; likewise, in said Tom Green County the District Attorney of the One Hundred and Nineteenth (119) Judicial District shall represent the State in all Criminal cases, including habeas corpus cases which are tried by the Judge of said One Hundred and Nineteenth (119) Judicial District or by any regular or special Judge presiding in said County. The District Attorneys of the Fifty-first (51) Judicial District and the One Hundred and Nineteenth (119) Judicial District may each request the other to assist in their respective District Courts in Tom Green County, Texas, in the trial of any Criminal or habeas corpus case pending in their respective Courts in Tom Green County and in all such cases the District Attorney so assisting shall be entitled to receive the same compensation for such services as is now provided by Law for such services in the District for which he was elected and may be included by him in the number of days for which he is allowed compensation under the Law, but nothing herein shall be construed as limiting the authority of the District Attorneys of their respective Districts from having absolute control and management of all Criminal and habeas corpus cases which are tried in their respective courts.

Sec. 15. In Coleman County the District Attorney of the Thirty-fifth (35) Judicial District shall represent the State in all Criminal cases, including habeas corpus cases which are tried by the Judge of said Thirty-fifth (35) Judicial District or by any regular or special Judge presiding in said County; likewise, in said Coleman County the District Attorney of the One Hundred and Nineteenth (119) Judicial District shall represent the State in all Criminal cases, including habeas corpus cases, which are tried by the Judge of said One Hundred and Nineteenth (119) Judicial District or by any regular or special Judge presiding in said County.

The District Attorneys of the Thirty-fifth (35) Judicial District and One Hundred and Nineteenth (119) Judicial District may each request the other to assist in their respective District Courts in Coleman County, Texas, in the trial of any Criminal or habeas corpus case pending in their respective Courts in Coleman County and in all such cases the District Attorney so assisting shall be entitled to receive the same compensation for such services as is now provided by Law for such services in the District for which he was elected and may be included by him in the number of days for which he is allowed compensation under the Law, but nothing herein shall be construed as limiting the authority of the District Attorneys of their respective Districts from having absolute control and management of all Criminal and habeas corpus cases which are tried in their respective Courts. [Acts 1931, 42nd Leg., p. 864, ch. 367.]

Effective 90 days after May 23, 1931, date of adjournment. Sections 1-4 of said acts relate to the 51st and 35th judicial districts. Section 16 provides that if any provision is held invalid, such decision shall not affect the remainder.

120.—(No 120th Judicial District.)

121.—(No 121st Judicial District.)

122.—(No 122nd Judicial District.)

123.—Panola and Shelby.

Sec. 4. The 123rd Judicial District of Texas is hereby created and shall be composed of the Counties of Panola and Shelby and shall be known as the District Court of said Counties in and for the 123rd Judicial District.



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Sec. 5. The terms of the said 123rd Judicial District Court shall be as follows; in the County of Panola on the first Monday in January, May and September of each year, and may continue in session for seven (7) weeks thereafter, or until the business thereof is disposed of; in the County of Shelby on the first (1st) Monday in March, July and November of each year and may continue in session for eight (8) weeks thereafter or until the business is disposed of.

Sec. 6. The Governor of Texas immediately upon the taking effect of this Act shall appoint a suitable and qualified person to serve as District Judge of the 123rd Judicial District of Panola and Shelby Counties, who shall hold this office until the next general election and until his successor is duly elected and qualified, and shall receive such salary as now provided for District Judges performing like duties under and by virtue of the General Laws of this State.

Sec. 7. That the District Attorney duly elected and now acting as the District Attorney of the 4th Judicial District shall be the District Attorney of the 123rd Judicial District, and shall perform all the duties as said District Attorney until the next general election and his successor is duly elected and qualified. He shall receive such salary as is now or may hereafter be prescribed by Law for District Attorneys of the State of Texas, and shall be paid in the same manner.

Sec. 8. That the District Clerks of Panola and Shelby Counties duly elected and acting as such shall be the District Clerks of said 123rd Judicial District sitting in their respective Counties until the next general election and their successors are duly elected and qualified. They shall receive such salary as is now or may hereafter be prescribed by law for District Clerks of the State of Texas, and shall be paid in the same manner.

Sec. 9. That all process issued or served before this Act takes effect including recognizances and bonds returnable to the District Court of any of the Counties of said Judicial District shall be considered as returnable to said Courts in accordance with the terms as prescribed in this Act, and all such process is hereby legalized and all grand and Petit juries drawn and selected under existing laws in any of the Counties of said District shall be considered lawfully drawn and selected for the next term of District Court of their respective Counties, after this Act takes effect and all such processes are hereby legalized and validated, provided that if any Court in any county of said District shall be in session at the time this Act takes effect, such Court or Courts affected hereby shall continue in session until the term thereof has expired under the provisions of the existing laws, but thereafter the Court in such County or Counties shall conform to the requirements of this Act.

Sec. 10. That the District Courts of the 4th Judicial District, and the 123rd Judicial District shall have such jurisdiction and power as is conferred on District Courts under the constitution and existing laws of Texas and such as shall be hereafter given by Law. [Acts 1931, 42nd Leg., p. 873, ch. 369.]

Effective 90 days after May 23, 1931, date of laws. Sections 1-3 related to the 4th of adjournment. Section 11 of said act judicial district composed of Rusk County. 1931 repeals all conflicting laws and parts

#### 124.—Gregg.

Sec. 1. Gregg County, Texas, shall hereafter constitute the 124th Judicial District of the State of Texas.

Sec. 2. The terms of the Court of the said 124th Judicial District Court of Gregg County, Texas, shall be held in Gregg County, Texas, each year as follows: On the first Monday in January, March, May, July, September and November of each year and each term of said Court shall continue in session until and including the Saturday before the next succeeding term begins or until all business is disposed of; provided, however, that the first regular term of said Court shall be and become in ses-

sion immediately upon the taking effect of this Act and the appointment and qualification of the Judge thereof, as hereinafter provided for.

Sec. 3. The said 124th Judicial District of Texas shall be composed of Gregg County, Texas, alone, and shall automatically cease to exist upon the expiration of four (4) years from the date upon which this Act becomes effective and all terms and provisions hereof shall, upon the expiration of four (4) years from the date this Act becomes effective, be and become of no further force and effect whatsoever.

Sec. 4. At the expiration of the time for which said 124th Judicial District of Texas is created, the Judge thereof shall deliver all the dockets and records of said Court to the Clerk of the District Court of the 71st Judicial District of Gregg County, Texas, for safe keeping and preservation and any cause or causes upon the docket of said 124th Judicial District Court shall, at said time, be automatically transferred to the docket of the 71st Judicial District Court in and for Gregg County and the Judge of the 71st Judicial District shall thereafter have full power, authority and jurisdiction to try all such cases, to approve all statements of fact, bills of exception and make any and all orders, judgments and decrees proper and necessary in the cases theretofore tried in said 124th Judicial District Court or pending in said 124th Judicial District Court and transferred to said 71st Judicial District Court as provided for herein.

Sec. 5. The Governor of the State of Texas, immediately upon this Act's taking effect, shall appoint a suitable and qualified person as District Judge of said 124th Judicial District having the qualifications, as provided by the Laws of the State of Texas, as District Judge of said 124th Judicial District, who shall hold his office until his successor is duly elected at the next general election, after this Act becomes effective, and qualifies and said Judge and his successor in office shall receive such salary as is now provided for District Judges under and by virtue of the General Laws of the State of Texas.

Sec. 6. That the District Clerk of Gregg County, Texas, duly elected and now acting as such, shall be the District Clerk of said 124th Judicial District and of the 71st Judicial District Court in and for Gregg County, Texas, until the next general election and his successor is duly elected and qualified. He shall receive such salary as is now or may be hereafter prescribed for District Clerks of the State of Texas, but in no event to receive more than the salary allowed by law for one District Clerk and shall be paid in the manner prescribed by law.

Sec. 7. The Judge of the 71st Judicial District Court in and for Gregg County, Texas, either in term time or in vacation, may enter an order upon the minutes of the District Court of the 71st Judicial District in and for Gregg County, Texas, transferring any case or cases that may be pending in said Court to the 124th Judicial District Court created by this Act, and said 124th Judicial District Court shall have the same power, authority and jurisdiction to try and finally dispose of said case or cases, so transferred, as would the Court from which the same were transferred. And the Judge of the 124th Judicial District, hereby created, may, at any time, either in term time or in vacation, by an order or orders, entered upon the minutes of his Court, transfer any case or cases pending upon the docket of said 124th Judicial District Court to the District Court of the 71st Judicial District in and for Gregg County, Texas, and when said case or cases are transferred, the Court to which transfer is made shall have the same right, authority and jurisdiction to try and finally dispose of the same as was originally had by the Court making such transfer.

Sec. 8. Any party or parties desiring to institute or file any suit over which the District Court of the 71st Judicial District in and for Gregg County, Texas, has jurisdiction and of which the 124th Judicial District Court has jurisdiction, shall have the right to file the same in either of

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said Courts subject to the right of the Judge of either of said Courts to transfer the same, as herein provided for.

Sec. 9. The District Clerk of Gregg County, Texas, shall, when suits are filed in either of said Courts, file same in the Court designated by the attorney filing said suit, and in order to distinguish cases filed in said Court, the Clerk shall place after the number of each suit filed in the 71st Judicial District Court in and for Gregg County, Texas, the capital letter "A" and after the number of each suit filed in the 124th Judicial District Court, hereby created, the capital letter "B".

Sec. 10. The 71st Judicial District Court in and for Gregg County, Texas, and the 124th Judicial District Court, hereby created, shall have concurrent civil and criminal jurisdiction with each other in Gregg County, Texas, in all matters over which jurisdiction is given or may be given by the Constitution and Laws of the State of Texas to District Courts.

Sec. 11. As a necessary incident to the creation of this Court and for the purpose of perfecting the organization and the proper functioning thereof, there is hereby created the office of Criminal District Attorney for the 124th Judicial District of Texas, who shall be elected at the next general election and at each succeeding general election thereafter, who shall hold his office for the period of two (2) years and until his successor is elected and qualified; he shall possess all the qualifications and take the oath and give the bond required by the Constitution and Laws of this State for other District Attorneys, provided that the present County Attorney of Gregg County shall continue in office, take the oath and give the bond required by the Constitution and Laws for other District Attorneys and assume the duties and be known as the Criminal District Attorney of the 124th Judicial District of Texas. He shall proceed to organize and arrange the affairs of the office of Criminal District Attorney of such district, appoint assistants, as provided herein, and shall receive the fees provided for herein for such office, until the next general election and until his successor shall be elected and qualified. A vacancy in the office shall be filled in the manner provided for filling a vacancy in the office of District Attorney.

Sec. 12. The Criminal District Attorney for the 124th Judicial District of Texas shall have and exercise all such powers, duties and privileges as are now by law conferred, or which may hereafter be conferred, upon District and County Attorneys, and shall represent the State of Texas in all criminal cases under examination or prosecution in the 71st Judicial District Court in and for Gregg County, Texas, and the Court created herein, and in the County Court, Justice Court and all Municipal Courts of Gregg County, Texas, where the defendant is charged with violating a State Law, and shall be entitled to collect the fees provided by Law for representing the State of Texas in said Municipal Courts, which fees are the same as the fees for representing the State in Justice Courts.

Sec. 13. The Criminal District Attorney for the 124th Judicial District of Texas shall receive the same fees allowed by Law for County Attorneys in misdemeanor cases, and shall, in addition to the Constitutional salary of Five Hundred Dollars (\$500.00) per annum allowed to District Attorneys to be paid by the State of Texas in the manner provided by Law for paying the salary of District Attorneys, be paid the same fees which are now allowed and paid to County and District Attorneys in Counties where less than three thousand (3,000) votes were cast at the preceding presidential election.

Sec. 14. It is hereby made the duty of the Criminal District Attorney of the 124th Judicial District of Texas to represent the State of Texas in all criminal cases under examination or prosecution in Gregg County in the 71st Judicial District of Texas. The Criminal District Attorney of the 124th Judicial District of Texas shall be permitted to retain out of the fees earned and collected by him the sum of Four Thousand Dollars

(\$4,000.00) per annum. After deducting the Four Thousand Dollars (\$4,000.00), the remaining amount is to be applied first for the payment of the salary of his assistants and the actual and necessary expenses incurred by him in the conduct of his office, such as stamps, stationery, books, telephone, traveling expenses and all other actual and necessary expenses incident to the conduct of his office, and the balance remaining to be paid over to Gregg County in accordance with the terms and provisions of the Maximum Fee Bill; provided that in arriving at the amount collected by him he shall include fees arising from all classes of criminal cases, whether felony or misdemeanor, arising in any of the Municipal, Justice, County, or District Courts, in said County of Gregg, or which may hereafter be created, including habeas corpus hearings, fines and forfeitures, but shall not include the Five Hundred Dollars (\$500.00) annual Constitutional salary paid by the State of Texas; provided that on the first day of January, or as soon thereafter as practical, each year, he shall make a full and complete report and account, as is now provided by law for officers required to make annual reports of fees collected, of all such fees collected by him, and shall keep the account and make the report provided for in Article 3899, Revised Civil Statutes; provided that in addition to the above he shall receive ten per cent (10%) for the collection of bond forfeitures and fines collected for the State and County, as is now provided by law, relating to the collection of fees for County and District Attorneys. Said Criminal District Attorney shall represent the State and County in all tax suits, including suits for inheritance tax, as is now provided for District and County Attorneys, and shall receive the same fees for said services as received by District and County Attorneys. No fee for representing the State in any habeas corpus proceedings shall be allowed or collected except in cases where the defendant is charged with a capital offense.

Sec. 15. Said Criminal District Attorney is hereby authorized to appoint not exceeding two (2) assistants, and is hereby authorized to pay one assistant not exceeding Three Hundred Dollars (\$300.00) per month; one not exceeding Two Hundred Dollars (\$200.00) per month. Such Assistant Criminal District Attorneys shall take the constitutional oath of office and be authorized to represent the State in all of the Courts of the County in which the Criminal District Attorney is authorized by this Act to represent the State, such authority to be exercised under the direction of the Criminal District Attorney, and such assistants shall be subject to removal at the will of the Criminal District Attorney. Each of said assistants shall be authorized to administer oath, file information, examine witnesses before the Grand Jury, and generally perform any duty devolving upon the Criminal District Attorney and to exercise any power conferred by law upon County and District Attorneys and the Criminal District Attorney when by him so authorized. The Criminal District Attorney shall be paid the same fees for services rendered by his assistants as he would be entitled to receive if the services had been rendered by himself. [Acts 1931, 42nd Leg., 1st C. S., p. 37, ch. 23.]

125.—(No 125th Judicial District.)

126.—Travis.

Sec. 3. The 126th Judicial District of Texas is hereby created and said Judicial District shall be composed of the County of Travis, and the terms of said Court shall be convened and held as follows: On the first Monday in September and may continue until and including the last Saturday in October; on the first Monday in November and may continue until and including the Saturday before the third Monday in January; on the third Monday in January and may continue until and including the Saturday before the third Monday in March; on the third Monday in March and may continue until and including the Saturday before the third Monday in June; and on the third Monday in June and may continue until and

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including the last Saturday in July; provided, that said June term may by order of the Court entered in the minutes be continued for such time as may be fixed by said order.

Sec. 4. The said three District Courts of Travis County shall have jurisdiction over all matters, both civil and criminal, of which jurisdiction is given or shall be given by the Constitution and Laws of Texas to District Courts; and said three District Courts shall have concurrent civil and criminal jurisdiction of all matters, civil and criminal, of which jurisdiction is given to the District Court by the Constitution and the Laws of the State of Texas.

Sec. 5. All three of said District Courts shall have the right to select Jury Commissioners and empanel Grand Juries. The District Judge of the 53rd District Court shall order drawn a Grand Jury for the January and May terms of said Court; the District Judge of the 98th District Court shall order drawn a Grand Jury for the April and October terms of said Court; and the Judge of the 126th District Court shall order drawn a Grand Jury for the September and June terms of said Court. The respective Judges of said Courts may order both Grand and Petit Juries to be drawn for such other terms of his said Court as in his judgment is necessary, by an order entered in the minutes of the Court.

Sec. 6. The Judge of each of said Courts may, in his discretion, either in term time or in vacation, on motion of any party or an agreement of the parties, or on his own motion, transfer any cause, civil or criminal, on his docket to the docket of one of the other said District Courts; and the Judge of said Courts may, in their discretion, exchange benches of Districts from time to time; and whenever a Judge of one of said Courts is disqualified, he shall transfer the case from his Court to one of the other Courts, and any of said Judges may in his own courtroom try and determine any case or proceeding pending in either of the other Courts, without having the case transferred, or may sit in any of the other said Courts and there hear and determine any case there pending, and each judgment and order shall be entered in the minutes of the Court in which the case is pending, and two or more Judges may try different cases in the same Court at the same time and each may occupy his own courtroom or the room of any other Court. In case of absence, sickness or disqualification of any of said Judges, any other of said Judges may hold Court for him. Any of said Judges may hear any part of any case or proceeding pending in any of said Courts and determine the same or may hear or determine any question in any case and any other of said Judges may complete the hearing and render judgment in the case. Any of said Judges may hear and determine demurrers, motions, petitions for injunction, application for appointment of receivers, interventions, pleas of privilege, pleas in abatement, and all dilatory pleas, motions for new trials and all preliminary matters, questions and proceedings and may enter judgment or order thereon in the Court in which the case is pending, without having the case transferred to the Court of the Judge acting and the Judge in whose Court the case is pending may thereafter proceed to hear, complete and determine the case or other matter or any part thereof and render final judgment, thereon. Any of the Judges of said Courts may issue restraining orders and injunctions returnable to any of the other Judges or Courts.

Sec. 7. The District Clerk of Travis County shall be the clerk of the District Courts of the 53rd Judicial District, of the 98th District Court and of the 126th Judicial District and shall perform all the duties of clerk of said three Courts; and the District Attorney for the 53rd Judicial District shall represent the State in all criminal cases in the 98th District Court and in the 126th District Court, as well as in the 53rd District Court, and perform such other duties as are, or may be provided by law governing District Attorneys.

Sec. 8. The present Judges of the 53rd District Court and the 98th District Court of Travis County, as the same now exists, shall remain and

continue District Judges of their respective Districts and Courts as equalized under the provisions of this Act and hold their respective offices of District Judge until the term for which he has been elected or appointed expires, and until his successor is elected and qualified; and the Governor shall immediately upon taking the effect of this Act, appoint a Judge for said 126th District Court who shall hold the office until the next General Election, after the passage of this Act and until his successor shall have been elected and qualified.

Sec. 9. The Judges of each of said three District Courts, each for his own Court, shall have the right to appoint an official Court Reporter who shall have the qualifications and receive the same compensation as are now, or may hereafter be, fixed by law, for Court Reporters in District Courts.

Sec. 10. All writs, process, bonds, recognizances, orders, decrees and judgments in civil and criminal cases and matters, issued, executed, entered into, required or rendered prior to the taking effect of this Act, in either of said District Courts and returnable to terms of said Courts, as heretofore fixed by law, are hereby made returnable to said respective Courts as if no change had been made in said Court, and all bonds executed and recognizances entered in said Courts shall bind the parties to their appearances or to fulfill the obligations of such bonds and recognizances at the terms of said Courts, as heretofore fixed by law and continued by this Act, and all bonds and recognizances taken in either of said Courts (and all orders, decrees and judgments entered in either of said Courts) shall be as valid as though no change had been made in said District Court, and all Grand and Petit Jurors drawn or selected under existing laws in either of said Courts for a term of Court that may be in session when this Act takes effect or for any term that may be held after this Act takes effect shall be considered lawfully drawn and selected in accordance with this Act. [Acts 1931, 42nd Leg., 1st C. S., p. 13, ch. 8.]

Section 11 of Acts 1931, 42nd Leg., 1st. C. S., p. 13, Ch. 8 repeals all conflicting laws and parts of laws and section 12 provides that the act shall not prevent the holding under present laws of any term of court

that may be in session when this act takes effect, and said term of court shall be held under the law existing at the beginning of said term.

## [ADMINISTRATIVE JUDICIAL DISTRICTS]

### [Art. 200a. Administrative judicial districts]

Sec. 1. The State of Texas is hereby divided into nine Administrative Judicial Districts, which districts shall be numbered and composed of counties as follows:

First—Bowie, Red River, Lamar, Fannin, Grayson, Collin, Hunt, Delta, Hopkins, Franklin, Titus, Morris, Camp, Cass, Marion, Harrison, Gregg, Upshur, Wood, Raines, Kaufman, Van Zandt, Dallas, Ellis, Henderson, Anderson, Houston, Cherokee, Nacogdoches, Angelina, Panola, Shelby, Smith, Rusk.

Second—San Augustine, Sabine, Jasper, Newton, Orange, Jefferson, Tyler, Hardin, Liberty, Chambers, Galveston, Harris, Brazoria, Matagorda, Wharton, Fort Bend, Waller, Montgomery, San Jacinto, Polk, Walker, Trinity, Grimes, Madison, Leon, Brazos, Freestone, Limestone, Burleson, Washington, Bastrop, Robertson, Lee.

Third—Johnson, Somervell, Bosque, Hill, Navarro, McLennan, Falls, Milam, Williamson, Travis, Austin, Fayette, Caldwell, Comal, Hays, Colorado, Lavaca, Gonzales, Guadalupe, Blanco, Burnet, San Saba, Llano, Gillespie, Mason, Kimble, Menard, Bell, Lampasas, Mills, Coryell, Hamilton, Comanche.

Fourth—Jackson, Calhoun, Aransas, Refugio, San Patricio, Bee, Live Oak, McMullen, Goliad, Victoria, DeWitt, Karnes, Wilson, Atascosa, Frio, LaSalle, Dimmit, Webb, Zapata, Jim Hogg, Bexar.

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Fifth—Nueces, Kleberg, Kennedy, Jim Wells, Duval, Brooks, Star, Hidalgo, Willacy, Cameron.

Sixth—Maverick, Kinney, Edwards, Val Verde, Terrell, Kerr, Kendall, Bandera, Real, Medina, Uvalde, Zavalla, Sutton, Crockett, Pecos, Brewster, Jeff Davis, Presidio, Culberson, Hudspeth, El Paso, Upton, Reagan.

Seventh—Yoakum, Terry, Lynn, Garza, Gaines, Dawson, Andrews, Martin, Loving, Winkler, Ector, Midland, Glasscock, Reeves, Ward, Crane, Sterling, Coke, Irion, Tom Green, Schleicher, Borden, Scurry, Howard, Mitchell, Nolan, Taylor, Callahan, Shackelford, Throckmorton, Haskell, Jones, Fisher, Stonewall, Kent, Runnels, Coleman, Brown, McCulloch [McCulloch], Concho.

Eighth—Cooke, Denton, Montague, Clay, Wichita, Archer, Jack, Wise, Young, Stephens, Eastland, Erath, Hood, Palo Pinto, Parker, Tarrant.

Ninth—Wilbarger, Baylor, Knox, King, Dickens, Motley, Cottle, Crosby, Lubbock, Hockley, Cochran, Bailey, Lamb, Hale, Floyd, Castro, Swisher, Briscoe, Parmer, Deaf Smith, Oldham, Hartley, Dallam, Sherman, Moore, Potter, Randall, Armstrong, Handsford, Ochiltree, Lipscomb, Hutchinson, Roberts, Hemphill, Carson, Gray, Wheeler, Donley, Collingsworth, Hall, Childress, Hardeman, Foard.

Sec. 2. Immediately after this Act becomes effective it shall be the duty of the Governor, with the advice and consent of the Senate, to designate one of the regularly elected and commissioned district judges of each of said districts as Presiding Judge of the Administrative Judicial District. Upon the death, resignation or the expiration of the term of office of such Presiding Judge, the Governor shall thereafter immediately designate a new Presiding Judge of the Administrative District, as in the first instance.

Sec. 3. The Clerk of the District Court of the district from which the judge has been designated as the Presiding Judge of the Administrative District, and of the county of the residence of the judge, in addition to his regular duties as clerk of the district court, shall perform the duties of the clerk of the Administrative District.

Sec. 4. It shall be the duty of the Presiding Judge of such Administrative District, once each year, to call a regular conference, and, at such times as may be necessary, a special conference, of the several district judges of the several judicial districts composing the Administrative District, at a time and place to be designated by the Presiding Judge, for consultation and counsel as to the state of business, civil and criminal, in the several district courts of the Administrative District, and to arrange for the disposition of the business pending on the dockets of the several district courts of the District. At the time of such consultation, or at any time thereafter, with or without an additional meeting of the judges, it shall be the duty of the Presiding Judge, from time to time, to assign any of the judges of the Administrative District to hold special or regular terms of court in any county of the Administrative District in order to try and dispose of accumulated business, under such rules as may be prescribed by the session, or sessions, of the district judges of the Administrative District. Such meeting or council of judges shall have the power to prescribe rules regulating and facilitating the order of trials, the keeping of records in the various counties of the district where judges are sent from one district into another to facilitate the disposition of cases, and to make such other rules and regulations as may be necessary to carry this Act into practical operation. When it is deemed necessary, the Presiding Judge of the Administrative District may call special or additional meetings of the conference of judges during the year. The District Judges shall lay before each conference of judges a list of all cases pending, and the exact status of their dockets, together, with such other information as may be required by the rules and regulations of the conference.

Sec. 5. Judges may be assigned in the manner herein provided for the holding of district court when the regular judge thereof is absent or is from any cause disabled or disqualified from presiding, and in instances where the regular district judge is present or himself trying cases where authorized or permitted by the Constitution and laws of the State.

Sec. 6. It shall be the duty of any district judge of any district within the Administrative District to extend the regular terms of his court, and to call special terms, when necessary to carry out the purposes of this Act and dispose of pending litigation. If the term be extended as herein provided no other term of the court in such district shall fail because of said extension, but such other terms may be opened and held as usual. The Presiding Judge of one Administrative District may call upon the Presiding Judge of another Administrative District to furnish judges to aid in the disposition of litigation pending in any judicial district within the Administrative District in which such judge so making the request has been designated as the Presiding Judge. For the trial of cases and the entry of orders and the disposition of other business necessary, the judge of any district in this State, or any District Judge sent to any district in this State by the Presiding Judge of an Administrative District, shall have power, by entering an order on the minutes, to convene a special term of the court for the disposition of the business coming before the district court.

Sec. 7. The district clerk performing the duties of clerk for the Administrative District shall conduct the correspondence for the Presiding Judge of the Administrative District, keep a record of all its proceedings, and a complete and accurate record of all cases pending in the several courts of the Administrative District, the time of their filing, the style and purposes of the causes, and their final disposition, and such other matters as may be prescribed by the council of judges herein referred to. For such purposes he is authorized, with the approval of the Presiding Judge, to purchase the necessary office equipment, stamps, stationery and supplies, and to employ one additional deputy clerk, under the direction of the council of judges or such rules as they may promulgate. Such cost shall be divided pro rata among the counties and paid by the counties on the certificate of the Presiding Judge. He shall, under the direction of the Presiding Judge of the Administrative District, make an annual report, and such special reports as may be directed by the Presiding Judge of the District, to the Attorney General. Such reports shall be there filed and open to public inspection, and shall be condensed and tabulated in the biennial reports of the Attorney General.

Sec. 8. The several district judges of the District, when required to attend the annual or special sessions of the judges herein prescribed, shall, in addition to all other compensation allowed them by law, receive their actual traveling expenses going to and returning from the place of meeting, and their actual expenses while in attendance on the meeting.

Sec. 9. All of the aforesaid salaries, compensation, and expenses, and all other expenses authorized and incurred herein for the purpose of administering this Law, shall be paid by the several counties composing the Administrative District out of the General Fund of said counties. Said salaries, compensations, expenses and expenditures herein authorized are to be paid in proportion to the number of weeks provided by Law for holding District Court in the respective counties, on certificates of approval of the presiding Judge of the Administrative Judicial District. [As amended Acts 1929, 41st Leg., p. 488, ch. 231, § 1.]

Acts 1929, 41st Leg., 1st C. S., p. 157, ch. 57, § 1, changes the official spelling of the name of Zavalla County to "Zavala County." Effective 90 days after May 21, 1929, date of adjournment.



**TITLE 11—ARCHIVES****[Art. 253a. Railway surveys]**

The Commissioner of the General Land Office is Authorized and required to procure, accept and file in the General Land Office the original papers relating to the survey of lands by virtue of certificates issued by the State of Texas to The Texas & Pacific Railway Company and its predecessors in title, including the maps, sketches, reports and all papers drawn by the surveyors in making the original as well as the corrected surveys of such lands, which papers, maps, sketches and reports are now in the custody of said railway company. Said Commissioner shall verify the authenticity of such papers, maps, sketches and reports. In the event said Commissioner cannot procure the original papers, maps, sketches and reports above mentioned, he is authorized to procure, accept and file, verified copies thereof, or if he can procure only a portion of the originals, he shall procure and accept such portion and take and file verified copies of those originals which he cannot procure. Thereafter said original papers or verified copies thereof so filed by the Commissioner shall become archives in the General Land Office and the same or certified copies thereof shall be admissible in evidence as are other papers, documents and records and certified copies thereof of such office. [Acts 1930, 41st Leg., 5th C. S., p. 204, ch. 59, § 1.]

**TITLE 15—ATTORNEYS—DISTRICT AND COUNTY****Art. 322a. [Repealed by Acts 1931, 42nd Leg., p. 744, ch. 291]****Art. 324. Assistants in certain counties**

The District Attorney shall appoint one Assistant District Attorney or, at his option, one Special Investigator in districts consisting of more than one county, in which there is situated a city of not less than thirty-two thousand (32,000) and not more than thirty-three thousand (33,000) population, according to the last preceding Federal Census; provided the District Attorney shall furnish data to the District Judge of his district that he is in the need of an Assistant or Special Investigator and is himself unable to attend to all the duties required of him by law, and that it is necessary to the best interests of the State that an Assistant District Attorney or Special Investigator be appointed. Each person so appointed shall be a qualified resident of the district in which said appointment is made, and shall give bond and take the official oath. The said Assistant District Attorney shall be a qualified licensed attorney and shall have authority to perform all the acts and duties of District Attorney under the laws of this State; said appointment shall be for such time as the District Attorney shall deem best in the enforcement of the law, not to be less than one month. Said Assistant District Attorney shall be paid by the Comptroller for the time of actual service rendered at the rate of Twenty-five Hundred (\$2500) Dollars per annum. The said Special Investigator shall be paid by the Comptroller for the time of actual service rendered at the rate fixed by the District Attorney which shall not exceed the sum of Twenty-five Hundred (\$2500.00) Dollars per annum. Said sum shall be paid upon certificates of the District Attorney of said district that said Assistant District Attorney or Special Investigator has performed his duties and is entitled to pay, provided, however, that at no time shall there be employed in said district both an Assistant District Attorney and Special Investigator. The District Attorney of any such district at any time he deems said Assistant or Special Investigator unnecessary, or finds that he is not attending to his duties as required by law, may remove said person from office by merely writing to said District

Judge to that effect. [As amended Acts 1931, 42nd Leg., p. 232, ch. 137, § 1.]

[Art. 325a. District Attorney's salary in Eighth Judicial District]

The salary of the District Attorney for the 8th Judicial District of Texas composed of the Counties of Hunt, Hopkins, Delta and Rains shall be \$4,000.00 per year, and shall be paid by the State in monthly installments upon warrants drawn by the Comptroller of Public Accounts. [Acts 1929, 41st Leg., p. 537, ch. 260, § 1.]

[Art. 326g. Assistant district attorneys in counties having no county attorney]

Sec. 1. That in any county having a population in excess of 150,000 inhabitants, according to the last census of the U. S., and according to any U. S. census which may be hereafter taken, and in which there is no county attorney, the district attorney or criminal district attorney may appoint 7 assistant district attorneys, one of whom shall receive a salary not to exceed forty-eight hundred dollars per annum; one of whom shall receive a salary not to exceed forty-two hundred dollars per annum; one of whom shall receive a salary not to exceed thirty-six hundred dollars per annum; two of whom shall receive a salary not to exceed three thousand dollars per annum each; two of whom shall receive a salary not to exceed twenty-four hundred dollars per annum each; he may employ two stenographers, who shall receive a salary not to exceed two thousand four hundred dollars per annum each. He may employ three investigators who shall receive a salary not to exceed two thousand four hundred dollars per annum each. The salaries of assistants, stenographers and investigators and other employees, above provided for, shall be paid monthly by said county, by warrant drawn from the general funds thereof. [As amended Acts 1929, 41st Leg., p. 231, ch. 96, § 1.]

See, also, art. 3886.

Section 2 of said Acts 1929, 41st Leg., p. 231, ch. 96, repeals all conflicting laws and parts of laws. Section 3 provides that if any section is held unconstitutional, such decision shall not affect the remaining sections.

[Art. 326k. District Attorney and Assistant Ninetieth Judicial District]

Sec. 2. Said District Attorney may appoint a stenographer to assist said District Attorney for said 90th Judicial District whose salary shall not exceed the sum of Fifteen Hundred (\$1500.00) Dollars per annum, and which shall be paid out of the General Funds of Stephens County, at such time and on such terms and conditions as may be prescribed by the Commissioners' Court of Stephens County. [As amended Acts 1929, 41st Leg., p. 206, ch. 88, § 1.]

[Art. 326k—1. Criminal district attorneys in counties constituting three or more judicial districts]

Sec. 1. In those counties in this State which within themselves constitute three or more separate Judicial Districts, and in which there is not now a District Attorney the office of Criminal District Attorney is hereby created, and shall exist from and after the passage of this Act. Such officer shall be known as Criminal District Attorney of such county. A Criminal District Attorney shall be elected in each such county at the next general election, and at each succeeding general election after the passage of this Act. He shall hold his office for the period of two years and until his successor is elected and qualified. He shall possess all the qualifications and take the oath and give the bond required by the Constitution and Laws of this State for other District Attorneys; and it is further provided and directed that [the] present County Attorney

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

of any such county shall continue in office and take the oath and give the bond required by the Constitution and Laws for other District Attorneys and assume the duties and be known as the Criminal District Attorney of the county, and proceed to organize and arrange the affairs of the office of Criminal District Attorney of such county, and appoint assistants as provided in this Act, and receive the fees provided for in this Act for such office until the next general election and until his successor shall be elected and qualified.

Sec. 2. The Criminal District Attorney of any such county shall have and exercise, all such powers, duties and privileges within such county as are by law now conferred or which may hereafter be conferred upon District and County Attorneys.

Sec. 3. The Criminal District Attorney in each county affected by this Act shall receive the same fees allowed by law for County Attorneys in misdemeanor cases and shall also receive a salary of five hundred (\$500.-00) dollars per annum, to be paid by the State in the manner provided by law for paying the salaries of District Attorneys, and in addition thereto shall be paid the following fees by the State in the manner provided by law for paying the fees of County and District Attorneys;

For each conviction of felonious homicide and for each conviction where the punishment fixed by the Statute may be death, where the defendant does not appeal or dies, or escapes after appeal and before final judgment of the Court of Criminal Appeals or where upon appeal judgment is affirmed, the sum of forty dollars. For all other convictions in felony cases where the defendant does not appeal or dies or escapes after appeal and before final judgment of the Court of Criminal Appeals or where upon appeal the judgment is affirmed, the sum of thirty dollars; provided, that in all convictions of felony, in which punishment is fixed by the verdict and punishment in a house of correction and reformatory, his fee shall be fifteen dollars. For representing the State in each case of habeas corpus where the defendant is charged with a felony, the sum of twenty dollars; For representing the State in each examining trial, in felony cases, where indictment is returned, in each case, the sum of five dollars. The Criminal District Attorney shall receive fees for other services rendered by him as is now or may hereafter be authorized by law to be paid to District and County Attorneys in this State and for such services including the same fee now fixed and allowed by law in misdemeanor cases to County Attorneys, fees allowed by law for ex-officio services, said ex-officio fees may be allowed in addition to other fees herein provided, in an amount not to exceed fifteen hundred dollars per annum by the Commissioners' Court of the county and in the same manner as provided for county officers. The Criminal District Attorney shall retain out of the fees earned and collected by him the sum of three thousand five hundred dollars per annum and in addition thereto one-fourth of the gross excess of all such fees in excess of three thousand five hundred dollars per annum to an amount not in excess of two thousand dollars. After deducting the three thousand five hundred dollars and one-fourth of the remaining gross the remaining amount is to be applied first for the payment of the salaries of his assistants and the actual and necessary expenses incurred by him in the conduct of his said office, such as stamps, stationery, books, telephone, traveling expenses and other necessary expenses, and the balance remaining to be paid over to the county in accordance with the terms and provisions of the fee bill; provided that in arriving at the amount collected by him he shall include fees arising from all classes of criminal cases, whether felony or misdemeanor, arising in any of the Justice, County or District Courts or which may hereafter be created, including habeas corpus hearing, fines and forfeitures, but shall not include the five hundred dollars annual salary paid by the State; provided that on the first day

of January, or as soon thereafter as practicable each year, he shall make a full and complete report and account, as is now provided by law, for officers required to make annual reports of fees collected, of all such fees so collected by him; provided that in addition to the above he shall receive ten per cent for the collection of delinquent fees due the county, bond forfeitures, and money collected for the State and county as is now provided by law relating to the collection of fees by County and District Attorneys; such fees to be included in the report herein provided for and to be taken into consideration in arriving at the total maximum compensation provided in this Act; and provided further that the Criminal District Attorney shall represent the State and county in all tax suits, including suits for inheritance tax, as is now provided for District and County Attorneys. He shall receive the same fees as received by District and County Attorneys and the said fees in delinquent tax and inheritance tax suits shall be exempt to him as now provided for fees exempt to District and County Attorneys and all such tax fees shall not be accounted for nor included in his annual report.

Sec. 4. The Criminal District Attorney shall appoint as many assistants as shall be necessary to properly administer the affairs of the office of Criminal District Attorney and to enforce the law, not to exceed five assistants, said appointments to be made by the said Criminal District Attorney and ratified by the Commissioners' Court. One of said assistants shall receive a salary not to exceed three thousand dollars per annum, two of said assistants shall receive a salary not to exceed two thousand four hundred dollars per annum and two of said assistants shall receive a salary not to exceed twenty-one hundred dollars per annum, each payable monthly. Assistant Criminal District Attorneys shall be appointed by the Criminal District Attorney and when confirmed by the Commissioners' Court shall take the oath of office and be authorized to represent the State in all of the courts of the county in which the Criminal District Attorney is authorized by this Act to represent the State, such authority to be exercised under the direction of the Criminal District Attorney, and which said assistants shall be subject to removal at the will of the Criminal District Attorney. Each of said assistants shall be authorized to administer oaths, file information, examine witnesses before the Grand Jury and generally perform any duty devolving upon the Criminal District Attorney, and to exercise any power conferred by law upon County and District Attorneys and the Criminal District Attorney when by him so authorized. The Criminal District Attorney shall be paid the same fees for services rendered by his assistants as he would be entitled to receive if the services had been rendered by himself.

Sec. 5. Should the work of the Criminal District Attorney require additional assistants and investigators and other employees provided for in this Act to properly investigate and punish offenders, and for the efficient performance of the duties incumbent upon the Criminal District Attorney, he may appoint such additional assistants and employees and fix their salaries, provided such salary shall in no event exceed the maximum provided herein to be paid to assistants so appointed; but such additional assistants and employees before qualifying and entering upon the duties of such office shall be confirmed by the Commissioners' Court of the county, upon a written application of the Criminal District Attorney, setting out under oath the necessity and facts requiring such additional appointment.

Sec. 6. The Criminal District Attorney is authorized, with the consent of the County Judge and the Commissioners' Court to appoint not to exceed two assistants in addition to his regular assistants provided for in this Act, which two assistants shall not be required to possess the qualifications prescribed by law for District or County Attorneys, which said two assistants shall be known as special investigators, and who shall per-

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form such duties as may be assigned to them by the Criminal District Attorney and who shall receive as their compensation a salary not to exceed twenty-four hundred dollars per annum, payable monthly out of the county funds, by warrants drawn on such county funds; and providing further that said investigators for the Criminal District Attorney shall be allowed a sum of money by order of the Commissioners' Court for traveling and other expenses incident to the duties they shall perform under the direction of the Criminal District Attorney, which said sum of money so allowed by the said Commissioners' Court shall not exceed seventy-five dollars per month, as in the judgment of the Commissioners' Court may be deemed necessary to properly administer the duties of such office and investigation of criminal cases in said Criminal District Attorney's office and incident thereto; provided further that such amount as may be thus necessarily incurred shall be paid by the Commissioners' Court upon affidavit made by the Criminal District Attorney, showing the necessity of such expenditure and for what the same was incurred. The Commissioners' Court may also require any further evidence as in their opinion may be necessary to show the necessity of such expenditure, but they shall be the sole judge as to the necessity of such expenditure and their judgment allowing same shall be final.

Sec. 7. The Criminal District Attorney is authorized, with the consent of the County Judge and the Commissioners' Court, to appoint not to exceed two stenographers, who may or who may not possess the qualifications prescribed by law for District and County Attorneys and who shall perform the necessary stenographic duties as may be assigned to them by the Criminal District Attorney, and who shall receive as their compensation not to exceed eighteen hundred dollars per annum each, to be paid in monthly installments out of the county funds by warrants drawn on such county funds.

Sec. 8. The Criminal District Attorney shall at the close of each month of the tenure of such office make as a part of the report required by this Act an itemized and sworn statement of the actual and necessary expenses incurred by him in the conduct of said office, such as stamps, stationery, books[,] telephone, traveling expenses, and any and all other necessary expenses. If such expenses be incurred in connection with any particular case, such statement shall name such case, such expense account shall be subject to the audit of the County Auditor and if it appears that any item of such expense was not incurred by such officer or that such item was not necessary thereto, such item may be by said Auditor rejected, in which case the correction of such item may be adjudicated in any court of competent jurisdiction. The amount of such expenses shall be deducted by the Criminal District Attorney in making his report from the amount, if any, due by him to the county under the provisions of this Act. [Acts 1929, 41st Leg., p. 25, ch. 9.]

Sec. 9. This Act is not intended and shall not be considered or construed as repealing any law now in the statute books, but shall be cumulative thereof, and providing further shall be cumulative of all laws not in conflict with the provisions hereof. This Act shall not apply to any county in this State having two or more incorporated cities each having a population of more than 20,000, according to the latest United States census. [As amended Acts 1929, 41st Leg., 1st C. S., p. 54, ch. 20, § 1.]

[Art. 326k—2. Repealed by Acts 1931, 42nd Leg., p. 744, ch. 291]

Effective Feb. 19, 1931. The article re- p. 134, ch. 66, § 1 (effective 90 days after pealed was Acts 1929, 41st Leg., 2nd C. S., July 2, 1929, date of adjournment).

[Art. 326k—3. District Attorneys' compensation in certain districts]

Sec. 1. District Attorneys in each judicial district in this State containing five or more counties having a combined population, according to

the Fourteenth Census of the United States of the year 1920, of not less than 98,740 nor in excess of 98,750, shall receive from the State as pay for their services the sum of Five Hundred (\$500.00) Dollars per annum, as provided by the constitution, and in addition thereto, and in lieu of the fees, commissions, and perquisites provided by law, shall receive from the State the sum of Ten (\$10.00) Dollars for each of the first 350 days of every calendar year as compensation for attending examining trials, Habeas Corpus hearings, the sessions of the District Court of the district they represent, and for performing such other duties as imposed by law. The compensation provided for in this Act shall be paid monthly by the State upon warrants drawn by the Comptroller of Public Accounts, and it shall not be necessary for the District Attorney to file any account with the District Judge or the Comptroller of Public Accounts. Nothing in this Act shall be construed so as to deprive District Attorneys of the traveling expense allowances now provided by law, nor shall this Act affect the salary or compensation of any District Attorney fixed by special law. All commissions, perquisites and fees allowed to and collected by District Attorneys in districts composed of five or more counties, having the population as herein provided, shall be paid to the District Clerk of the County where said fees, commissions and perquisites are collected, who shall pay the same over to the State Treasury.

Sec. 2. That in each of said Judicial Districts, the duly elected District Attorney shall have the right, with the consent of the Judge of said District Court to appoint an Assistant District Attorney who shall serve as such Assistant District Attorney for the same term as the district attorney is elected, and in case of a vacancy, the District Attorney, with the consent of the district judge of the District, may make an appointment to fill out the unexpired term. The district attorney of said district, at any time he deems said assistant unnecessary, or finds that he is not attending to his duties as required by law, may remove such assistant district attorney from office by giving him written notice to that effect. Said assistant district attorney shall give a bond in the sum of Five Thousand Dollars, and take the oath of office, and shall have authority to perform all of the acts and duties of the district attorney under the laws of this State. Said assistant district attorney shall be a qualified resident attorney of the judicial district.

Sec. 3. The assistant district attorney provided for in Section 1 of this Act shall receive an annual salary of three thousand six hundred dollars, to be paid monthly by the comptroller out of the funds appropriated for the payment of the salaries and fees of the district attorneys of the State of Texas or out of any money not otherwise appropriated, said salary to be paid upon the sworn account of such assistant district attorney approved by the district attorney and the district judge of said district; and in addition to this salary the assistant district attorney shall also be paid the amount of expenses incurred by said assistant district attorney in attending the courts of other counties than his residence in the performance of his duties as such assistant district attorney the same amount as is now paid district attorneys out of the funds appropriated for the payment of expenses of the district attorneys of the State. [Acts 1929; 41st Leg., 2nd C. S., p. 144, ch. 71.]

[Art. 326l. Assistant district attorney in Seventy-second Judicial District and salary]

Sec. 1. The District Attorney of the 72nd Judicial District of Texas, is hereby authorized to appoint one Assistant District Attorney.

Sec. 2. The Assistant District Attorney provided for in Section 1 of this Act shall be a duly licensed Attorney at Law and shall be a bona fide resident of one of the counties composing the said 72nd Judicial District. Said Assistant District Attorney, when appointed, shall take the oath of office and shall be authorized to represent the State in any Court or pro-

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ceeding in which the District Attorney is or shall be authorized to represent the State, said authority to be exercised by said Assistant under the direction of the District Attorney. The District Attorney shall have the power and authority to dismiss said Assistant, at his discretion, and to appoint another person to fill out the unexpired term, provided that any person appointed to fill out said term, shall possess the same qualifications as above mentioned.

Sec. 3. The Assistant District Attorney provided for in Section 1 of this Act shall receive an annual salary of \$2,500.00, payable monthly, out of any money not otherwise appropriated, upon the sworn account of such Assistant District Attorney, approved by the District Attorney. [Acts 1929, 41st Leg., p. 406, ch. 187, as amended Acts 1931, 42nd Leg., p. 745, ch. 292.]

[Art. 326m. Assistant district attorney in certain judicial district and salary]

Sec. 1. That in all Judicial Districts in this State composed of five counties in which the aggregate population of said District as shown by the Federal census of 1920 is in excess of 74,427 and not in excess of 74,428, the duly elected District Attorney shall have the right, with the consent of the Judge of said District Court to appoint an Assistant District Attorney, who shall hold his office one year.

Sec. 2. The Assistant District Attorney provided for in Section 1 of this Act shall receive an annual salary of \$3,000.00 to be paid monthly out of any money not otherwise appropriated, upon the sworn account of such Assistant District Attorney approved by the District Attorney and the Judge of said District. [Acts 1929, 41st Leg., p. 665, ch. 297.]

Acts 1929, 41st Leg., 2nd C. S., p. 54, ch. 34, makes a special appropriation for the salaries of the assistant district attorneys.

[Art. 326n. District attorneys, assistants, investigators and salaries in certain judicial districts]

Sec. 1. That District Attorneys in all Judicial Districts composed of only one county, in which county there are two or more District Courts with concurrent criminal jurisdiction, and which District Courts have exclusive jurisdiction of all prosecutions for failing or refusing to pay over money belonging to the State under Chapter Two (2) of Title Four (4) of the Penal Code of 1925, and which District Courts further have concurrent jurisdiction with all District Courts in Texas in prosecutions involving the forging and uttering, using or passing of forged instruments in writing which concern or affect the title to land in this State, under Chapter Two (2) of Title Four (4) of the Code of Criminal Procedure of 1925, shall hereafter receive from the State as pay for their services the sum of Five Hundred Dollars (\$500.00) per annum, as provided by the Constitution, and in addition thereto shall receive the sum of Three Thousand Five Hundred Dollars (\$3,500.00) per annum, said salary to be paid in monthly installments in the same manner as now provided for the payment of the Five Hundred Dollars (\$500.00) fixed by the Constitution. All commissions and fees allowed District Attorneys by law, shall, when collected, be paid to the District Clerk of such counties, who shall pay the same over to the State Treasurer.

Sec. 2. That in such Judicial Districts the District Attorney, with the consent of either of the District Judges, is hereby authorized to appoint one assistant District Attorney, who shall receive as salary Three Thousand Dollars (\$3,000.00) per annum payable by the state monthly.

Sec. 3. That said Assistant District Attorney shall have all of the qualifications that are now required by law of District Attorneys, shall take an oath of office before one of the District Judges of such District, shall be subject to removal at the will of the District Attorney, and under

the direction of the District Attorney, shall be authorized to perform any official act devolving upon or authorized to be performed by the District Attorney.

Sec. 4. That in such Judicial Districts the Commissioners' Court is hereby authorized to appoint, at their discretion, an investigator, who shall receive a salary of not to exceed Twenty-Four Hundred Dollars (\$2,400.00) per annum, and a stenographer who shall receive a salary of not to exceed Eighteen Hundred Dollars (\$1,800.00) per annum, said salaries to be paid monthly by the county comprising such judicial district, by warrant drawn upon the general funds thereof. Said investigator shall have authority to make arrests and execute all process in criminal cases. [Acts 1931, 42nd Leg., p. 744, ch. 291.]

[Art. 331a. Assistants and stenographer in certain counties and salaries]

Sec. 1. That in any county having a population of more than 100,000 and less than 150,000, and containing a city of more than 75,000 population, according to the United States Census for the year 1920, the County Attorney is hereby authorized to appoint two Assistant County Attorneys, each having the qualifications required of County Attorneys, one of whom shall receive a salary of \$3000.00 per annum, and one of whom shall receive a salary of \$2400.00 per annum. The said County Attorney is also hereby authorized to appoint one stenographer at a salary not to exceed \$1800.00 per annum. The salaries of the Assistants and stenographer above provided for shall be paid monthly by the county in which such appointments are made.

Sec. 2. Should such County Attorney be of the opinion that the number of assistants above provided for are inadequate for the efficient performance of the duties of said office, he may appoint additional assistants under the provisions and restrictions of Article 3902 of the Revised Civil Statutes of 1925. [Acts 1929, 41st Leg., p. 198, ch. 83.]

[Art. 331b. Assistant to county attorney performing duties of district attorney]

In all counties in which the county attorney performs the duties of the county attorney and district attorney, as provided by law, the county attorney may appoint one or more assistants who need not possess the qualifications required by law of county attorneys. The appointment of the assistants provided for by this act shall be governed by the provisions of Article 3902, whereby the number of assistants to be appointed and the compensation to be paid each shall be determined by the commissioners' court, provided that the provision of this bill shall apply only to counties in this State having a population of not less than 49600 and not more than 49700 according to the last government census of 1920. [Acts 1929, 41st Leg., p. 512, ch. 246, § 1.]

[Art. 331b—1. Assistants to county attorneys acting as county attorney and district attorney]

In all counties in which the county attorney performs the duties of the county attorney and district attorney, as provided by law, the county attorney may appoint one or more assistants who need not possess the qualifications required by law of county attorneys. The appointment of the assistants provided for by this act shall be governed by the provisions of Article 3902, whereby the number of assistants to be appointed and the compensation to be paid each shall be determined by the commissioners' court, provided that the provision of this bill shall apply only to counties in this State having a population of not less than 42900 and not more than 43000 according to the last government census of 1920. [Acts 1929, 41st Leg., 2nd C. S., p. 135, ch. 67, § 1.]



*For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes*

[Art. 331c. Fees and deputies of county attorneys in certain counties]

That in any county having a population of not less than 37,500, and not more than 100,000 inhabitants, as determined by the last preceding Federal census, and each succeeding Federal census thereafter, and in which counties there are one or more Judicial districts where there is no District Attorney, the County Attorney shall be allowed to retain out of the fees earned and collected by him, the sum of \$5,000.00 per annum, as his compensation, exclusive of the compensation of assistants, deputies and stenographers, and shall be allowed to retain any amount as may be incurred as expenses under the authority of Article 3899, Revised Statutes, 1925, and any other expenses allowed by law, including in addition to the items enumerated in the Statutes expenses incurred in investigating crime and accumulating evidence in Criminal cases, and shall pay over all fees earned by such office in excess of \$5,000.00, and in excess of such expenses herein provided for, during each and every fiscal year, into the County Treasury in accordance with the provisions of the maximum fee bill. In arriving at the amount collected by him, he shall include the fees arising from all classes of Criminal cases, whether felonies or misdemeanors, arising in any court in such county, including habeas corpus hearings and fines and forfeitures, and including fees for representing the State in Criminal actions in Corporation Courts; such latter fees to be the same as those fixed by law for like services in Justice Courts. Each County Attorney may appoint not to exceed three Assistant County Attorneys, two of which shall receive a salary of not to exceed \$3,600.00 per annum, and one of whom shall receive a salary not to exceed \$2,400.00 per annum. He may appoint one stenographer, who shall receive a salary not to exceed \$1,500.00 per annum. The salaries of the assistants and stenographer shall be paid monthly by the County Attorney out of the fees of office. [Acts 1929, 41st Leg., 1st C. S., p. 220, ch. 89, § 1.]

## TITLE 16—BANKS AND BANKING

### Art. 350. Examiners

The Commissioner, from time to time, shall appoint such number of State Bank Examiners as may be necessary to make the examination of banking corporations required by law, which number shall at no time exceed one for each forty banking corporations then subject to examination under the law. One departmental examiner may be appointed by the Commissioner in addition to the field examiners. The Commissioner may appoint also not to exceed six assistant bank examiners who shall perform such duties in connection with the examination of banking corporations that may be required by the Banking Commissioner. The salary of such assistant bank examiner shall be Eighteen Hundred Dollars per annum. The assistant bank examiners shall receive all necessary traveling expenses, a sworn itemized account of which shall be rendered monthly by each assistant examiner and approved by the Commissioner. [As amended Acts 1929, 41st Leg., 1st C. S., p. 161, ch. 62, § 7.]

### Art. 358. Examinations

Amended by substituting "six" for "four" before months. [Acts 1929, 41st Leg., 1st C. S., p. 161, ch. 62, § 6.]

### Art. 365. [523] Impairment of capital

Whenever the Commissioner shall have reason to believe that the capital stock of any banking corporation subject to the provisions of this Title is reduced by impairment or otherwise below the amount required by law or by its certificates or articles of association, he shall require such corporation to make good the deficiency. If any such corpo-

ration shall fail to make good such deficiency within three months after receiving notice from the Banking Commissioner of Texas, the Banking Commissioner shall have authority to levy an assessment against each shareholder of the corporation for his pro rata share of the deficiency not to exceed in any event one hundred per cent of the [the] face value of his stock. If any shareholder or shareholders of such corporation shall neglect or refuse after three months notice to pay the assessment as provided in this Article, it shall be the duty of the Banking Commissioner to cause a sufficient amount of the capital stock of such shareholder or shareholders to be sold at public auction (after thirty days notice of sale displayed in the office of the bank, and by publishing such notice in a newspaper of the city or town in which the bank is located, or in a newspaper published nearest thereto) to make good the deficiency, and the balance, if any, shall be returned to such delinquent shareholder or shareholders. [As amended Acts 1929, 41st Leg., 1st C. S., p. 161, ch. 62, § 1.]

#### Art. 370. [523] Inspection

The Commissioner, as soon as practicable, after taking charge of such bank, shall ascertain by a thorough examination into its affairs its actual financial condition. If he is satisfied that it is not in a condition to resume business he shall either proceed to liquidate the same or give notice to the Attorney General as to the condition of said corporation with the request that the Attorney General proceed as hereinafter provided. It shall be in the discretion of the Commissioner to determine whether he shall liquidate the corporation himself or report it to the Attorney General for the appointment of a receiver.

Sec. 3. No decrease in the capital stock of a bank or Bank and Trust Company shall prejudice the rights of any creditor of such corporation in any claim or cause of action such creditor may have against the company or any stockholder thereof, until twelve months after such decrease becomes effective.

Sec. 4. When a bank or Bank and Trust Company receives a check, draft or bill of exchange it shall be presumed in the absence of evidence to the contrary that it was received for collection and not for credit; provided said check, draft or bill of exchange is forwarded immediately for collection. [As amended Acts 1929, 41st Leg., 1st C. S., p. 161, ch. 62.]

#### Art. 377. [371] Articles of association

The articles of association shall state:

1. The corporate name of the proposed corporation.
2. The purpose for which the corporation is formed.
3. The name of the city or town and county in which the corporation is to be located.
4. The amount of the capital stock of the corporation, which shall be divided into shares of Twenty Dollars, Forty Dollars, Sixty Dollars, Eighty Dollars or One Hundred Dollars each, as may be provided in the articles of association; that the same has been bona fide subscribed and actually paid up in lawful money of the United States, and is in the custody of the persons named as the first board of directors.
5. The stock of any corporation created under this article shall be deemed personal estate, and shall be transferable only on the books of the corporation in such manner as the by-laws may prescribe.
6. The name and place of residence of each shareholder, and the number of shares subscribed by each.
7. The number of directors, and the names of those agreed upon for the first year.
8. The number of years the corporation is to continue, which in no case shall exceed fifty. [As amended Acts 1929, 41st Leg., 1st C. S., p. 47, ch. 15, § 1.]

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#### Art. 387. Election of directors

Amended by adding after "five nor more than twenty-five" in the sixth line "or if the corporation has a capital stock of \$500,000.00 or more not less than five nor more than thirty-five," and changing the clause "and such number so elected shall be" to the sentence "Such number so elected shall be" etc. [Acts 1929, 41st Leg., p. 56, ch. 23, § 1.]

#### Art. 388. [374] Board of directors

The business of every banking corporation shall be managed by a board of directors, a majority of whom shall be bona fide resident citizens of this State, and each of whom shall be a bona fide owner of at least \$500.00 par value of the capital stock thereof, unless the capital stock of the corporation exceeds \$17,500.00, in which case each director shall be bona fide owner of at least \$1,000.00 par value of the capital stock. No person shall be a director in any bank against whom such bank holds a judgment. [As amended Acts 1929, 41st Leg., 2nd C. S., p. 89, ch. 51, § 1.]

#### Art. 396. [385] Powers of corporation

Sub-Division A. State Bank and Trust Companies, exercising any or all the powers enumerated in Article 396, Revised Civil Statutes of the State of Texas, 1925, shall segregate all assets held in any fiduciary capacity from the general assets of the Bank and Trust Company, and shall keep a separate set of books and records showing in proper detail all transactions engaged in under authority of said Article 396.

Funds deposited or held in trust by the bank awaiting investment shall be carried in a separate account and shall not be used by the bank in the conduct of its business unless it shall first set aside in the Trust Department, United States bonds or other securities approved by The State Banking Board, equivalent to the amount so used.

In the event of the failure of such Bank and Trust Company, the owner of the funds held in trust for investment shall have a lien on the bonds or other securities so set apart, in addition to their claim against the assets of the bank. [As amended Acts 1931, 42nd Leg., p. 292, ch. 173, § 1.]

Sub-division B being a Penal provision is published as Penal Code, art. 546b.

#### Art. 415. [396] May limit deposits

Every such corporation shall have the right to limit, refuse or return any deposit at its discretion. [As amended Acts 1929, 41st Leg., 1st C. S., p. 48, ch. 16, § 1.]

#### Art. 416. [403-432] Investment of savings

Such corporation shall invest not more than eighty-five per cent of the total amount of its savings deposits in any of the following classes of securities, and not otherwise:

1. In bonds or interest bearing notes or obligations of the United States, or of those for which the faith of the United States is pledged for the payment of principal and interest;

2. In bonds, interest bearing notes, or other obligations issued under due authority of law, in payment for permanent improvements made, bearing a fixed rate of interest, and payable within a definite number of years, or over a series of years, of any city, county, town or school district, or other subdivision of this State, now organized, or which may hereafter be organized, and which is now or may hereafter be authorized to issue bonds under the Constitution and laws of this State, which has not defaulted in the payment of any part of either principal or interest thereof within five years previous to making such investments;

3. In bonds of this State, or of any State in the Union, that has not, within the last five years previous to making such investment, defaulted in the payment of any part of either principal or interest thereof;

4. In First Mortgage bonds of any steam or electric railroad, or other public utility corporation, domiciled in this or any other State of the Union, the annual net earnings of which steam or electric railroad, or public utility corporation, equaled during the last five years twice the annual interest charges on the entire funded indebtedness of such steam or electric railroad or public utility corporation. Provided that not more than twenty-five per cent of said savings deposits may be invested in the securities mentioned in this Subdivision;

5. In bonds or notes secured by first mortgage, first deed of trust or other first lien, on improved real estate in Texas, provided the aggregate of such bonds or notes outstanding and secured by co-ordinate lien against said property shall not exceed fifty per cent of the value of said real estate and the improvements thereon, exclusive of mineral leases or other mineral estate, such bonds or notes to run for a term of not longer than ten years, and to be always accompanied by a complete abstract of title to the property mortgaged, and an attorney's certificate approving the title or a title insurance policy in some company incorporated under the laws of Texas guaranteeing the title and guaranteeing that said bonds or notes retain a first lien on the land mortgaged; and in addition thereto in assignable certificates issued by any city, town or village, for street paving, the payments of which are secured by first liens, fixed or executed on the abutting properties in accordance with law, and made the personal obligations of the abutting property owners.

6. In bankers acceptances as defined by the Federal Reserve Act or in collateral loans, which loans are collateralized and secured by marketable stocks or bonds, the market value of which shall be at all times equal to one hundred twenty-five per cent of the amount of the loan, such collateral loans always having a maturity of not longer than six months from the date of the purchase thereof. Provided that not more than twenty-five per cent of such savings deposits may be invested in the class of securities mentioned in this subdivision;

It shall be the duty of the Directors of such corporation as soon as practicable, to invest the moneys and funds of such savings accounts, by purchase or otherwise, in the securities hereinabove described. Such directors, from time to time, shall sell and invest the proceeds of such investments, and for the purpose of meeting current demands and expenses in excess of the receipts, any of the securities may be sold or pledged. [As amended Acts 1929, 41st Leg., 1st C. S., p. 48, ch. 17, § 1.]

#### Art. 431. [442] Rules and regulations

The Board of Directors at any regular meeting may adopt reasonable rules and regulations for the control of such savings department, to become effective when approved by the Commissioner. [As amended Acts 1931, 42nd Leg., p. 15, ch. 15, § 1.]

#### Art. 437. [Repealed by Acts 1927, 40th Leg., p. 18, ch. 12, § 1]

Acts 1931, 42nd Leg., p. 515, ch. 283, relating to the distribution of the Depositors' Guaranty Fund read as follows:

Sec. 1. Whereas, there are large sums of money, to-wit, approximately Four Hundred and Sixty-six Thousand Dollars (\$466,000.00) in the State Treasury and approximately One Million, Two Hundred and Twenty-six Thousand Dollars (\$1,226,000.00) in possession of the Banking Commissioner of Texas; which said funds were created and accumulated under the Depositors' Guaranty Fund law; and

Sec. 2. Whereas, the aforesaid Depositors' Guaranty Fund law was repealed by the Legislature of Texas more than four

(4) years ago; and the aforesaid funds have been subject to distribution by the State Banking Board of Texas since the repeal of said law; and

Sec. 3. Whereas, of the aforesaid total sum there are depositors of nine (9) failed banks whose deposits are secured by the Depositors' Guaranty Fund, and such depositors' claims remaining unpaid amount to One Hundred Seventeen Thousand, One Hundred and Seven Dollars and Thirty-one Cents (\$117,107.31); and

Sec. 4. Whereas, the remaining One Million, Five Hundred and Seventy-five Thousand Dollars (\$1,575,000.00) belongs and should be paid to the banks, members of

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the Depositors' Guaranty Fund system of banking, in proportion to the amount contributed by each.

Sec. 5. Whereas, the State Banking Board of Texas, a governmental agency, on the 17th day of April, A. D. 1931, passed an order providing for the distribution of the aforesaid sums of money.

Sec. 6. Whereas, the order of the State Banking Board aforesaid provides for a proper, legal and equitable distribution of the funds involved.

Sec. 7. That all money or moneys hereinafter specifically described in the hands of the Banking Commissioner of Texas, or in his possession, or subject to his control, wherever the same be situated, be immediately paid to the State Treasurer of Texas as bailee for the Depositors' Guaranty Fund, to-wit:

(a) Any sum now in his hands, or under his control, which represents the unused part of money withdrawn from the Guaranty Fund (the one-fourth in the Treasury) with which to pay depositors of failed banks whose deposits were secured by the Depositors' Guaranty Fund; this fund approximates Two Hundred Thirty-eight Thousand, Seven Hundred and Sixty Dollars and Eighty-four Cents (\$238,760.84).

(b) Any sum now in his hands, or under his control, which represents dividends from the assets of liquidated banks whose depositors were paid with funds withdrawn from the Depositors' Guaranty Fund (the one-fourth in the Treasury) to which the depositors whose deposits were so paid would have been entitled as general creditors of such failed banks; this fund amounts to approximately Four Hundred Ninety-six Thousand, Two Hundred and Fourteen Dollars and Ninety-nine Cents (\$496,214.99).

(c) Any sum now in his hands, or under his control, to which depositors whose claims were secured by the Depositors' Guaranty Fund would have been entitled from the assets of liquidated failed banks as general creditors of such failed banks but for the fact that such depositors were paid with money withdrawn from the Depositors' Guaranty Fund (the one-fourth in the Treasury); the sum to which the Guaranty Fund depositors would have been entitled amounts to approximately Four Hundred Ninety Thousand Seven Hundred Thirty Nine Dollars and Sixty Three Cents (\$490,739.63).

(d) Any sum representing interest earned by the above funds set out in (a), (b), and (c), above, and now on hand.

(e) Any accretion to said funds from whatever source derived.

Sec. 8. That all depositors' claims real or pretended, against the Depositors' Guaranty Fund not heretofore allowed are hereby disallowed; and where any reservation has been made by reason of such claims the same shall be paid to the State Treasurer as bailee for the Depositors' Guaranty Fund.

That the accounts kept by the Banking Commissioner of Texas with banks former-

ly in the Depositors' Guaranty Fund system, showing miscellaneous charges and credits made and entered upon the accounts of such banks by reason of the failure and liquidation of other banks and which do not come under the classifications herein otherwise referred to, shall be cancelled and no longer held as a liability or an asset of any such banks.

Sec. 9. That the Banking Commissioner of Texas immediately furnished the Attorney General a complete list certified by him to be true and correct, showing the name of each depositor of the banks hereinafter named, together with the last known address of each such depositor, whose deposits have been approved by him as payable out of the Depositors' Guaranty Fund, the amount of each deposit so approved and the balance remaining unpaid on each deposit.

The banks whose non-interest bearing unsecured depositors are entitled to be paid out of the Depositors' Guaranty Fund and who have not been paid in full are as follows:

Commercial Guaranty State Bank of Longview

Commercial State Bank of Cisco

Altoga State Bank of Altoga

Farmers and Merchants State Bank of Mt. Calm

Guaranty State Bank of Trinidad

Farmers State Bank of Kemp

Guaranty State Bank of Gunter

Addison State Bank of Addison

First State Bank of Belton

Sec. 10. The Attorney General, as Chairman of the State Banking Board shall immediately upon the receiving of said list, issue vouchers on the State Treasurer as bailee for such Depositors' Guaranty Fund for the amount of each depositor's approved net claim against the Depositors' Guaranty Fund remaining unpaid and mail same to each such depositor, and the State Treasurer, as such bailee, shall, when said voucher is presented, properly endorsed by the payee therein, pay same in cash from any funds in the State Treasury in his possession as bailee of the Depositors' Guaranty Fund. The form of said voucher shall be substantially as follows:

Austin, Texas.

April 17, 1931.

The State Banking Board of Texas

Pay to the order of \_\_\_\_\_ \$ \_\_\_\_\_ Dollars

To Charley Lockhart, State Treasurer, bailee, Depositors' Guaranty Fund, Austin, Texas.

The State Banking Board

By \_\_\_\_\_

Attorney General, Chairman

Endorsement:

When paid, I accept the sum for which this voucher is drawn in full satisfaction of my claim against the Depositors' Guaranty Fund of Texas.

Sec. 11. That the three-fourths demand deposit to the credit of the State Banking Board in the various member banks which

has not been previously written off the books of each such bank having such deposit, shall be, and the same is here authorized to be written and charged off the books of each such bank; and the same shall not hereafter be considered as an asset of the Depositors' Guaranty Fund.

That the two per cent (2%) assessment levied by the State Banking Board on May 2, 1927, is hereby rescinded and held for naught.

That those banks which have heretofore remitted their three-fourths demand deposit and, or, two per cent (2%) assessment levied May 2, 1927, to the State Banking Board shall be entitled to the return thereof; and the same shall be by said State Banking Board returned to each such bank, the amount so paid by each such bank by reason of said three-fourths demand deposit and, or, said two per cent (2%) assessment; said fund to be paid by a voucher drawn by the Attorney General, as Chairman of the State Banking Board, on the State Treasurer of Texas, as bailee for the Depositors' Guaranty Fund, out of any such funds as shall now be, or shall hereafter be placed in the State Treasury of Texas to the credit of the State Treasurer, as bailee of the Depositors' Guaranty Fund; said voucher to be in words and figures, substantially as follows:

Austin, Texas.  
April 17, 1931.

The State Banking Board of Texas  
Pay to the order of \_\_\_\_\_ \$ \_\_\_\_\_  
Dollars  
To Charley Lockhart, State Treasurer,  
bailee, Depositors' Guaranty Fund  
Austin, Texas.

State Banking Board  
By \_\_\_\_\_  
Attorney General, Chairman

Endorsement:

When paid, I accept the sum for which this voucher is drawn in full satisfaction of my claim against Depositors' Guaranty Fund of Texas, as follows:

2 per cent assessment levied May 2, 1927.  
Three-fourths demand deposit paid \_\_\_\_\_

That any such fund or funds, disposition of which was made in the preceding paragraph hereof, not now being in the State Treasury to the credit of the State Treasurer, as bailee for the Depositors' Guaranty Fund, shall be immediately placed in said State Treasury, as aforesaid.

That the suits now pending in various district courts of the State against various banks for the aforesaid three-fourths demand deposit and, or, the aforesaid two per cent. (2%) assessment levied on May 2, 1927, shall be dismissed, and the costs incurred be paid as a part of the expenses out of any funds in the possession of the State Treasurer, as bailee for the Depositors' Guaranty Fund.

Sec. 12. The banks embraced in the description and in this Act referred to as "banks as herein described" shall mean the 109 banks that were members of the Guaranty Fund system on and after September 29, 1926, and also the 759 Guaranty Fund

banks that had withdrawn from the Guaranty Fund system prior to September 29, 1926, which banks were authorized to charge off their three-fourths demand deposits amounting to Two Million, Five Hundred Ninety-two Thousand, Two Hundred Seventy-one Dollars and Thirty-eight Cents (\$2,592,271.38) by the State Banking Board by an order entered on the 23rd day of December, 1926.

In arriving at the amount to which each bank herein described is entitled, the audit hereinafter provided for shall show those banks which have already received payment of their pro rata part out of the funds described in subsection (a) of Section 7 hereof, and likewise show the amount thereof paid to each of them. It shall also show those banks herein described which have received sixty per cent (60%) of their one-fourth cash interest in the Guaranty Fund in accordance with two previous orders of said Board and the amount thereof paid to each of them. It shall also show those banks herein described that have not received their pro rata part of said funds, and likewise show the amount of such pro rata of such funds necessary to equalize them with those banks that have been paid. And, as so shown, the amount necessary to be paid to those banks which have not been paid their pro rata share from each of such funds shall be immediately paid said banks by the State Treasurer as bailee of the Depositors' Guaranty Fund, on vouchers drawn by the Attorney General as Chairman of the State Banking Board; the form of such vouchers shall be in words and figures substantially as follows:

Austin, Texas.

The State Banking Board of Texas  
Pay to the order of \_\_\_\_\_ \$ \_\_\_\_\_  
Dollars  
To Charley Lockhart, State Treasurer,  
bailee, Depositors' Guaranty Fund,  
Austin, Texas.

State Banking Board  
By \_\_\_\_\_  
Atty. Gen. Chairman

Endorsement:

This voucher is received by the payee under the terms of an order of the State Banking Board of Texas dated April 17, A. D. 1931.

Sec. 13. The balance unused, after the payments hereinabove provided for, less such expenses as shall be hereinafter provided for, shall be paid to the banks as herein described which contributed to such fund or funds in the proportion that the total amount paid into the fund by each such bank bears to the total amount paid in by all such banks herein described.

After the completion of the audit hereinafter provided for, the Attorney General, as Chairman of the State Banking Board shall immediately issue a voucher on the State Treasurer as bailee for such Depositors' Guaranty Fund for the amount of each bank's claim as shown by said audit and mail same to each such bank; and the State Treasurer shall, when said voucher is presented, properly endorsed by such bank,

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pay same in cash from such funds as shall be in the State Treasury to the credit of the State Treasurer as bailee for the Depositors' Guaranty Fund; said voucher shall be in words and figures substantially as follows:

Austin, Texas.

April 17, 1931.

The State Banking Board of Texas

Pay to the order of \_\_\_\_\_ \$ \_\_\_\_\_ Dollars

To Charley Lockhart, State Treasurer, Bailee, Depositors' Guaranty Fund Austin, Texas.

The State Banking Board

By \_\_\_\_\_

Attorney General, Chairman

Endorsement:

When paid, I accept the sum for which this voucher is drawn in full satisfaction of my claim against the Depositors' Guaranty Fund of Texas.

Sec. 13A. The distribution of funds made to the 109 banks remaining in the Guaranty Fund system aforesaid, in Sections 12 and 13 hereof, is on condition that the sum of \$49,169.90 shall be deducted pro rata from the portion which said 109 banks are entitled to receive. Said \$49,169.90 shall be a special contribution from said 109 banks toward paying the balance due to the unpaid depositors of the nine failed banks hereinabove provided for.

Sec. 14. The State Banking Board, or a majority of such board, shall immediately employ a competent accountant or accountants, and such assistants as may be by it deemed necessary, who shall make a full and complete audit of all such funds as shall now be or hereafter be placed in the State Treasury under this Act, and all the books and records of the Banking Commissioner of Texas as such Commissioner and/or as liquidating agent of failed Guaranty Fund Banks, and of the State Treasurer as bailee of the Depositors' Guaranty Fund, and of the State Banking Board of Texas; to the end that such audit will reflect the amount paid by each bank by reason of the Depositors' Guaranty Fund Law and the amounts paid to the banks herein described as their pro rata out of the fund described in Sub-section (a) of Section 7 hereof, and out of the one-fourth cash interest in the custody of the State Treasurer as bailee for the Depositors' Guaranty Fund, also the amount necessary to equalize such payments to the banks herein described to which no such payments have been made, out of such fund described in Subsection (a) of Section 7 hereof, or out of said one-fourth cash interest, with those banks to whom such payments have been made therefrom and the amount of such Guaranty Fund now unused so that the State Banking Board may disburse the balance now unused to the

banks entitled thereto in accordance with the provisions of the preceding Section 13 hereof.

Sec. 15. That all sums under the control of the State Banking Board or the Banking Commissioner of Texas in the form of unclaimed deposits or unclaimed sums due to protected depositors of failed Guaranty Fund Banks, shall be placed in the trust fund as provided by Article 465, Revised Civil Statutes of Texas.

Sec. 16. That all assets of Guaranty Fund Banks in liquidation shall be forthwith reduced to cash, and the liquidation of such banks be immediately closed, and the portion of such assets belonging to or due to the Guaranty Fund shall be forthwith paid to the State Treasurer as bailee of the Depositors' Guaranty Fund.

Sec. 17. The expenses incident to carrying out the provisions of this law, including the audit hereinbefore provided for, shall be paid by the State Treasurer as bailee for the Depositors' Guaranty Fund on statements duly sworn to and approved by a majority of said board, together with the expenses aforesaid, there shall be included the costs incurred in the cause entitled J. C. McNair, et al. v. Farmers State Bank, et al. No. 48,965, on the docket of the 98th District Court of Travis County, Texas, and such attorney's fees allowed the attorneys in said cause, to be chargeable as directed by said Court.

Sec. 18. That the order of the State Banking Board of Texas made and entered on the 17th day of April, A. D. 1931, as modified by judgment entered the 11th day of May, A. D. 1931, in Cause No. 48,965, entitled J. C. McNair, et al. v. Farmers State Bank, et al., in the 98th District Court of Travis County, Texas, is in all things ratified and confirmed.

Sec. 19. No suit at law or in equity shall lie against the State Banking Board of Texas, or any member thereof, and no suit shall be filed under the provisions of this or any other law except an action for mandamus in the Supreme Court of this State against said board or any official charged with the duty under this Act to compel said board or said official to carry out the provisions hereof.

No suit at law or in equity shall lie against any individual member of said board by reason of such distribution as shall be made under the order of the Banking Board hereby ratified, or any previous order of the State Banking Board recognized in this bill.

Effective May 30, 1931. Section 20 of Acts 1931, 42nd Leg., p. 515, ch. 233, repeals conflicting laws and parts of laws in so far as they conflict, and provides that if any section or part thereof is held invalid, such holding shall not affect the remainder.

#### Art. 454. [458] May sell property

Upon the Order of the District Court of the county in which such bank is located, if in session, or the Judge thereof, if in vacation, the Commissioner may sell or compound all bad or doubtful debts, and may sell

real or personal property of such bank on such terms as the Court shall direct, and under like Order of said Court, or the Judge thereof, he may sell or compound bad or doubtful stockholders assessments and sell stockholders assessments levied against stockholders of such bank on such terms as the Court shall direct. No such Order shall be entered or sale made without notice and hearing. [As amended Acts 1931, 42nd Leg., p. 321, ch. 192, § 1.]

**Art. 462. [467] Expenses of liquidation**

Compensation of counsel, employees and assistants and all expenses of supervision and liquidation shall be fixed by the Commissioner, who shall, from time to time, present to the District Court in the County in which said Bank or Bank and Trust Company is located, if in session, and to the Judge thereof, if in vacation, an itemized and sworn statement of the expenses incurred by him in the liquidation of such Bank or Bank and Trust Company, which account shall be approved by said Court, if in session, or the Judge thereof, if in vacation, unless objection is filed thereto within ten days after the filing or presentation of said expense account. The objection, if any, filed to the expense account shall specify the item or items objected to and the grounds of such objections. When objection is filed to such expense account the Court shall set the same down for hearing in term time, notifying the parties of such setting. The burden of proof shall be upon the party objecting thereto to show the items objected to improper, unnecessary or excessive.

Compensation for special liquidating agents shall be the same as is provided by Law for State Bank Examiners and shall be paid by the Commissioner out of the funds of such insolvent bank in his hands for liquidation. [As amended Acts 1931, 42nd Leg., p. 322, ch. 193, § 1.]

**Art. 514. [547] Real estate**

Banks and Bank and Trust Companies created under this Title shall own only such real estate as may be required for the transaction of their business, and such as they may acquire in the enforcement and collection of debts or liabilities due to them, which lands so acquired by any such corporation shall be alienated by it within five years after its acquisition; provided that any and all sales of real estate to officers, directors or stockholders of such bank and Bank and Trust Company shall be made only upon the consent of a majority of such stockholders. [As amended Acts 1929, 41st Leg., 1st C. S., p. 161, ch. 62, § 5.]

**[Art. 517a. Preference to depositor by pledge of assets]**

No bank or bank and trust company, except where specially authorized by Statute or except in case of a deposit of public funds, shall give preference to any depositor by pledging the assets of the corporation as collateral security, and any pledge of such assets contrary to this Article shall be void. [Acts 1929, 41st Leg., 1st C. S., p. 160, ch. 61, § 1.]

**Art. 535. [552] Stockholder's liability**

If default shall be made in the payment of any debt or liability contracted by any bank, savings bank or Bank and Trust Company, each stockholder of such corporation, as long as he owns shares therein, and for twelve months after the date of the transfer thereof, shall be personally liable for all debts of such corporation existing at the date of such transfer, or at the date of such default, to an additional amount equal to the par value of such shares. Shares of stock in such a banking corporation shall be transferable only on the books of the corporation, and it shall be the duty of the officers of the corporation to make such transfer upon the books at the request of the transferrer or transferee. In any suit to establish a stockholder's liability on any obligation as stockholder, the transferrer and transferee of stock may be joined in one



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action and the liabilities of both parties determined therein. [As amended Acts 1929, 41st Leg., 1st C. S., p. 159, ch. 60, § 1.]

[Art. 541d. Payment of joint deposits]

When a deposit shall be made in any bank organized and operating under the laws of this State or in any national bank or other banking institution doing business in this State by any person in the name of such depositor or in the name of such depositor and another person and with notice to the bank that such deposit shall be paid to either or the survivor of them such deposit and any additions thereto made by either of such persons after the making thereof, shall be held for the exclusive use of such persons and may be paid to either during the lifetime of both or to the survivor after the death of one of them, and such payment shall be a valid and sufficient release and discharge to such bank or banking institution for all payments made on account of such deposit prior to the receipt by such bank or banking institution of notice in writing not to pay such deposit in accordance with the terms thereof. [Acts 1929, 41st Leg., p. 264, ch. 117, § 1.]

[Art. 541e. Access to joint safety deposit boxes]

That when any safety deposit box has been, or shall hereafter be, rented by any bank, savings bank or trust company transacting business in this State, in the names of two or more persons, with the right of access given to either, or to the survivor or survivors of said persons, either of such persons, whether the other be living or not, shall have the right of access to such deposit box and may remove therefrom the contents thereof, and in all such cases where such removal shall have been made the said bank, savings bank, or trust company, shall be exempt from all liability whatsoever to any person whomsoever for permitting such access to, or removal of contents from, said safety deposit box. [Acts 1929, 41st Leg., p. 264, ch. 117, § 1a.]

## TITLE 20—BOARD OF CONTROL

[Art. 630a. State contracts for printing laws]

Sec. 1. The Board of Control shall, at the opening of each regular session of the Texas Legislature, award a special contract for printing the general and special laws and resolutions to be passed by each regular or special session of the current Legislature, said contract to be separate and apart from all other contracts for public printing. The General and Special Laws shall be printed in separate volumes upon order of the Board of Control. The contracts for said printing shall be prepared by the Board of Control and shall provide such penalties as will assure the delivery of said laws within the contract time limit. A special stipulation shall be included in such contract providing that the printer shall produce at least forty-eight pages per day from the time the last copy is furnished him by the State. Binding time shall be allowed of not less than eight thousand sections of thirty-two's each day after the printing is completed, according to the foregoing schedule. The printer shall be required to begin delivery of completed books within a reasonable time after the printing is completed and binding commenced, which limit shall be set out in the call for bids made by the Board of Control. An appropriation shall be made by the Legislature to pay the cost of compiling, indexing and printing all such laws and resolutions.

Sec. 2. There shall also be placed in said contract a stipulation requiring the printer to have the proof read and corrected as provided herein, before submitting such proof to the State. The printer shall have such proof read by a competent proof reader and copy holder, and the discovered errors shall be corrected and a revised proof submitted to the State. While

the proofs are in the hands of the State the time shall no [not] be charged against the contractor doing the work, and he shall be allowed extension of time in which to deliver the finished product equal to the number of days the proofs are withheld from him by the State. The Comptroller shall not issue a warrant to the printer in payment for the printing of such laws and resolutions unless and until the printer, if an individual, or if a corporation, partnership, or association, the vice-president, secretary or manager of same has made a sworn affidavit that he has complied with this Section.

Sec. 3. Such laws and resolutions shall be compiled and printed under the direction of the Secretary of State, who shall within twenty-six days, excluding Sundays, after adjournment of the Legislature furnish the printer all copy therefor, the delivery of the first copy to the printer to begin as the bills are signed by the Governor; provided that copy for the index shall be given to the printer within five days after the printer has furnished all page proofs of the laws to the Secretary of State.

Sec. 4. The Secretary of State shall distribute the printed laws of each session of the Legislature to the following named officers; he shall mail or distribute in person one free copy to the Governor, three copies to each of the heads of all Departments and one copy to each of the judges of the several courts throughout the State; one copy to each district and county attorney in the State and one copy to each members[s] of the Legislature. [Acts 1929, 41st Leg., 2nd C. S., p. 151, ch. 76.]

Effective 90 days after July 2, 1929, date 41st Leg., 2nd C. S., p. 151, ch. 76, repeals of adjournment. Section 5 of Acts 1929, all conflicting laws and parts of laws.

**[Art. 630b. Official reports printed only with consent of Governor or Board of Control]**

That hereafter any report or reports required by Law to be made by any State Officer, Board or Department of this State shall be made as directed by Law except the same shall not be printed unless with the advice and consent of the Governor or Board of Control. A typewritten or similar copy of said report shall be given to the Governor and Board of Control and State Auditor and State Library. [Acts 1931, 42nd Leg., p. 104, ch. 69, § 1.]

Effective 90 days after May 23, 1931, date of adjournment. Section 2 repeals all conflicting laws or parts of laws.

**Art. 634. Departmental supplies**

The Board of Control shall purchase all the supplies used by each Department of the State Government, including the State Prison System, and each eleemosynary institution, Normal school, Agricultural and Mechanical College, University of Texas, and each and all other State Schools or Departments of the State Government heretofore or hereafter created. Such supplies to include furniture and fixtures, technical instruments and books, and all other things required by the different departments or institutions, except strictly perishable goods.

Sec. 1a. The Board of Control is hereby authorized to make contracts with the State Prison Board for the purchase of supplies, equipment and materials for use by other State institutions, including food, supplies, clothing, shoes, metal utensils and appliances, furniture and fixtures, and any and all other supplies or agricultural or manufactured products, binding, other labor for use of the State in any of its Departments, Commissions, Boards, Offices, or eleemosynary or educational institutions, including any and all supplies, equipment, material or labor purchased or used by, or for the State, under the direction of the Board of Control. [As amended Acts 1929, 41st Leg., 2nd C. S., p. 30, ch. 17.]

**Art. 665. Custodianship of State property**

The State Board of Control shall have charge and control of all public buildings, grounds and property of the State, and is the Custodian of all

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public personal property, and is charged with the responsibility to properly care for and protect such property from damage, intrusion or improper usage, and the Board is expressly directed to take any steps necessary to protect any public buildings against any existing or threatened fire hazards. And the Board shall be authorized to provide for the allocation of space in any of the public buildings to the departments of the State Government and for the uses authorized by law to have and occupy space in the State buildings, and shall be authorized to make any repairs to any such buildings or parts thereof necessary to the serviceable accommodation of the uses to which such buildings or space therein may be allotted. Provided the Board of Control shall not be understood to have or exercise any authority to direct the allotment of space in any public building in any manner calculated to increase the operations of any department or use beyond the discharge of duties devolved by provision of law. Said Board of Control shall remove all occupants of all committee rooms in the Capitol and keep them free for Legislative work. Provided, however, that the allocation of any space affecting the quarters of either House of the Legislature, must have the approval of the Speaker of the House of Representatives or the Lieutenant Governor, the approval being for the quarters allocated to the particular House affected.

Sec. 1a. The State Board of Control is hereby authorized and empowered to make such arrangements as it may deem necessary for the safe storage outside the Capital Building of such records and archives as now prevent the better utilization of space in said Building. Provided that the American Legion shall not be moved from their quarters unless and until other suitable quarters are arranged for them. [As amended Acts 1930, 41st Leg., 5th C. S., p. 209, ch. 63.]

[Art. 666a. Lease of public grounds; approval of Attorney General; disposition of funds]

Sec. 1. All public grounds belonging to the State of Texas under the charge and control of the State Board of Control, when in the wisdom of the Board should be leased for agricultural or commercial purposes, may be leased by said Board for the above stated purposes, after lease proposal shall have been advertised once a week for four (4) consecutive weeks in at least two (2) newspapers, one (1) of which shall be published in the city where the property is located, or the nearest daily paper thereto, and the other in some paper with statewide circulation; provided, that such lease shall be subject to the approval of the Attorney General of Texas, both as to substance and as to form. The money derived from the lease of such property, less the expense for advertising and leasing, shall be deposited in the State Treasury to the credit of the General Revenue Fund; provided, however, that if land leased belongs to any eleemosynary institution, that money must be deposited to the credit of said institution in the same manner that the special fund is now deposited or may hereafter be ordered deposited by the Legislature.

Sec. 2. The Board of Control shall adopt proper forms and regulations, rules and contract, as will, in its best judgment, protect the interest of the State. The Board may reject any and all bids. All laws and parts of laws in conflict herewith are hereby repealed. [Acts 1931, 42nd Leg., p. 189, ch. 110.]

[Art. 678a. Board of Mansion Supervisors]

Sec. 1. There is hereby created the "Board of Mansion Supervisors." Said Board shall consist of three members, and one of the three shall be Chairman. The Chairman and other members of the Board shall be appointed by the Governor. The Chairman shall be appointed for an unexpired term ending January 1, 1936, one member shall be appointed for an unexpired term ending January 1, 1934, and one member shall be appointed

for an unexpired term ending January 1, 1932, or until their successors are appointed and qualified. Thereafter, the Governor shall appoint such Chairman and members for terms of six years.

Sec. 2. Said Board of Mansion Supervisors shall hold regular semi-annual meetings in January and July of each year on dates to be specified by the Board and may hold such special meetings at such times and places as the Board may deem necessary and proper. It shall require two members of said Board to constitute a quorum.

Sec. 3. Said Board of Mansion Supervisors is hereby authorized to make such rules and regulations for the conduct of its work as may be deemed necessary. Said Board of Mansion Supervisors shall keep a record of all proceedings and official acts.

Sec. 4. It shall be the duty of said Board, from time to time, to make plans and designs for repairs to the Governor's Mansions, conforming to the style of architecture of the original building; and for such rehabilitation, renovation, repairing, beautifying and decorating generally of Mansion and the grounds adjacent thereto, as in their judgment may be deemed proper and expedient. It shall also be the duty of the Board to study the need of furniture, fixtures, equipment and interior decoration of the Mansion. The Board shall, on or before September 1, 1932, and each two years thereafter, submit a report to the Board of Control, embodying their recommendations and an estimate of the cost. The Board of Control shall incorporate in the biennial budget, under the head of "Mansion and Grounds," the requests of said Board of Mansion Supervisors and the recommendation of the Board of Control on such requests. The Board may, from time to time, submit reports with their recommendations to the Legislature.

Sec. 5. The furniture, fixtures and equipment belonging to the State and now situated in the Mansion shall not be taken therefrom and no changes shall be made in said furniture, fixtures and equipment without the consent of the Board of Mansion Supervisors and the Board of Control. The Board of Mansion Supervisors, or any member thereof, shall have the authority to visit the Mansion and grounds at any reasonable time. [Acts 1931, 42nd Leg., p. 855, ch. 363.]

#### Art. 688. Estimates submitted

The head of each department, school, institution, and of the prison system, and the head of any of the divisions or departments of government for which appropriations are made by the Legislature, shall submit to the State Board of Control, not later than October 15th of each year preceding the regular biennial session of the Legislature, an itemized account of all items of expenses for the preceding two years, and an estimate of the appropriations required by such department, school or institution or by the prison system for the regular biennial appropriation made by the Legislature which estimate shall be submitted, itemized in such manner as the Governor may require. [As amended Acts 1931, 42nd Leg., p. 339, ch. 206, § 1.]

Effective 90 days after May 23, 1931, date of adjournment. Section 21 repeals all conflicting laws and parts of laws and provides that if any section is declared invalid, the remainder shall not be affected thereby.

#### Art. 689. Shall investigate estimates, etc.

The Board of Control shall inspect the properties, equipment and facilities of the various agencies of the government for which appropriations are to be made either before or after such estimates are submitted, and consider the same and give hearings on estimates of those who have submitted the same, and shall obtain information from every available source including the reports from its auditors and examiners. After such hearings, the Board shall make up an appropriation budget, said budget shall be completed by the Board of Control and transmitted to the

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Governor not later than November 1st of the year immediately preceding the meeting of the regular biennial session of the Legislature. The Board of Control shall so prepare the budget as to show the expenditures on the same lines with the appropriated amounts for the respective items, and in such form and with such other itemization as the Governor may prescribe. The list of appropriations shall be shown for the three (3) years preceding the years for which appropriations are sought and recommended for the ensuing biennium, and the expenditures shall be shown for the first two (2) of the last above mentioned years. The budget shall also show the amounts requested by the various agencies of the government and the amounts recommended by the Board of Control for each of the years of the ensuing biennium and a blank space shall be left opposite each recommendation of the Board of Control wherein the Governor shall insert the amount which he recommends for each item contained in the budget. The Governor and the Governor-elect shall have the right to sit with the Board of Control on any and all of its budget hearings, and all hearings held by the Board of Control while considering budget for the various departments, institutions and agencies of the State Government shall be open to the public. [As amended Acts 1931, 42nd Leg., p. 339, ch. 206, § 1.]

[Art. 689a—1. Governor as chief budget officer]

The Governor is hereby made the chief budget officer of the State. [Acts 1931, 42nd Leg., p. 339, ch. 206, § 2.]

Articles 689a—1 to 689a—20 became effective 90 days after May 23, 1931, date of adjournment. Section 20 of acts 1931, 42nd Leg., p. 339, ch. 206, being a penal provision is classified as Pen. Code, art. 414b.

[Art. 689a—2. Board of Control to furnish forms and blanks]

The State Board of Control is hereby authorized and directed to prepare all forms and blanks upon which requests for appropriations from the Legislature shall be prepared; provided that before such forms and plans are put into use they must be approved by the Governor; and provided further that when so approved, the State Board of Control shall furnish the proper forms to all those divisions, departments, officers, boards, commissions and agencies of every character of the State Government which are seeking appropriations from the Legislature; and the State Board of Control shall require that all requests for appropriations be submitted on the approved forms. [Acts 1931, 42nd Leg., p. 339, ch. 206, § 3.]

[Art. 689a—3. State auditor's report to Governor; State agencies' records]

On or before the 1st day of October of the year immediately preceding the regular biennial session of the Legislature, the State Auditor shall secure, compile and submit to the Governor a report containing the following information:

(1) An itemized, complete, financial balance sheet for the State at the close of the preceding fiscal year.

(2) An estimate of the maximum amount of revenue which may become available for appropriation by the Legislature during the ensuing biennium for which appropriations are to be made, the purpose of said statement from the State Auditor being to place in the hands of the Governor the maximum amount of revenue which the State could collect during each of the ensuing appropriation years, from all sources, under existing tax laws.

(3) The State Auditor and the heads of any other agencies of government, shall also furnish to the Governor such other information as the Governor may request.

(4) All agencies of the government, for which appropriations are made, shall keep their records in such a manner that immediately upon the close of the fiscal year they can list the amounts of all the contracts for purchases which they have made, but which remain unpaid at the close of the fiscal year; and such agencies shall accurately list in the expenditure columns of the budget sheets supplied them the combined total of their expenditures and the amounts of these unpaid purchase contracts of each of the items for which appropriations were made. [Acts 1931, 42nd Leg., p. 339, ch. 206, § 4.]

[Art. 689a—4. Hearings by Governor in preparation of budget]

Upon the receipt of the preliminary budget prepared by the State Board of Control to cover various State departments and institutions the Governor shall proceed to give personal consideration to such budget, and the Governor may, if he so desires, hold additional public hearings on any and all estimates to be included in the budget. At all such hearings, heads of departments, institutions or other agencies of the government seeking appropriations may appear, and if so desired, the Governor shall have the right to require them to appear to give further information concerning requested appropriations; and any taxpayer shall have the right to be present at any and all such public hearings and to participate in the discussion concerning any item proposed to be included in the budget under consideration. The Governor shall preside and conduct all such hearings, or if unable for any reason to conduct such hearings, the Governor may authorize the Chairman of the State Board of Control to preside at such hearing and represent him. [Acts 1931, 42nd Leg., p. 339, ch. 206, § 5.]

[Art. 689a—5. Governor's recommendations concerning budget]

Based on information submitted to the Governor in the preliminary budget prepared by the Board of Control and on such other information as the Governor may have secured through public hearings and reports from the State Auditor, and from other sources, the Governor shall proceed to enter in the columns reserved for that purpose on said preliminary budget his own recommendation on each proposed item of said budget. The Governor's recommendation on each item in said budget shall represent his own conclusion and judgment as to the amount which should be appropriated for each of said items, and if the Governor believes that an item should be entirely eliminated he will so indicate by leaving the column blank opposite the recommendation of the Board of Control. When the Governor has completed his examination of and recommendations concerning the budget he shall return it to the Board of Control, and the Board of Control shall, on or before December 15th of the year immediately preceding the regular biennial session of the Legislature, mail to each person who will be a member of the next Legislature, to the heads of each department, institution, or other agency included in such budget, a copy of the budget as prepared, including the amounts recommended for each item contained in said budget by the Board of Control and also the amounts recommended by the Governor. The Board of Control shall also cause to be printed such extra copies of the budget as in their judgment are necessary for public distribution. [Acts 1931, 42nd Leg., p. 339, ch. 206, § 6.]

[Art. 689a—6. Printed copies of budget transmitted to Legislative members and committees]

Within five (5) days after the beginning of each regular session of the Texas Legislature, the Board of Control shall transmit to all members of the Legislature printed copies of the budget and the Appropriations Committee in the House and the Finance Committee in the Senate may, if they

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so desire, begin preliminary committee hearings on the budget without waiting for the submission of the budget bills. [Acts 1931, 42nd Leg., p. 339, ch. 206, § 7.]

[Art. 689a—7. Budget bills of appropriations submitted by Governor; hearings on bills]

Within thirty (30) days after the beginning of each regular session of the Texas Legislature the Governor shall prepare and submit printed copies of budget bills of appropriation to the Speaker of the House of Representatives, to the Lieutenant Governor and to each member of the House and Senate, provided that in years when a newly elected Governor other than the then Governor is to be inaugurated that the budget bill of appropriations shall be prepared by the incoming Governor and shall be transmitted to the Legislature within twenty (20) days from the date he takes the oath of office. In carrying out the provisions of this section the Governor shall submit to all members of the Legislature five (5) separate budget bills as follows:

(a) Eleemosynary appropriation bill which shall include all appropriations which the Governor desires to recommend for the eleemosynary institutions of the State for the ensuing biennium;

(b) Departmental appropriation bill, which shall include all appropriations which the Governor desires to recommend for all departments of the State government for the ensuing biennium;

(c) Educational appropriation bill which shall include all appropriations for all educational institutions of the State which the Governor desires to recommend for the ensuing biennium;

(d) Judiciary appropriation bill which shall include all appropriations which the Governor desires to recommend for the judiciary for the ensuing biennium;

(e) Deficiency and emergency appropriation bill which bill shall include all appropriations which the Governor desires to recommend that the Legislature make as emergency and efficiency appropriations.

In preparing the above referred to appropriation bills the Governor shall itemize all appropriations included in said bills in the same manner as provided for in the budget.

All of said budget bills referred to above shall be transmitted to the Legislature at the same time, and when so transmitted the Governor shall accompany these bills with a special budget message, which message shall show the current assets, liabilities, surplus or deficit of the State at the close of the last preceding fiscal year, as well as the total amount of money which may reasonably be expected to be available from all sources under existing tax laws to meet legislative appropriation during the current year and the ensuing biennium. The above referred to message from the Governor shall be submitted in printed form and a copy of said message furnished to each member of the Legislature.

Upon receipt of the budget bills from the Governor, the Lieutenant-Governor in the Senate and the Speaker in the House may, if they so desire, cause such bill to be introduced in the Senate and in the House of Representatives; or the Budget Bill may be introduced by any member of the House or the Senate, and hearing on the budget bill shall be conducted before the Appropriation Committee of the House and the Finance Committee of the Senate. All heads of departments, commissions, institutions or other agencies of the government requesting appropriations, shall have a right to appear before either of these committees in behalf of the appropriation requested. Likewise, any taxpayer in the State shall have the right to be present and to be heard at the hearing on any proposed appropriation. [Acts 1931, 42nd Leg., p. 339, ch. 206, § 8.]

[Art. 689a—8. Budget bill not to include per diem and mileage of members of Legislature]

The budget and budget bill so to be prepared and submitted by the Governor shall not have included therein any appropriations for the per diem and mileage of the members of the Legislature, nor the necessary expenses of the Legislature, and nothing herein contained shall affect any such appropriations. [Acts 1931, 42nd Leg., p. 339, ch. 206, § 9.]

[Art. 689a—9. County budget; county judge as budget officer]

The County Judge shall serve as budget officer for the Commissioners' Court in each county, and during the month of July of each year he, assisted by the County Auditor or by the County Clerk, shall prepare a budget to cover all proposed expenditures of the county government for the succeeding year. Such budget shall be carefully itemized so as to make as clear a comparison as practicable between expenditures included in the proposed budget and actual expenditures for the same or similar purposes for the preceding year. The budget must also be so prepared as to show as definitely as possible each of the various projects for which appropriations are set up in the budget, and the estimated amount of money carried in the budget for each of such projects. The budget shall also contain a complete financial statement of the county, showing all outstanding obligations of the county, the cash on hand to the credit of each and every fund of the county government, the funds received from all sources during the previous year, the funds available from all sources during the ensuing year, the estimated revenues available to cover the proposed budget and the estimated rate of tax which will be required. [Acts 1931, 42nd Leg., p. 339, ch. 206, § 10.]

[Art. 689a—10. County budget filed with clerk of county court]

When the County Judge has completed the budget for the county, a copy of it shall be filed with the clerk of the County Court, and it shall be available for the inspection of any taxpayer. [Acts 1931, 42nd Leg., p. 339, ch. 206, § 11.]

[Art. 689a—11. Commissioners' court to hold hearings and approve budget in certain counties, transmission to State Comptroller]

The Commissioners' Court in each county shall each year provide for a public hearing on the county budget—which hearing shall take place on some date to be named by the Commissioners' Court subsequent to August 15th and prior to the levy of taxes by said Commissioners' Court. Public notice shall be given that on said date of hearing the budget as prepared by the County Judge will be considered by the Commissioners' Court. Said notice shall name the hour, the date and the place where the hearing shall be conducted. Any taxpayer of such county shall have the right to be present and participate in said hearing. At the conclusion of the hearing, the budget as prepared by the County Judge shall be acted upon by the Commissioners' Court. The Court shall have authority to make such changes in the budget as in their judgment the law warrants and the interest of the taxpayers demand. When the budget has been finally approved by the Commissioners' Court, the budget, as approved by the Court shall be filed with the Clerk of the County Court, and taxes levied only in accordance therewith, and no expenditure of the funds of the county shall thereafter be made except in strict compliance with the budget as adopted by the Court. Except that emergency expenditures, in case of grave public necessity, to meet unusual and unforeseen conditions which could not, by reasonably diligent thought and attention, have been included in the original budget, may from time to time be authorized by the Court as amendments to the original budget. In all cases where such amendment to the original budget is made, a copy of the order of the



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Court amending the budget shall be filed with the Clerk of the County Court, and attached to the budget originally adopted.

The County Judge shall, after the adoption of the county budget and prior to October 15th of each year, file with the State Comptroller at Austin, Texas, a true and correct summarized statement of the adopted budget, which statement shall show the total amount adopted for each of the several divisions of the county's activities and outstanding obligations together with true and exact copies of any revenue estimates, financial statements and balance sheets required to be contained in said budgets, and the correctness of said copies shall be sworn to by the County Judge and County Auditor, and in counties which have no County Auditor, by the County Clerk. The State Comptroller shall note the date on which statements are filed with him, and preserve them for not less than two (2) years after the October 1st filing date. Provided, however, that in all counties of this State containing a population in excess of three hundred and fifty thousand (350,000), according to the last preceding United States census, the provisions hereof shall not apply to the making of such county budgets, and in such counties all matters pertaining to the county budget shall be governed by existing law. [Acts 1931, 42nd Leg., p. 339, ch. 206, § 12.]

[Art. 689a—12. County officers to furnish information to county judge]

In the preparation of the budget, the County Judge shall have authority to require any officer of the county to furnish such information as may be necessary for the County Judge to have in order that the budget covering the expenditures of the county may be properly prepared. [Acts 1931, 42nd Leg., p. 339, ch. 206, § 13.]

[Art. 689a—13. Budget officers and preparation of budget in cities and towns]

The Mayor of every incorporated city, town or village shall serve as the budget officer for the Board of Commissioners or Council of such city, town or village, except that any such city or town as shall have a City Manager form of Government, the City Manager shall serve as the budget officer. Such Mayor or City Manager shall prepare each year a budget to cover all proposed expenditures of the Government of said city or town for the succeeding year. Such budget shall be carefully itemized so as to make as clear a comparison as practicable between expenditures included in the proposed budget and actual expenditures for the same or similar purposes for the preceding year. The budget must also be so prepared as to show as definitely as possible each of the various projects for which appropriations are set up in the budget, and the estimated amount of money carried in the budget for each of such projects. The budget shall also contain a complete financial statement of the city, town or village, showing all outstanding obligations of such city, town or village, the cash on hand to the credit of each and every fund, the funds received from all sources during the previous year, the funds available from all sources during the ensuing year, the estimated revenue available to cover the proposed budget, and the estimated rate of tax which will be required.

If a city or town in this State has already set up in its charter definite requirements which provide for the preparation each year of a budget of all expenditures of said city and a public hearing on said budget, then the charter provisions of said city as to the time of public hearings and the method of preparation of the budget shall govern, provided that when said budget has been finally prepared and approved, that a copy of said budget, together with all amendments thereto, shall be filed with the County Clerk and with the State Comptroller at Austin, Texas, the same as this

Act requires other budgets to be filed. [Acts 1931, 42nd Leg., p. 339, ch. 206, § 14.]

[Art. 689a—14. Budget filed with clerk of city or town]

Said budget so to be prepared by such Mayor or City Manager shall be filed with the Clerk of such city, town or village not less than thirty (30) days prior to the time the Board of Commissioners or Council of such city, town or village makes its tax levy for the current fiscal year, and such budget shall be available for the inspection of any taxpayer. [Acts 1931, 42nd Leg., p. 339, ch. 206, § 15.]

[Art. 689a—15. Hearings on city or town budgets, approval and filing]

The Board of Commissioners or Council of every such city, town or village, shall each year provide for a public hearing on such budget, which hearing shall take place on some date to be fixed by such Board of Commissioners or Council, not less than fifteen days subsequent to the time such budget is filed as provided in Section 15 hereof, and prior to the time said Board of Commissioners or Council of such city, town or village makes its tax levy. Public notice of the hour, date and place of such hearing shall be given, or caused to be given by such Board of Commissioners, or Council, and any taxpayer of such city, town or village shall have the right to be present and participate in such hearing. At the conclusion of such hearing, the budget as prepared by the Mayor or City Manager shall be acted upon by the said Board of Commissioners, or Council. The Board of Commissioners, or Council shall have the authority to make such changes in the budget as in their judgment the law warrants and the best interests of the taxpayers of such city, town or village demands. When the budget has been finally approved by such Board of Commissioners, or Council, the budget as so approved shall be filed with the Clerk of such city, town or village, and taxes levied only in accordance therewith, and no expenditure of the funds of such city, town or village shall thereafter be made except in strict compliance with such adopted budget, except that in case of grave public necessity, emergency expenditures to meet unusual and unforeseen conditions, which could not, by reasonable diligent thought and attention, have been included in the original budget, may from time to time be authorized by such Board of Commissioners, or Council, as amendments to the original budget. In all cases where such amendment to the original budget is made, a copy of the order or resolution of the Board of Commissioners or Council amending such budget shall be filed with the Clerk of such city, town or village, and attached to the budget originally adopted. Immediately after the adoption of said budget or any amendment thereto, the Mayor or City Manager, as the case may be, shall file or cause to be filed, a true copy of said approved budget, and all amendments thereto, in the office of the County Clerk of the County in which said municipality is situated, and with the State Comptroller at Austin. [Acts 1931, 42nd Leg., p. 339, ch. 206, § 16.]

[Art. 689a—16. Municipal officers to furnish information to mayor or city manager]

In the preparation of the budget the Mayor or City Manager shall have authority to require any officer or board of such city, town or village to furnish such information as may be necessary for the Mayor or City Manager to have in order that the budget covering the expenditures of such city, town or village may be properly prepared. [Acts 1931, 42nd Leg., p. 339, ch. 206, § 17.]

[Art. 689a—17. Independent school district budget; president of board of trustees as budget officer; approval and filing]

The president of the Board of School Trustees in each independent school district, is hereby expressly designated as the budget officer for

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such district. As soon as the Treasurer or other officer of such school district receives notice of the state apportionment of public school funds to said district, and not later than August 20th, the president of such School Board of Trustees shall prepare a budget covering all proposed expenditures for the current fiscal year, itemized in detail according to purpose of expenditure. When such budget is prepared, a meeting of such Board of Trustees shall be called for the purpose of adopting a budget, and five days public notice of said meeting shall be given. Any taxpayer of the district may be present and participate in the hearing. It shall be the duty of said Board of Trustees at said meeting to adopt a budget to cover all expenditures for said independent school district for the current fiscal year. When so adopted it shall be the duty of the president of the Board of Trustees to file a copy of said budget in the office of the County Clerk of the county or counties in which said district is situated. No public funds of said independent school district shall be expended in any manner other than as provided for in the budget adopted by the said Board except that the said Board of Trustees of such independent school district shall have authority to adopt a supplementary emergency budget to cover necessary unforeseen expenses of the district; and when so adopted, copies of any and all supplemental budgets shall be filed with the County Clerk of the county, or counties, in which said district is situated, and with the State Comptroller at Austin. In the preparation of the budget, the president of such Board of Trustees shall be authorized to designate, if he so desires, the superintendent of schools of the district, or any other member of the Board as a deputy budget officer of the district, to assist him in the preparation of said budget. [Acts 1931, 42nd Leg., p. 339, ch. 206, § 18.]

[Art. 689a—18. Common school districts budgets; county superintendent as budget officer; approval and filing]

The County Superintendent of Schools is hereby designated as the budget officer for each common school district of such county. Immediately after the County Superintendent receives notice of the apportionment made by the State Board of Education to the common school districts of the county, he shall prepare a budget for each common school district in the county, which budget must be itemized in detail according to the purpose of expenditure, and must cover insofar as possible all expenditures proposed for the current year. When so prepared, the budget for each common school district shall be submitted to the Board of Trustees in each district for approval, and when so approved by such Board of Trustees, and by the County Superintendent, it shall be filed in the office of the County Superintendent; and no expenditure shall be made in the district except as provided for in the budget, except it be in the case of unforeseen emergency; and in each such instance, a supplemental budget may be approved in the same manner as the original budget and a copy of the supplemental budget filed with the original budget. Copies of all budgets, when finally approved by the County Superintendent and the trustees of the various common school districts in the county shall be filed with the County Clerk. At any time during the process of the preparation of the budget any taxpayer shall have the right to file with the County Superintendent or with the Board of Trustees of any district, any statement or protest which he may desire to file, concerning any item of expenditure proposed for the current year; and such statement or protest shall be given due consideration by the County Superintendent, or by the Board of Trustees in their final action upon the adoption of the budget. [Acts 1931, 42nd Leg., p. 339, ch. 206, § 19.]

**[Art. 689a—20. Construction]**

Nothing contained in this Act shall be construed as precluding the Legislature from making changes in the budget for State purposes or prevent the County Commissioners' Court from making changes in the budget for county purposes or prevent the governing body of any incorporated city or town from making changes in the budget for city purposes, or prevent the trustees or other school governing body from making changes in the budgets for school purposes; and the duties required by virtue of this Act of State, County, City and School Officers or Representatives shall be performed for the compensation now provided by law to be paid said Officers, respectively. [Acts 1931, 42nd Leg., p. 339, ch. 206, § 20a.]

**[CHAPTER SEVEN A]****[DIVISION OF CHILD WELFARE]**

**[Art. 695a. Chief of division; appointment and salary; duties of division as to protection of defective, illegitimate and dependent children]**

Sec. 1. That there be and is hereby created the Division of Child Welfare in the Board of Control. The Board of Control shall employ a Chief in the Division of Child Welfare, who shall be qualified by adequate education, training, and experience. The experience shall be deemed sufficient if the person appointed shall have had five or more years of practical experience in Child Welfare work preceding such appointment, whose salary shall not exceed \$3600.00, and shall not be allowed more than two assistants at a salary not to exceed \$2400.00 each for any one year. Such assistants as shall be deemed necessary to carry out the provisions of this Act shall be appointed by the Division Chief with the approval of the Board of Control.

Sec. 2. It shall be the duty of the Board to promote through the Child Welfare Division the enforcement of all laws for the protection of defective, illegitimate, dependent, neglected and delinquent children; to cooperate to this end with Juvenile Courts and all licensed Child Health and Child Placement Agencies of a public or private character; and to take the initiative in all matters involving the interest of such children where adequate provision therefor has not already been made. Especial attention shall be given by the Child Welfare Division to the dissemination of information through bulletins and visits where practicable to all agencies, private and public, operating under the provisions of this Act or any other Acts that have been passed or shall be passed affecting the welfare of the classes of children described in this section.

Sec. 3. The salaries, traveling expenses, office expense, and all other necessary expenses incurred in by the Child Welfare Division in carrying out the provisions of this Act, shall be paid by vouchers drawn on the Treasury of the State of Texas, after said accounts have been approved by the Board of Control. Provided no State funds shall be expended by said division for any of these purposes or any other purpose in carrying out the provisions of this Act unless same shall have been specifically appropriated therefor by the Legislature.

Sec. 4. The Commissioners' Court of any county may appoint in said county seven persons, resident therein, who shall serve without compensation and hold office during the pleasure of the Commissioners' Court, who shall constitute a Child Welfare Board for the County, which Child Welfare Board shall select its own chairman. The Child Welfare Board shall perform such duties as may be required of it by the said Commissioners' Court and Board of Control in furtherance of the purposes of this Act. The County Commissioners' Court of any county may remove any member of such County Welfare Board for just cause.

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Sec. 5. The Board of Control, through said County Welfare Board, shall work in conjunction with the County Commissioners' Court, Juvenile Boards, and all other officers and agencies whose purpose is for the protection of the children described herein, and the Board of Control is hereby authorized to use and allot any funds, that may be specifically appropriated for such purposes, by the Legislature, that may be necessary in jointly establishing and maintaining, together Juvenile Board or other County or City Board or other agency, homes, schools, and institutions for the care, protection, education and training of the class of children sought to be protected by the provisions hereof.

Sec. 8. The licensing, visiting and inspection of all agencies required under Chapter 204, Page 444 of the General and Special Laws of the Regular Session of the 41st Legislature 1929, now required by the State Board of Health, shall be and is hereby transferred to and made a part of the duties of the Division of Child Welfare of the State Board of Control.

Sec. 9. No charters shall be issued hereinafter by the Secretary of State to any person, association, corporation, whether operating for charity or revenue, in any way having to do with the solicitation of funds for or the handling of children through nurseries, boarding house, child placing agencies or other place for the care or custody of children under sixteen (16) years of age without an investigation first having been made by the Board of Control concerning such application and a recommendation made by said Board thereto.

Sec. 10. It shall be the further duty of the Chief of the Division of Child Welfare to visit and study conditions in the eleemosynary institutions maintained by State appropriations for the care and custody of defective, illegitimate, dependent, neglected and delinquent children, namely:—The State Orphans Home at Corsicana, Texas; the Home for Dependent and Neglected Children at Waco; the Girls' Training School at Gainesville, Texas; the Juvenile Training School at Gatesville, Texas; the Austin State School, Austin, Texas, and the Colored Orphans Home at Gilmer, Texas; and to make recommendations as to the policy of management of these Institutions and outline a program for each of these Institutions so that these various types of children shall receive the best possible training in contemplation of their earliest discharge from said institution.

Sec. 11. All delinquent, dependent, illegitimate and other minor children who are now in institutions owned or managed by the State of Texas, or any political subdivision thereof, not wards of a court, are hereby declared to be charges of the State of Texas unless said confinement be under sentence for some penal offense, or unless the respective parents of said children shall remove the same therefrom within sixty (60) days from the effective date hereof, and the exclusive possession and custody of said children shall be vested in the Board of Control. When any child shall be found by a District Court to be dependent, neglected, or abandoned by the parents or custodians thereof the Board of Control may take possession and custody of the same, and if upon thirty days' notice to any parent or custodian of said child it is not shown to the satisfaction of the County Child Welfare Board or other agency selected by the Board of Control, that such child can be cared for by such person, the Board of Control may assign said child to an institution of the State, or some other institution, for a period of thirty days, and if within that time such parent or other person has not qualified himself to take charge of said child then the guardianship of said child may be assigned to any person or institution that the District Court may deem fit and capable of supporting, maintaining, and educating such child. Provided, however, that in no case shall a dependent child be taken from his parents without their consent unless after diligent effort has been made to avoid such separation the

same shall be found by the Court needful and necessary in order to prevent serious detriment to the welfare of such child.

Sec. 12. The transfer of the custody and guardianship of children as provided for herein shall not affect the estate of such minor, but guardians therefor shall be appointed as now provided by law, provided that preference shall be given to legally appoint and constitute guardians of the persons of such children as provided herein over the parent or parents who have relinquished, voluntarily or involuntarily, the guardianship of said children. [Acts 1931, 42nd Leg., p. 323, ch. 194.]

Effective May 22, 1931. Sections 6 and 7 of said Acts 1931, 42nd Leg., p. 323, ch. 194, being penal provisions are published as Penal Code, art. 606a. Section 13 provides

that if any provision is declared unconstitutional, such holding shall not affect the remaining provisions.

## TITLE 22—BONDS—COUNTY, MUNICIPAL, ETC.

### Art. 716. Validity of certain bonds

No bonds or coupons legally and lawfully issued and signed by the duly authorized officers of any county, city, town, political subdivision, defined district, water improvement district or water control district or any school district of this State, shall ever be held invalid by reason of the fact that at the time of the actual delivery of such bonds to a purchaser, such bonds or coupons had been signed or executed by different officers acting in the same capacity or when such bonds or coupons had been signed or executed by officers who had succeeded other officers who had executed or signed a part of said bonds or coupons, nor shall any such bonds ever be held invalid by reason of the fact that at the time of the actual delivery of such bonds to the purchaser, the respective persons who had signed such bonds or coupons, or any part thereof, may have been replaced in their respective offices by other persons after the signing of such bonds or coupons or any part thereof and before the delivery thereof, and any officer acting in the same official capacity as his predecessor, shall have the same right to complete the execution of such bonds and their issuance in the manner and form as provided by law and to the same extent as did his predecessor and it shall be lawful for the official board or managing body of any such political subdivision or district to select in the manner provided by law another official or person in whom may be vested the authority and duty of the execution of such bonds and/or coupons and of issuing such bonds and completing the record in respect thereto, provided, however, such action or actions shall be set forth in the records of said subdivision or district. [As amended Acts 1929, 41st Leg., 3d C.S., p. 237, ch. 6, § 1.]

### [Art. 717a. Refunding indebtedness of unorganized counties since organized, taxes and sinking fund]

Sec. 1. That the Commissioners Court of any organized county in this State which was unorganized at the time [of] taking the next preceding United States Census, and which had a population of less than one hundred at the time of said census, is authorized and empowered to fund into the bonds of any such county such legal indebtedness of the county which is evidenced by the legally issued and outstanding warrants and scrip of such county issued for any purpose, as authorized by law, and which indebtedness existed on January 1st 1929. Said refunding bonds may be issued by the Commissioners court of any such county, payable serially or otherwise, within a period of time not exceeding forty years as the court may direct, and shall bear interest at a rate of not more than six per cent per annum, payable annually or semiannually; the rate of interest and payment dates to be determined by the Commissioners Court of such counties, to be issued in such denominations as may be prescribed by the Commissioners Court of such counties. At the time of the passage of an order of the Commissioners Court, authorizing the issuance of such

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bonds, it shall be the duty of the Commissioners Court of such counties to levy an annual Ad Valorem tax on all taxable property within the county sufficient to provide for the payment of the interest on such bonds and to create a sinking fund with which to pay the principal thereof as it matures; and in such cases it shall not be necessary to submit the question of the issuance of said refunding bonds to a vote of the people. The Commissioners Court of such counties are [is] authorized to issue said bonds in exchange for like amounts of the outstanding warrants or scrip of said counties as existed on January 1st 1929. Said bonds, when executed shall be approved by the Attorney General of the State of Texas and shall be registered by the Comptroller as in the case of other legally authorized refunding bonds.

Sec. 2. From and after the taking effect of this act, it shall be unlawful for the Commissioners Court of any county coming within the provisions of this act to issue or cause to be issued any warrants, scrip, or evidence of indebtedness, or to create any debt against the road and bridge fund of such county, except as authorized by this act, in excess of the current revenues of said county road and bridge purposes; provided that in case of great calamity or urgent public necessity, said court may issue warrants against the road and bridge fund in excess of the current revenues for the purpose of repairing roads and building bridges occasioned by such calamity or urgent public necessity, but in no instance shall such warrants exceed the limitations provided by the constitution and laws of this State; and provided further that no warrant shall be issued for such purposes until first authorized by order passed by said court, and provided further that said order shall recite fully the necessity therefor and particularly specify the several purposes for which said warrants are to be issued, which said order shall be published at least one time in some newspaper published in said county before said warrants are issued. If no newspaper is being published in said county, then in some newspaper in an adjoining county nearest the county seat of said county. [Acts 1929, 41st Leg., p. 503, ch. 240.]

Section 3 of said Acts 1929, 41st Leg., p. 503, ch. 240, repeals all conflicting laws and parts of laws general and special. Bracketed [of] in second line inserted by compiler.

#### Art. 718. [610] [877] County issues authorized

See, also, art. 835c.

#### Art. 722. [613] [880] Limit of issue

The issue of bonds under this Chapter shall be based upon the taxable values of the County according to the last approved assessment, and shall be limited as follows: Courthouse Bonds shall be limited to an amount not exceeding two per cent of said taxable values; Jail Bonds shall be limited to an amount not exceeding one and one-half per cent of said taxable values; Joint Courthouse and Jail Bonds shall be limited to an amount not exceeding three and one-half per cent of said taxable values; Bridge Bonds shall be limited to an amount not exceeding one and one-half per cent of said taxable values. In determining the amount of the bonds of the respective kinds to be issued, previous indebtedness for said several purposes shall be considered. The total indebtedness of any County for the purposes provided in this Chapter, shall not be increased by any issue of bonds to a sum exceeding five per cent of its said taxable values. [As amended Acts 1931, 42nd Leg., p. 77, ch. 50, § 1, and p. 336, ch. 203, § 1.]

#### [Art. 752x. Refunding bonds]

That the Commissioners' Courts of the several counties in Texas shall have authority to refund any Road Bonds that have been issued or that may hereafter be issued by authority of any law enacted pursuant to Section 52

of Article 3 of the Constitution of Texas, when such Road Bonds have been issued for and on behalf of a political subdivision or defined district or consolidated district in such county. Such refunding bonds shall be made to mature serially over a period not exceeding forty years from their date, as may be determined by the Commissioners' Court, and they may be made to bear interest at the same or a lower rate than the original bonds which are being refunded. The Commissioners' Court shall have authority to pass all appropriate orders to properly carry out such refunding. When providing for such refunding, the Commissioners' Court shall provide for the levy of ad valorem taxes on all taxable property in the political subdivision, or defined district or consolidated district, as the case may be, sufficient to pay the current interest on such refunding bonds and to pay the principal as it matures. [Acts 1929, 41st Leg., 2nd C. S., p. 149, ch. 74, § 1.]

[Art. 767e. Bond issue by road district including previously created road district or political subdivision]

Sec. 28-A. Where any road district includes within its limits a portion of any previously created road district, or portion of any political subdivision or precinct, pursuant to authority of Section 1, Chapter 75, of the General Laws passed by the Fortieth Legislature, at its First Called Session, in 1927, and which previously created road district, political subdivision or precinct, as the case may be, had road bond debts outstanding, power and authority is hereby conferred upon the newly created road district to issue bonds for the purchase of the roads within the previously created district, subdivision or precinct, and further construction of macadamized, graveled or paved roads and turnpikes in such subsequently created road district, and which said bonds shall be authorized and issued in the form and manner prescribed in Sections 25 to 28, inclusive, of Chapter 16, of the General Laws passed by the Thirty-Ninth Legislature, at its First Called Session, in 1926; provided, however, that nothing herein shall be construed as affecting or impairing the obligation or indebtedness evidenced by the outstanding bonds of the previously created district, subdivision or precinct, but such indebtedness shall remain chargeable against the territory which voted the same. [Acts 1931, 42nd Leg., 2nd C. S., p. 58, ch. 36, § 1.]

[Art. 767f. Bond issues and elections therefor validated]

Sec. 28-B. That where, under authority of Section 52, Article 3, of the Constitution of the State of Texas, a two-thirds majority of the resident property tax-payers, being qualified electors of any road district, embracing portions of any previously created road district, subdivision or precinct, and which district was created in conformity with the provisions and requirements of Section 1, Chapter 75, of the General Laws passed by the Fortieth Legislature, at its First Called Session, in 1927, voting on the proposition, having voted at an election held in such road district in favor of the issuance of bonds, for the purchase of roads within the road district, subdivision or precinct, portions of which were and are included within the new district, and also voting on the proposition of the further construction of roads within the new district, and the levy of taxes in payment of said bonds, the canvass of said vote revealing such two-thirds majority having been recorded in the minutes of the County Commissioners' Court, and where, thereafter, the County Commissioners' Court of the County in which such road district is situated, by orders adopted and recorded in its minutes, authorized the issuance of such bonds, prescribed the date and maturity thereof and rate of interest the bonds were to bear, the place of payment of principal and interest, providing for the levy of taxes upon taxable property in each such road district sufficient to pay the interest on such bonds and to produce a sinking fund sufficient to pay the bonds at maturity; and providing further that



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territory of any such district, subdivision or precinct not included in the newly created road district shall continue to bear and pay its proper proportion of the outstanding road bond debts thereof, and such bonds were approved by the Attorney General and registered by the Comptroller of the State of Texas, each such election, and all acts and proceedings had and done in connection therewith by the County Commissioners' Court in respect of such bonds and the levy of taxes, are hereby legalized, approved and validated, and all bonds voted, or issued, thereunder, are validated and declared to be the legal and binding obligations of such several districts, according to their terms; and power and authority is hereby expressly conferred upon the Commissioners' Court of the County in which any such district is situated, to adopt all orders and to do all acts necessary in the issuance or sale of any unissued or unsold bonds of any such district; provided, that the manner of issuing the district compensation bonds for any such districts shall be the same as that provided for the issuance of other district and County compensation bonds; provided, further, that nothing in this Act shall be construed as impairing, releasing, or in any manner affecting the lien evidenced by outstanding bonds on any portion of any road district, subdivision or precinct, not included within the limits of the subsequently created road district, authorizing or issuing the bonds for the purchase of roads from the previously created district, subdivision or precinct, but such excluded territory shall continue to bear and pay its proper proportion of any such existing debt; and, provided further, that any such subsequently created road district shall assume only that portion of the outstanding bonded indebtedness of the previously created district, subdivision or precinct, in the same ratio that the assessed valuation of the property of any such previously created road district, subdivision or precinct (and which property is included in the subsequently created district), bears to the assessed valuation of the property situated within the original boundaries of any such previously created road district, subdivision or precinct. [Acts 1931, 42nd Leg., 2nd C. S., p. 58, ch. 36, § 1.]

[Art. 767g. Commissioners' Court authorized to levy tax to pay road district bonds]

That taxes, in an amount sufficient to pay the principal of, and interest upon, any such bonds now outstanding, or hereafter issued, as aforesaid, shall be annually assessed and collected according to the value of taxable property as fixed for State and County taxes, by the County Commissioners' Court of each County in which any such district, subdivision or precinct is situated, and express authority so to do is hereby delegated and granted to such Commissioners' Courts. [Acts 1931, 42nd Leg., 2nd C. S., p. 58, ch. 36, § 2.]

## [CHAPTER 6A]

### [NAVIGATION AID BONDS]

[Art. 822f. Bonds by coastal counties for canal purposes]

In all of the counties of this State adjacent to the Gulf of Mexico the Commissioners' Courts are authorized to issue time warrants bearing interest at a rate not exceeding eight per cent (8%) per annum to be used for the purpose of purchasing lands for right of way and dumping ground purposes for an intracoastal canal. The lands needed may be acquired by direct purchase or by purchase after condemnation proceedings. [Acts 1931, 42nd Leg., p. 834, ch. 347, § 1.]

**Art. 827. [890] [465] [419] Funding of debt****Historical**

Art. 890 of the Rev. Civ. St. 1911 from which this section was derived also provided that: "The council shall also provide by ordinance for issuing the bonds of the city in such sums as may be agreed upon for railroad subsidies heretofore voted, or that may be hereafter voted, in accordance with the laws of this state."

[Art. 835a. Repealed by Acts 1931, 42nd Leg., p. 33, ch. 26, § 1]

**Art. 835b. [Repealed by Acts 1931, 42nd Leg., p. 771, ch. 309, § 8]**

Effective March 27, 1931. The article repealed was Acts 1930, 41st Leg., 4th C. S., p. 82, ch. 43 (effective 20 days after Feb. 18, 1930, date of adjournment).

**[Art. 835c. Hospital sites in cities and counties]**

That any city or county in this State, acting by or through the governing body of such city or the commissioners' court of such county, may issue negotiable bonds of the city or county, as the case may be, and levy taxes for the sinking fund of such bonds, and the levying of such taxes being in accordance with Chapter 1, Title 22, of the Revised Civil Statutes of 1925, which bonds may be sold and the proceeds thereof shall be applied to condemnation or purchase, either or both, of lands to be used for hospital purposes; and which lands when so acquired may be by such city or county donated to the State of Texas for hospital purposes, where the State has or may agree to erect and maintain hospitals thereon; or if any such city or county have in its general fund sufficient funds for such acquisition of such property, same may be diverted and applied for such use; provided, that nothing in this Act shall be construed by any city or county to exceed the limits of indebtedness placed upon it under the Constitution. [Acts 1930, 41st Leg., 5th C. S., p. 125, ch. 10, § 1.]

**[Art. 835d. Assessment certificates in certain cities]**

Sec. 1. Cities in the State of Texas having a population of more than 100,000 inhabitants, according to the last preceding United States Census, may proceed in accordance with the provisions hereof, independently of and without reference to any other applicable law or charter provision, present or future, which, however, shall remain in force as alternative methods. The terms "city," "such city," "said city," and the plurals thereof, shall mean a city or cities included under the provisions of this Act.

Sec. 2. Whenever a city improves its streets in any manner in which streets may be improved under the provisions of its charter or under the provisions of applicable general laws, including improvement by filling, grading, raising, paving, repaving, the construction or reconstruction of sidewalks, curbs, gutters, by widening, narrowing, straightening, the laying out, opening, establishing, extending, lighting, or by otherwise improving said streets in such way that a part of the cost of making said improvements shall be paid by the owners of benefited property, and in such way that it provides for, or requires the issuance of, assessment certificates and/or mechanic lien agreements, evidencing a lien against the benefited property described in such certificates and/or the obligation of the owner in each instance to pay the amount of such certificate, it shall be lawful for such city to issue to itself and to own or acquire such certificates and/or mechanic lien agreements. For brevity such evidences of lien and of indebtedness, whether they be assessment certificates issued by the city against the property or whether they be voluntary contracts and obligations signed by the owners of said property, are hereinafter termed "assessment certificates." Such city may impound said assessment certificates or pledge said assessment certificates, holding the impounded certificates in the hands of the City Treasurer or pledging them in the hands of a Trustee, and based on said pledged or impounded certificates, may issue special improvement bonds or certificates of interest or other evidences of the rights of the holder of said special improvement bonds or

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certificates of interest as hereinafter fully set forth. For brevity the instruments to be issued against said impounded or pledged assessment certificates shall hereinafter in this Act be termed "special improvement bonds." The governing body of such city shall have power to adopt such resolutions and pass such ordinances as may be necessary and/or convenient to accomplish the issuance of its special improvement bonds, and such ordinances, resolutions, contracts and other instruments may contain any lawful provision not inconsistent with the provisions of this Act. Special improvement bonds may be issued in an amount not exceeding ninety (90%) per cent of the aggregate amount of the impounded or pledged assessment certificates and shall mature serially or otherwise within fifteen years from their date. Such governing board may make provision as to the various series of such bonds, their denominations, maturities, option of payment before maturity, eligibility, and for substitution of certificates, in such manner, however, that the outstanding amount of said bonds shall never exceed ninety (90%) per cent of the total amount of impounded or pledged certificates. Said bonds shall bear interest at a rate of not exceeding six (6%) per cent per annum. No assessment certificates shall be impounded or pledged which bear less than six (6%) per cent interest.

Sec. 3. Such city may use any fund which may be lawfully devoted to that purpose in acquiring the assessment certificates which will form the basis for issuing the special improvement bonds, and the proceeds from the sale of said bonds may be used to reimburse the city for the funds used in the first instance, and the city is authorized to use the proceeds of the sale of said bonds in acquiring the special assessment certificates in the first instance. The governing board of such city shall have the power to adopt any and all procedure convenient in the exercise of the full power and authority to properly finance such street improvements by the issuance of such special improvement bonds.

Sec. 4. The special improvement bonds authorized under this law shall never be reckoned in determining charter, constitutional or statutory limitations imposed on such city restricting its power to issue bonds for any purpose. Neither shall the issuance of said bonds by the city constitute the incurring of indebtedness or the creation of indebtedness as contemplated in the provisions of Sections 5 and 7 of Article 11 of the Constitution of Texas. The special improvement bonds when issued shall contain provisions stating definitely that said bonds are directly secured by a first and paramount lien on the pledged or impounded certificates and the income thereof; that said certificates exist in an amount and yield interest at rates determined by the city to be sufficient and ample to meet the principal and interest of the bonds as they accrue and mature; that the city pledges all of its charter and statutory powers to the collection of such certificates which form the basis for the issuance of the bonds, and that it pledges its full faith and credit to exercise its charter powers and all lawful means to the end that the bonds and interest thereon will be paid according to their tenor and effect.

Sec. 5. It is a declared public purpose of this Act to provide a means of financing the improvement of streets in such cities at a greatly reduced cost to the owners of property in said cities and other taxpayers residing in said cities. In event such city seeks to take advantage of the provisions of this Act by the pledging or impounding of special assessment certificates and the issuance of special improvement bonds based thereon, the following duties are imposed on such city by this law, to-wit:

(a) In event there shall not be funds on hand, realized from the collection of said assessment certificates and interest thereon, sufficient to pay the principal and/or interest of said special improvement bonds, or any of them, as and when the principal and/or interest of said special improvement bonds matures and accrues, it shall then be the duty of such city to deposit in said pledged or impounded fund an amount sufficient to

make good the deficit, said deposit to be made out of any money then under control of the city, which may lawfully be used at that time for said purpose; and

(b) In event such city does not in such eventuality have money on hand or under its control available for said purpose, it shall then be the duty of such city at the time of the occurrence of the deficit to make provision for obtaining the money to make good the deficit. It shall be lawful for the city to be reimbursed to the extent of any such monies which it may have been compelled to advance under the provisions of this Section. Reimbursement may be made out of the revenues from the pledged or impounded assessment certificates, provided that no reimbursement shall ever be made unless and until monies are on hand in the pledged or impounded fund sufficient to pay the next twelve months' principal and interest maturing on said bonds.

Sec. 6. Said bonds shall be signed by the Mayor, or the presiding officer of the governing board of said city, shall be attested by the City Secretary or City Clerk, and shall be registered by the City Treasurer. Interest on said bonds may be represented by coupons signed by the proper officer or officers of said city, or said coupons may bear the printed or lithographed signatures of said officer or officers.

Sec. 7. It shall be the duty of the Attorney General of the State of Texas to examine the proceedings incident to the issuance of said special improvement bonds and to examine the bonds when executed, and said bonds when executed shall be examined by the Attorney General and shall not actually be issued until the record and said bonds have been approved by the Attorney General. After the bonds have been approved by the Attorney General they shall be registered by the Comptroller of the State of Texas and shall be delivered to the Mayor or presiding officer of the governing board of said city, or shall be delivered upon his written order.

Sec. 9. All proceedings heretofore had by any city acting under the provisions of Chapter 43, passed by the 4th Called Session of the 41st Legislature, are hereby expressly validated. All ordinances and resolutions passed by the governing boards of said cities in reference to accepting the powers and assuming the duties permitted and prescribed under said law, and all resolutions and ordinances pledging and impounding special assessment certificates thereunder, authorizing the issuance of special improvement bonds and assuming the statutory duties imposed under said law, and all actions of said city officials in executing special improvement bonds thereunder and in performing all other acts under said law, are hereby legalized and validated. [Acts 1931, 42nd Leg., p. 771, ch. 309.]

Effective March 27, 1931. Section 8 of said acts 1931 is a repealing provision and provides that it shall not repeal any other law than the one specified, or any charter provision of any city affected thereby, but its provisions shall exist as an alternative power in addition to the provisions of existing law.

#### Art. 838. [699] Annual report

The County Treasurer of each county and the Treasurer of each city, Common and Independent School District, Road District, Irrigation and Drainage District, and any other political subdivision having the power to issue bonds or other evidences of debt, shall make an annual report to the State Comptroller on the first day of August, showing the condition of the Interest and Sinking Fund for each set of bonds, warrants, scrip warrants and amounts due banks of said county, city or district outstanding on the thirtieth day of June of each year, which said report shall be made under oath, and shall show:

1. All outstanding indebtedness of each such City, County, Common and Independent School District, Road District, Irrigation and Drainage District, and any other political subdivision having the power to issue bonds or other evidences of debt, including bonds, warrants, scrip warrants and amounts due banks, giving date when issued, the amount of

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each set of bonds, warrants, scrip warrants and amounts due banks, the rate of interest they bear and when they mature;

2. The tax levy in force to provide for the Interest and Sinking Fund on each set of bonds and the interest payable on all warrants and other indebtedness.

3. The amount on hand to the credit of the Interest and Sinking Fund of each set of said bonds, showing whether in cash or securities;

4. The amount received by the said Fund since last report, and from what source;

5. The disbursements from said Fund since last report, and for what purpose;

6. The amount of said bonds redeemed since last report, and the amount still outstanding.

Provided, however, that such Treasurers shall not be required to include in said Report an account of warrants and other evidences of debt which will become due before the 31st day of December of the year for which the report is made. [As amended Acts 1931, 42nd Leg., p. 385, ch. 230, § 1.]

### TITLE 23—BRANDS AND TRADE MARKS

[Art. 851—A. Cancellation and withdrawal from registration of abandoned trade marks; notice]

Whenever it is brought to the attention of, or becomes known to, the Secretary of State that any label, trade-mark, design, device, imprint or form of advertisement heretofore or hereafter filed with the office of the Secretary of State pursuant to the provisions of Article 851 of the Revised Civil Statutes of Texas of 1925, by any person, Association, or Union of working men, incorporated or unincorporated, has been abandoned or the use thereof has been discontinued for more than three years, it shall be the duty of the Secretary of State to cancel and annul such filing and withdraw the same from registration, after first giving to the registrant, or any assignee of record thirty days' notice of the intention so to do, which notice shall be by registered United States mail addressed to the last known address of the person, Association or Union of working men, incorporated or unincorporated, filing the same or any assignee thereof. [Acts 1931, 42nd Leg., p. 89, ch. 56, § 1.]

[Art. 851—B. Registration by another of abandoned trade marks, devices, etc.]

Whenever any person, Association, private Corporation, or Union of working men, incorporated or unincorporated, shows to the satisfaction of the Secretary of State that any label, trade-mark, design, device, imprint or form of advertisement theretofore registered under the provisions of Article 851 of the Revised Civil Statutes of Texas, has been abandoned and the use thereof has been discontinued for more than three years, such label, trade-mark, design, device, imprint or form of advertisement may upon due application made to the Secretary of State, by any person, Association, private Corporation or Union of working men, incorporated or unincorporated, showing that it has adopted such label, trade-mark, design, device, imprint or form of advertisement, be duly registered to such applicant under the provisions of Article 851 of the Revised Civil Statutes of Texas of 1925, after the giving of notice by the Secretary of State, as required by Article 851-A, with the same force and effect as though said label, trade-mark, design, device, imprint or form of advertisement had never theretofore been registered under said Act. [Acts 1931, 42nd Leg., p. 89, ch. 56, § 1.]

**TITLE 24—BUILDING AND LOAN ASSOCIATIONS****Arts. 852-881**

See, also, arts. 881a-1 to 881a-68, post.

**Art. 881a-1. Building and loan associations defined**

A building and loan association, as contemplated by this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9], is any association or corporation heretofore or hereafter formed, created or organized which is chartered under any building and loan law, and/or is principally in the business of assisting its members to buy, improve or build homes, or to remove incumbrances therefrom, and which accumulates the funds thus loaned through the issuance or sale of its own shares. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 1.]

Sections 20, 70-75 of Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, being penal provisions are published as Penal Code, articles 1136a-1 to 1136a-9.

**Art. 881a-2. Commissioner to investigate**

When any persons shall file a proposed charter or articles of agreement as is elsewhere herein provided, if it appears to the satisfaction of the Banking Commissioner of Texas that the minimum capital required has been paid in cash into the treasury of the association upon subscriptions for shares, the Banking Commissioner of Texas shall ascertain from the best sources at his command, and by such investigation as he may deem necessary, the expense of such investigation to be paid by the incorporators, whether the character, responsibility and general fitness of the persons named in the articles of incorporation are such as to command confidence and warrant belief that the business of the proposed building and loan association will be honestly and efficiently conducted in accordance with the intent and purpose of this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9], and whether the public convenience and advantage will be promoted by allowing such proposed building and loan association to be incorporated and engaged in business, and whether the population in the neighborhood of such place and in the surrounding country affords a reasonable promise of adequate support for the proposed building and loan association. If it shall be satisfied concerning the several matters specified, the Banking Commissioner of Texas shall issue under his official seal a certificate reciting in substance the filing in its office of the articles of incorporation; that such articles conform to all requirements of the law, and that they have been approved, whereupon the persons named in the articles of association, their associates and successors, shall become a corporate body for the period for which they were organized, and shall exercise such powers as are herein granted, and such other powers as are necessary to enable such association to carry out the purpose of its organization, not inconsistent with the provisions of this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9], but before such association shall proceed to do business it shall adopt and have approved by the Banking Commissioner of Texas by-laws for the regulation and management of its business, not inconsistent with the provisions herein provided. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 2.]

**Art. 881a-3. Rejection [of] application for charter**

If the Banking Commissioner of Texas shall not be satisfied by such examination that it is expedient and desirable to permit such proposed building and loan association to engage in business, it shall endorse upon each copy of the articles of incorporation the word "refused", with the date of such endorsement, together with the reason for such refusal, and shall forthwith return one copy of such articles of incorporation to the proposed incorporators from whom the same was received, and such refusal shall be

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conclusive unless the incorporators within thirty days of the issuance of such notice of refusal shall apply to the District Court of Travis County, Texas (which court shall have jurisdiction of such case) for a writ of mandamus to compel the filing of such charter and granting of a permit to do business. Appeals shall lie from the decree of the District Court in the same manner as appeals in other mandamus cases are allowable and taken in this State. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 3.]

#### Art. 881a—4. Proceed to business

When the banking Commissioner of Texas shall have approved the organization certificate and the proposed by-laws and shall have issued the certificate of such approval and filing, it shall then issue a certificate of authority to do business, providing that when any building and loan association holding a charter under the laws of this State shall fail to commence business within six months from the date of the issuance of the certificate of authority, such association shall ipso facto be dissolved and its certificate of incorporation shall be null and void, without further executive or judicial action. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 4.]

#### Art. 881a—5. Fees to accompany charter application

At the time of filing application for charter the incorporators shall pay to the Banking Commissioner of Texas, the sum of twenty-five dollars for filing the articles of association and the by-laws; and thereafter, for filing amendments to the articles of incorporation or to the by-laws, or any other paper, the sum of five dollars; for making and certifying copies of articles of association, by-laws or any other paper required to be filed, twenty cents per folio of one hundred words; provided, however, that the Banking Commissioner of Texas may require a reasonable deposit to be made by the incorporators for the purpose of defraying the expenses of the investigation authorized in Section 2 of this Act [Art. 881a-2]. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 5.]

#### Art. 881a—6. Franchise tax

Every domestic building and loan association shall pay to the State Treasurer, through the Banking Commissioner of Texas, an annual franchise tax of ten dollars. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 6.]

#### Art. 881a—7. Supervision and control

The Banking Commissioner of Texas shall have supervision over and control of all building and loan associations doing business in this State, and shall be charged with the execution of the laws of this State relating to such associations; and except in the manner provided in this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9], no corporation or association shall conduct or carry on the business which is described and defined in Section 1 [Art. 881a-1], hereof; provided, that this section does not include persons, co-partnerships or corporations engaged in any kind of banking business. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 7.] -

#### Art. 881a—8. Annual statement to be filed

Every building and loan association doing business within this State shall, on the first day of January of each year, or within sixty days thereafter, file with the Banking Commissioner of Texas, a full and detailed statement of its financial condition on the 31st. day of the preceding December, and the business transacted during the preceding year. Said statement shall set forth the amount and the character of its assets, liabilities, income and expense, and shall contain such other information, and be in such form as the Banking Commissioner of Texas may prescribe, and shall be sworn to by the president and the secretary or treasurer of such association; and such report shall show the number and amount of loans out-

standing upon its books in each different town or city in which the property securing such loans is situated. Any such association refusing or neglecting to file the annual statement herein required within the time specified shall forfeit five dollars per day for each and every day such statement shall be withheld, and the Banking Commissioner of Texas may maintain an action in the name of the State to recover such penalty, which upon its collection, shall be paid into the State Treasury. Within thirty days after such refusal to file such annual statement the Banking Commissioner shall cause to be investigated the affairs of the association, at the expense of such association and, if found in a failing condition, take charge of its affairs, as provided in Section 13 [Art. 881a-13]; of this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9]. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 8.]

#### Art. 881a—9. Fees to accompany statement

At the time of the filing its annual statement, every domestic building and loan association shall be required to pay to the Treasurer, through the Banking Commissioner of Texas, fees, which are in lieu of examination fees, based upon its gross assets in amounts not exceeding figures calculated in accordance with the following schedules: Those with assets less than \$250,000 pay \$50.00; \$250,000 to \$500,000 pay \$71.33; \$500,000 to \$750,000 pay [\$]100.00; \$750,000 to 1,000,00[0] pay \$133.33; \$1,000,000 to 1,250,000 pay \$166.67; \$1,250,000 to 1,500,000 pay \$200.00; \$1,500,000 to 1,750,000 pay \$233.33; \$1,750,000 to 2,000,000 pay \$266.67; \$2,000,000 to 2,500,000 pay \$333.33; \$2,500,000 to 3,000,000 pay \$400.00; For [for] associations with assets from \$3,000,000 to \$6,000,000 in size add \$50.00 for each million in excess of \$3,000,000; for associations with assets over \$6,000,000 add \$20.00 for each million in excess of \$6,000,000. The Banking Commissioner of Texas shall in September of each year, by resolution in its minutes, assess enough against the associations to carry out the provisions of this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9]; and said fees when collected shall be placed in a separate fund with the State Treasurer to be expended during the current year, or so much thereof as may be necessary in carrying out the provisions of this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9], and should there be an unexpended balance at the end of the year, the Banking Commissioner of Texas shall reduce the assessment for the succeeding year so that the amount produced and paid into the State Treasury, together with said unexpended balance in the Treasury, will not exceed the amount appropriated for the current year, to pay all necessary expenses of supervising the operation and examining the business of the associations doing business under the provisions of this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9], which funds shall be paid out upon requisition made out and filed by the Banking Commissioner of Texas, when the Comptroller shall issue warrants therefor. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 9.]

#### Art. 881a—10. Examinations

The Banking Commissioner of Texas shall annually, or oftener if it is deemed advisable, either in person or through duly appointed representatives, make a thorough and complete examination of every building and loan association doing business in this State, and for that purpose shall have the right of access to the offices and to all books and records of said company wherever the same may be kept, and also shall have the right to require the officers, employees or agents of such company, or any person connected therewith, to answer under oath any interrogatories addressed to them pertinent to the business of such company, and any willful false swearing shall be deemed perjury and be punishable as such. The Examiner shall make a report of his findings and file the same in the office of the Banking Commissioner of Texas and the Commissioner shall furnish a copy



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of such report to the association examined. Such examiner shall report any violation of law or any unauthorized or unsound practices of such association. He shall be paid such salary or fee for examinations, not to exceed fifteen dollars per day, as shall be authorized by the Banking Commissioner of Texas, which salary or fee and traveling expenses shall be paid out of the fees accumulated under Section 9 [Art. 881a-9]. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 10.]

#### Art. 881a—11. Prolonged audit

The annual fees provided for in Section 9 of this Act entitle each domestic Building and Loan Association to one examination by the Banking Commissioner of Texas. If in any case the conditions existing in any such Association are found to be such as to necessitate an additional examination or a prolonged audit and investigation and revaluation of real estate in order to ascertain the true status of its affairs, the whole expense of such additional examination or such prolonged examination and reappraisal shall be defrayed by such Association. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 11, as amended Acts 1931, 42nd Leg., p. 320, ch. 191, § 1.]

#### Art. 881a—12. Accounting system: appraisal record

Every association shall keep its books in such form as to accurately show its assets and liabilities, income and disbursements, in detail, and showing the appraised values in ink of the real estate security held in connection with each loan and signed in each case by the appraiser, officer or committee charged with making such estimated valuations. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 12.]

#### Art. 881a—13. Illegal, unauthorized, unsafe, or fraudulent practices— Remedies

In case the Banking Commissioner of Texas shall find, upon examination or from other evidence, that any building and loan association is conducting its business, in whole or in part, contrary to law, or failing to comply with the law, that its assets are less than its liabilities, including all its capital stock, or is conducting its business in an unsafe, unauthorized or fraudulent manner, the Banking Commissioner of Texas shall, by an order in writing addressed to the president of such association, direct attention thereto and order compliance with the law, and that the assets be increased to equal liabilities, and in case such association shall refuse or neglect to comply with any such order lawfully made, or in case any such association is insolvent or in danger of insolvency, or its assets are impaired, then the Banking Commissioner of Texas shall annul its certificate of authority and may begin an action to revoke the charter of such association and for the appointment of a receiver thereof and the winding up of its affairs. Any action begun under this Section shall be brought in the county where such association has its principal place of business, and in the name of the State of Texas on relation of the Banking Commissioner of Texas, and shall be prosecuted by the Attorney General. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 13.]

#### Art. 881a—14. Report of the Attorney General

Should the Banking Commissioner of Texas find, upon examination, that the affairs of any such association are in unsound condition and that the interests of the public demand the dissolution of such association and the winding up of its business, it shall so report to the Attorney General, who shall institute the proper proceedings for that purpose. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 14.]

**Art. 881a—15. Refusal to permit examination**

The refusal of any such association to permit the examination of its affairs as authorized by this Act [Arts. 881a-1 to 881a-68; P. C. art. 1136a-1 to 1136a-9] shall be sufficient cause for institution of proceedings to wind up its affairs, and to forfeit the charter and liquidate the association by receivership as permitted by the laws of this state. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 15.]

**Art. 881a—16. Remedies cumulative**

The rights and remedies given by the two preceding sections are cumulative of each other, but no involuntary liquidation of any Association shall be accomplished except as above provided; that is to say, at the suit of the Attorney General on information and request of the Banking Commissioner of Texas. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 16.]

**Art. 881a—17. Fiscal year: financial statements**

The fiscal year for each domestic building and loan association authorized to do business in this State shall be the same as the calendar year. On the first day of January and on the first day of July of each year, or within thirty days after such dates, such association shall publish, in at least one newspaper published in the place where its principal office may be located, or, if no newspaper be published in such place, then in a newspaper published nearest such place, a financial statement showing the condition of such company at the close of business on the previous December 31 and June 30, upon such form as may be prescribed by the Banking Commissioner of Texas; such printed statement to be verified by the oaths of the president and the secretary or treasurer; one copy of the newspaper containing such financial statement to be furnished to the Banking Commissioner of Texas within five days after publication and one copy to be recorded in the minute book of the board of directors of such association. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 17.]

**Art. 881a—18. Communications from banking commissioner of Texas**

Each official communication directed by the Banking Commissioner of Texas, or one of his examiners or deputies, to a building and loan association or an officer thereof, relating to an investigation or examination conducted by the Banking Commissioner of Texas or containing suggestions or recommendations as to the conduct of the business of the association, shall be submitted by the officer receiving it to the board of Directors at the next meeting of the board and noted in the minutes of the meetings of such board. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 18.]

**Art. 881a—19. Report to Governor**

The Banking Commissioner of Texas shall annually, at the earliest possible date after the statements of all building and loan associations are received, make a report to the Governor of the general conduct and condition of all building and loan associations doing business in this State, including the information contained in such building and loan associations' annual statements, arranged in tabular form, together with such suggestions as it may deem expedient. There shall be printed of such report as many copies, not less than one thousand, as the Banking Commissioner of Texas may deem necessary, and such report shall also contain a copy of this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9], with any decisions or rulings which have been made regarding any section thereof. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 19.]

**Art. 881a—20. Extension of time of corporation**

Any building and loan association incorporated under this or any prior law may extend the duration of time for which said association was or-

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ganized by a vote of two-thirds of the capital stock of such association represented and voting at any annual meeting of the stockholders of such association or at any special meeting called for that purpose; thereupon the Board of directors shall transmit a copy of the proceedings of such annual meeting or of such special meeting, duly attested, to the Banking Commissioner of Texas, who shall make a duly authen[t]icated copy thereof, certifying to the extension of time of such corporation. Any building and loan association incorporated under any prior law, and extending the duration of the time for which it was incorporated in the manner herein provided, shall be deemed as incorporated under and be invested with all the power given in this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9] the same as though such corporation had been originally [originally] incorporated under it. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 21.]

#### Art. 881a—21. Bonds of officers and employees

Every officer, director, employee, or agent handling or having the custody or charge of funds, securities, books or records belonging to such association, shall, before entering upon the discharge of his duties, give a good and sufficient bond in such sum as may be fixed by the board of directors of any such building and loan association conditioned for the faithful performance of his duties and such pecuniary loss as the association may sustain for money or other valuable securities embezzled, wrongfully abstracted or wilfully misapplied by any such officer or employee in the course of his employment as such or in the course of his employment in any other position in such association, whether he be assigned, appointed, elected, re-elected or temporarily assigned to said position. Such bond shall be made by a surety corporation authorized to do business as such in this State. The amount of such bond and the solvency of such surety corporation shall be subject to the approval of the Banking Commis[si]oner of Texas, and such bond shall be made upon forms prepared by the Banking Commissioner of Texas; provided, that in lieu of individual bonds, a blanket bond covering all active officers and employees of such association may be executed, subject to the same provisions as to approval of surety, amount and form specified herein. The Board of directors may require any other bond or bonds in addition to that herein required, at their discretion. Officers of associations who do not handle the association's funds or securities or draw a salary shall not be required to give bond. Bonds shall be executed in duplicate, original, and one copy shall be filed with the Banking Commissioner of Texas; the other copy shall be retained by an officer or custodian of the association. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 22.]

#### Art. 881a—22. Married women may subscribe

Married women may become subscribers to the capital stock of any association, and hold, pledge, hypothecate, control, transfer and withdraw the same in all respects as feme sole, without the consent or joinder of their husbands. Such investments shall not be subject to the control or be liable for the debts of the husband. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 23.]

#### Art. 881a—23. Joint shares

Stock issued by any association to the name of \_\_\_\_\_ and/or \_\_\_\_\_ may be withdrawn on the signature of either party so named and no recovery shall be had against such association for amounts so paid. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 24.]

#### Art. 881a—24. Trust funds

An administrator, executor, guardian or trustee, or other fiduciary, may in such capacity acquire and hold shares in any building and loan association of this state, and shall have the same rights and be subject ot [to]

the same obligations and limitations as other shareholders and be withdrawable by them. Any Texas corporation may invest in shares in any Texas building and loan association. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 25.]

**Art. 881a—25. Restrictions as to loans**

No building and loan association shall (1) make a mortgage loan to an officer or director of such association, either directly or indirectly, unless such loan be first approved unanimously by the Board of Directors, such approval to be recorded by aye and nay vote in the minutes of the meeting of the Board; (2) make loans exceeding in the aggregate five thousand dollars to one borrower upon real estate security if the assets of the association do not exceed fifty thousand dollars; nor shall any such association make loans exceeding in the aggregate ten thousand dollars to one borrower upon real estate security if the assets of such association exceed fifty thousand dollars but do not exceed two hundred thousand dollars; nor shall any such association make loans exceeding in the aggregate twenty thousand dollars to one borrower upon real estate security if the assets of such association exceed two hundred thousand dollars but do not exceed five hundred thousand dollars, and provided further that no building and loan association shall at any time make loans in the aggregate in excess of fifty thousand dollars to one borrower unless such loan or loans in excess of fifty thousand dollars shall be not more than one-half of one per cent. of the assets of such association; (3) take a mortgage loan or loans upon real estate which is not secured by a first and prior lien upon the property described in such mortgage, unless every prior lien or encumbrance thereon is owned by it, and no such prior mortgage, lien or encumbrance shall be sold, transferred or assigned by such association until every subsequent mortgage, lien or encumbrance owned by it shall have been fully paid and satisfied; (4) make a loan upon real estate security unless the borrower furnishes to such association a satisfactory abstract of title for such real estate showing good title to such real estate in the borrower, or unless the borrower furnishes a policy of title insurance of a title insurance company authorized to insure titles in this State; (5) make a loan upon real estate unless the improvements thereon are insured against loss by fire, lightning, tornado and windstorm to the satisfaction of the board of directors; (6) fail to record forthwith in the office of the proper recording officer of the county in which the real estate security accepted by such association is located every mortgage and every assignment of a mortgage taken by any such association, such mortgage or assignment, after recording, to be kept in the permanent files of such association, subject to the examination of the state examiner, until the loan is fully discharged; (7) assign any note or mortgage given by members thereof, belonging to any such association, unless approved by the board of directors. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 26.]

**Art. 881a—26. Restrictions on taking, holding and conveying real estate**

Every parcel of real estate acquired by any such association shall be sold by it within five years of the date on which it shall have been acquired unless (a) there shall be a building thereon occupied by it as an office; or (b) the Banking Commissioner of Texas on application of the board of directors shall have extended the time within which such sale shall be made. No purchase or exchange of real estate shall be made by any such association unless authorized by a vote of two-thirds of its directors, and, if such exchange involves the payment by the association of any difference in value, by the unanimous approval of the board of directors. No building and loan association shall enter or at any time carry on its books the real estate and the building or buildings thereon, used by it as a place of business, at a valuation exceeding their actual cost to such

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association, unless such additional valuation has been specifically approved in writing by the Banking Commissioner of Texas. No real estate taken by such association in satisfaction of debts previously contracted in the course of its business or purchased at sales under judgments, decrees or mortgages held by it shall be entered or carried on its books at a value in excess of the amount due the association, including principal, interest, premium, advances of taxes and insurance, attorney's fees and court costs less the withdrawal value of the shares pledged as security for such debt, unless permanent improvements have been made thereon and the value of the property as improved shall have been determined by a written appraisal made in accordance with the manner governing original appraisals as specified in Section 12 of this Act [Art. 881a-12], and in no event shall such book value exceed the true value as determined by proper appraisals. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 27.]

#### Art. 881a—27. Restrictions as to deposit accounts

No building and loan association shall carry or have upon its books at any time any demand, commercial or checking account, or any credit to be withdrawn upon the presentation of any negotiable check or draft, and no such association shall receive any savings account or any sum of money which does not represent a payment made upon shares of stock. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 28.]

#### Art. 881a—28. Existing associations

All Texas building and loan associations, now or hereafter organized, and all foreign associations, now or hereafter organized to do business in Texas, shall continue their corporate existence and power and be subject to the provisions of this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9] in like manner as corporations which are incorporated hereunder. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 29.]

#### Art. 881a—29. Articles of Association

Any number of persons, not less than five, who are citizens of this State, desiring to incorporate a building and loan association may, by complying with the provisions of this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9] and entering into articles of association, become a corporate body. Such articles of association shall be signed by the persons associating and acknowledged before some person authorized by the laws of this State to take acknowledgements to deeds, and shall set forth:

1. The name assumed by the association, which shall not be the name assumed by any other association incorporated under this law, nor so similar as to be liable to mislead. The name of the association hereafter formed shall terminate with the words "building and loan association."

2. The purpose for which the association is formed.

3. The name of the city, town, or village and the county wherein the principal place of the business of the association is to be located, and which must be within the State of Texas.

4. The amount of its authorized capital stock, which shall be divided into shares of the maturity or par value of not less than one hundred dollars each.

5. The names of the incorporators; their respective occupations and residence address[es], and a statement of the number of shares subscribed by each, and the amount of cash payment made upon such shares by each.

6. The amount of capital actually paid in which shall in no event be less than one thousand dollars if the home office of the association is located in a town having a population of less than ten thousand inhabitants, and which shall not be less than two thousand dollars if the home office of the association is located in a city having a population of more than ten thousand and less than fifty thousand inhabitants, and which

shall not be less than Ten Thousand Dollars if the home office of the association is located in a city having a population of more than fifty thousand and less than one hundred and fifty thousand inhabitants, and which shall not be less than twenty-five [thousand] dollars if the home office of the association is located in a city having not less than one hundred and fifty thousand inhabitants. The population of all towns and cities for the purpose of fixing the minimum paid-in capital stock of the association under this section shall be ascertained by reference to the last preceding federal census. All payments for shares of required paid-in capital stock must be in lawful money of the United States and must be in the custody of the persons named as the first board of directors.

7. The term of corporate existence which shall not exceed fifty years but which period may be extended as provided in this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9].

8. The number of directors of the association, which shall not be less than five nor more than twenty-one, and the names of the incorporators who shall be its first directors until the first annual meeting. The incorporators named as directors must possess the qualification of directors specified in Section 33 of this Act [art. 881a-32]. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 30.]

#### Art. 881a—30. Application for charter

When articles of incorporation of associations are regularly executed as herein provided, they shall be presented to the Banking Commissioner of Texas together with the by-laws of the association, and must be accompanied by the fees provided herein. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 31.]

#### Art. 881a—31. Amendment for charter

Any building and loan association heretofore or hereafter incorporated under the laws of this State may, by a resolution adopted by a two-thirds vote of shares represented and voted at any annual meeting, or at any meeting called for that purpose, increase its authorized capital stock or amend its articles of association or by-laws in any manner not inconsistent with the provisions of this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9]. No such increase of capital stock nor amendments to the articles of incorporation or to the by-laws shall have effect until a copy of such resolution, certified by the President and Secretary of such association, shall be filed approved and recorded in the manner as is provided in this law. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 32.]

#### Art. 881a—32. Directors—Qualifications; [removal by Banking Commissioner]

The corporate powers of every building and loan association heretofore organized under the laws of this State, or which may be incorporated under this Act, shall be exercised by a board of directors, who shall elect the officers of the association. The By-Laws of every building and loan association may prescribe other qualifications for directors, but no person shall be eligible to election as a director unless he is the owner in good faith and in his own right on the books of the association of shares upon which at least Two Hundred (\$200.00) Dollars in cash has been paid; and if the association be one located in a town or city having a population of more than twenty thousand (20,000) and less than one hundred thousand (100,000) inhabitants there must have been at least Five Hundred (\$500.00) Dollars paid in on the shares held by him; and if the association be one located in a town or city having a population of more than one hundred thousand (100,000) inhabitants there must have been at least One Thousand (\$1,000.00) Dollars paid in on the shares held by him, and such amounts shall not be reduced by withdrawal or pledge

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for a loan with the association, or in any other manner so long as he remains a director of the association. Provided, however, any person who is the owner in good faith and in his own right on the books of the association shares upon which Two Hundred (\$200.00) Dollars in cash has been paid, shall be eligible to election as a director in an association having assets of less than Three Hundred Fifty Thousand (\$350,000.00) Dollars, regardless of the location of the association, and such amount shall not be reduced by withdrawal or pledge for a loan with the association, or in any other manner so long as he remains a director of the association. Every director, who if after his election as such ceases to be the owner in his own right of the necessary qualifying shares, or who shall pledge or hypothecate with such association of which he is a director, the shares necessary to qualify him as such director, shall thereby vacate his office. The Banking Commissioner of Texas may remove any officer or director of any such building and loan association for just cause specified by him and after ten (10) days notice in writing to such person. Any officer or director so notified of the intention of the Commissioner and feeling himself aggrieved by such removal shall have a right to apply to the District Court of his residence, for a writ of injunction to restrain such removal, as in ordinary injunction cases. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 33, as amended Acts 1931, 42nd Leg., p. 53, ch. 36, § 1.]

**Art. 881a—33. Neglecting to elect officers**

No building and loan association created under this Act. [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9] shall cease or expire from neglect on the part of the corporation to elect officers or directors at the time mentioned in their by-laws, and all directors and officers elected by such corporation shall hold their offices until their successors are duly elected and qualified. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 34.]

**Art. 881a—34. Membership: liability: capital definition**

The members of a building and loan association shall be only those persons to whom its shares have been issued or transferred in accordance with the provisions of its by-laws; provided that unless prohibited by the by-laws, corporations may become shareholders and members in the same manner as natural persons. Membership shall continue until such shares have been matured and paid, withdrawn, transferred, retired or forfeited. The payments made to any such association upon shares issued by it shall be called "dues." The capital of every building and loan association shall consist of the accumulated payments actually made upon the shares and the dividends credited thereto, either individually or by series, and it shall be unlawful for any association to represent itself as having either by newspaper advertising, letter, circular or otherwise, a greater capital than that herein described. Every share issued by such association shall have a paid-up or matured or par value of not less than one hundred dollars each. For any losses of money which the capital shall not be sufficient to satisfy, the members of such corporation shall not be responsible, and the shares shall not be subject to further assessment, nor shall the members be liable for any unpaid installments upon their stock subscriptions. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 35.]

**Art. 881a—35. Nature of association**

Every building and loan association shall be either permanent or serial in character. A permanent association may issue shares at any time and credit and pay dividends thereon as earned and declared, as may be provided in the by-laws. A serial association shall issue its installment shares in series and credit the dividends apportioned to such shares by series; but no additional shares shall be issued in any series after a dividend has been credited thereto unless the person to whom such shares

shall be issued shall pay therefor the book value of such shares at the last declaration of dividends plus the dues payable thereon since such declaration, with accrued interest. Dividends credited by serial associations upon other classes of shares issued by it may be credited in the pass-books of its members. Shares which have not been transferred to the association as security for the repayment of a loan shall be called "free" shares. Shares that have been so transferred shall be called "pledged" shares. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 36.]

**Art. 881a—36. Class of shares**

All building and loan associations, when provided in its by-laws, may issue different classes of shares as provided herein:

(a) Installment shares, (1) with full participation in all dividends that may be declared by such association, and upon which a regular payment of dues of not less than twenty-five cents or more than two dollars per one hundred dollars share per month shall be made at stated periods expressed by its by-laws, until such shares reach their matured value, or are withdrawn, retired or forfeited; (2) or with no participation in such dividends, the dues being payable thereon in regular amounts at stated periods expressed by its by-laws, and being immediately or at stated periods applied, in reduction of a debt due to the association from the holder thereof in accordance with a direction given by him.

(b) Thrift or optional-payment shares, which shall participate in the dividends apportioned by the association and shall be credited therewith at a rate not less than sixty per centum of the rate of dividend apportioned and credited to installment shares, as the by-laws shall provide, and upon which dues shall be paid in such sums and at such times as the holder thereof may elect until the shares reach their matured value, are withdrawn or retired.

(c) Advance-payment, Accumulative or Pre-paid shares upon which a single payment of dues to the amount of fifty per cent. or more of the maturity value of such shares shall be paid at the time the shares are issued. The dividends on these shares shall not exceed the dividends apportioned and credited to installment shares, and the whole or a part of the dividends apportioned to these shares shall be credited to them until such shares are matured, withdrawn or retired. Any balance of such dividends not so credited shall be paid in cash to the holder of such shares, at regular dividend paying periods.

(d) Fully-paid or income shares upon which a single payment of dues amounting to the par or maturity value shall be paid at the time when such shares are issued. The dividends on these shares shall be paid in cash at a rate not exceeding at any time the rate at which dividends are apportioned and credited to installment shares, and providing that agreements may be entered into by and between any such association and any of its members holding fully paid or income shares, as the by-laws shall provide, whereby said members waive participation in the general profits of such association.

(e) Juvenile shares which may be issued in the name of any minor. Such shares shall be held for the exclusive right and benefit of the minor and free from the control or lien of any other persons. The dues paid upon these shares, together with the dividends credited thereto, may be withdrawn in whole or in part by the person in whose name they were issued during his minority and his receipt or acquittance shall be a valid and sufficient release and discharge to the association for such accumulated dues together with the dividends credited thereon, or any part thereof. Juvenile shares shall not be subject to any membership or withdrawal fees of any nature, or to fines for failure to pay dues punctually, nor shall the holder thereof be required to make regular or specific payments. Such shares shall not be chargeable with losses of any kind nor shall they entitle the holder to vote at any meeting of the shareholders. Such shares



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may be credited with dividends at a rate not less than sixty per centum of the rate of dividend apportioned and credited to installment shares, as the by-laws shall provide. The matured value of all the juvenile shares issued by an association shall not exceed in the aggregate at the time of issue, twenty-five per centum of the aggregate matured value of existing shares of all other classes.

(f) Reserve Fund or Permanent Stock, which when sold may not be withdrawn, until after all liabilities of the association have been satisfied in full, including the full book value of all other types or classes of stock, and which may receive as dividends all the earnings of the association after expenses have been paid and the maximum dividends provided for other classes of stock have been paid or credited; which such shares if allowed by the by-laws must be fully paid for in advance, and against which the association may not make any loans; and which fully paid reserve fund or permanent stock must at all times be at least five per cent of the gross assets of the association, but not less than twenty-five thousand dollars, but which shall not be required to exceed two hundred and fifty thousand dollars, and existing associations now having reserve fund or permanent shares shall have twelve months after this Act takes effect in which to pay in the amount required to conform to this section.

(g) Such other and different classes of shares as may be provided in its by-laws, but only after the by-laws provisions applying thereto have been specially approved by the Banking Commissioner of Texas. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 37.]

#### Art. 881a—37. Investments of funds

Subject to the provisions of this Act, any building and loan association may invest the funds received by it as follows:

1. In loans to its members, either with or without premium as the borrower may in writing agree to pay. The manner in which said premium, if any, shall be paid shall be prescribed in the by-laws. (a) Borrowers shall be required to execute their note or obligation payable directly to the association, and to transfer and pledge to the association installment shares of the association having a matured value at least equal to the amount of such loan, and further secured by a mortgage or deed of trust on improved real estate, unincumbered except by prior liens held by such association. No loan made to a member upon real estate security shall exceed in amount two-thirds of the appraised valuation of such real estate, such appraisal to be made in writing by an appraiser or a committee of appraisers appointed by the Board of Directors, which appraisal report shall state the conservative value of the real property and the improvements separately and which report shall be filed as a permanent record of such association.

(b) Upon their note or obligation payable directly to the association, secured by the transfer and pledge to the association, of installment shares having a matured value at least equal to the amount of such loan, and further secured by a first mortgage or deed of trust lien upon improved real estate by the terms of which dues paid by the borrower may by his direction, be immediately, or at stated periods as agreed upon with borrower, applied in, reduction of his indebtedness; and provided further that said loan shall not exceed two-thirds of the conservative appraised valuation of the real estate securing such loan, the value of the real estate being determined in accordance with terms and in the manner herein expressed. Provided, however, that the installment shares pledged under (a) and (b) above shall require a minimum dues payment of 25c per month per \$100.00 share: provided further, that subject to the approval of the Commissioner, the number of payments of dues, interest and premium required from the borrowing shareholder to pay off his loan and secure a release may be limited to such a definite number as their by-laws provide;

(c) upon their note or obligation, payable in monthly installments direct-

ly to the association, said installment on principal to be not less than \$2.50 per \$1,000.00 of the amount of loan, secured by first mortgage or deed of trust lien upon improved real estate; and provided further that said loan shall not exceed two-thirds of the conservative appraised valuation of the real estate securing such loan, the value of said real estate being determined in accordance with terms and the manner herein expressed. (d) Upon their notes secured by the transfer and pledge to the association of its free shares, no such loan or loans to exceed an amount equal to ninety per cent of the withdrawal value of such shares pledged for security. All such notes and mortgages taken by any such association from its members shall be deemed to obligate the maker to the performance of the provisions of this Act [Arts. 881a-1 to 881a-68; P. C. arts. 1136a-1 to 1136a-9] and the by-laws of the association relating to payment of loans, premium, interest, dues, fees and fines, although the same may not be fully expressed therein. Such association may advance such sums from time to time for the payment of insurance premiums and taxes due and owing on real estate upon which it has loaned money and to carry such advances upon its books as an asset of the association, and such association shall have a good and valid lien against such real estate and pledged shares to secure the payment of funds so advanced.

(e) On first mortgages secured by improved real property worth 50 per cent more than amount of loan and which may be repaid in monthly installments as may be provided in the deed of trust, or other liens or contracts.

2. In real property as follows: (a) Any building and loan association having assets of five hundred thousand dollars or more may, with the approval of the Banking Commissioner of Texas permanently invest a portion of its funds in the purchase of lands and the erection of buildings for the purpose of providing offices for the transaction of its business, from portions of which not required for its own use, a revenue may be derived, provided that the amount so invested shall not exceed five per cent of all other assets of such association; (b) such real estate as shall be conveyed to it in satisfaction of debts previously contracted in the course of its business; (c) such real estate as it shall purchase at sales under foreclosure at any sheriff's or other judicial sale, or at any other sale, public or private, upon which real estate the association may have or hold any mortgage lien, or other incumbrance, or in which the association may have any interest for the purpose of collecting any debt due it, or for the protection of its interest in such real estate. Real estate may be acquired and sold in accordance with the provisions of Section 27 [Art. 881a-26] hereof.

3. If at any time it has funds in the treasury applicable for loans, which funds are deemed to be in excess of the amount needed for loans to its members and for the payment of matured shares and withdrawals, such association may invest its funds (a) in loans to non-members upon improved real estate, secured by first mortgage liens upon such security in an amount not to exceed fifty per cent of the conservative appraised value of such real estate, the value to be determined in the manner provided in this Section; (b) Securities as are authorized to be accepted by savings banks and savings departments of state banks in this State; (c) in temporary loans to other building and loan associations incorporated under this Act [Arts. 881a-1 to 881a-68; P. C. arts. 1136a-1 to 1136a-9], such loans to be made only when approved by the Banking Commissioner of Texas. No loans shall at any time be made to members, or others, on personal security or on lease-holds. At no time shall the aggregate amount of funds invested by such association in the loans and securities authorized under subdivision three of this Section exceed twenty per cent of the gross assets.

4. A reasonable amount in furniture and fixtures, against which must be charged a sufficient annual depreciation. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 38.]

**Art. 881a—38. Foreclosure**

Whenever any borrower shall be in arrears or in default in the performance of any of the obligations legally imposed upon him by an association or by the terms of his note, mortgage, deed of trust or other evidence of indebtedness, and such arrearage or such default shall continue for the period of two months, the board of directors may, at their discretion, declare the pledge shares forfeited and the whole amount of the loan due and payable, and its collection, together with arrears of interest, premium and fines, may be enforced by proceedings upon the security held by the association in accordance with law. The withdrawal value of the pledged shares or bonds at the time of the commencement of foreclosure proceedings shall be credited upon the loan. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 39.]

**Art. 881a—39. Repayment of loans**

Any loan made by a building and loan association may be repaid at any time after three months have elapsed from the time of making such loan, provided the borrower shall pay the principal due thereon (less the withdrawal value of the shares transferred as security therefor), loan expenses, the premium due and the interest accrued at the time of such repayment, and all sums advanced by the association for taxes assessments or insurance premiums, with interest thereon; and in addition thereto interest on the principal repaid for the period of three months after the date of repayment. Any borrower desiring to retain the shares may repay his loan without claiming credit for the withdrawal value of such shares, whereupon such shares shall be retransferred to the borrower and shall be free from any claim by reason of said loan. If any such association is in process of either voluntary or involuntary liquidation, the payments made by such borrower, plus credited dividends, less any lawful fees, fines, penalties or advances owing by such member on his shares of stock, shall be applied on the indebtedness owing by such borrower, who shall have the same time for payment at the same rate of interest as would have been required if said association were not in liquidation. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 40 as amended Acts 1930, 41st Leg., 5th C. S., p. 193, ch. 51, § 1.]

**Art. 881a—40. Operating contracts**

No building and loan association may hereafter make an operating or management contract with any person except with the express approval and consent of the Banking Commissioner of Texas, nor shall any existing contract be extended, renewed or transferred without such consent and approval. But nothing herein shall be held to validate or invalidate any existing contract. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 41.]

**Art. 881a—41. Dividends and reserve**

The gross earnings of every building and loan association shall be ascertained at least semi-annually, from which shall be deducted a sufficient amount to meet the operating expenses of such association, and from said earnings only shall such expenses be paid. If the reserve fund shall not equal five per cent of the outstanding loans at the time of each apportionment of profits, hereinafter provided, the directors shall, before apportioning profits, set aside, as a reserve fund not less than one per cent of the net profits accruing since last prior apportionment, and shall continue to do so until said fund shall amount to at least five per cent of the loans in force. Said reserve fund shall at all times be available to meet losses arising from any source, including depreciation of securities. After providing for the expenses and obligations of the association and the reserve fund as aforesaid, the residue of such earnings shall on June 30 and December 31 of each year, and at such other times as the by-laws provide, be transferred and apportioned to the credit of the shareholders,

as the association by its by-laws shall provide. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 42.]

**Art. 881a—42. Undivided profits; investment of reserve and undivided profits**

It shall be lawful for a building and loan association, in addition to the contingent reserve fund herein provided for, to hold in its fund of undivided profits such sum as the Board of Directors may, from time to time, deem necessary or wise; provided, however, that such undivided profits of any association shall at no time exceed three per cent of the total resources of the association, and that if such undivided profits shall exceed three per cent of the resources of such association, the Board of Directors shall declare such extra dividend regularly apportioned in accordance with the by-laws. The Board of Directors are authorized and empowered to invest all reserve funds and undivided profit funds in the same manner and in the same class of securities as is provided in this act for all other funds of such association. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 43.]

**Art. 881a—43. Power to borrow money**

Building and loan association may borrow money for any of its corporate purposes, when authorized by proper resolution of its Board of Directors, such loans not to exceed, however, twenty per cent of the accumulated capital and in no event to exceed five hundred thousand dollars, unless such excess loan over twenty per cent or over \$500,000.00 be first approved by the Banking Commissioner of Texas. No loan shall be made for a longer period than four\* years, and no association shall have authority to issue bonds or debentures against its mortgage loans. Such association may issue its evidence of indebtedness therefor; and such association may borrow from and lend to like associations upon the approval of the Board of Directors of both the borrowing and lending associations, together with the approval of the Banking Commissioner of Texas. Whenever the Banking Commissioner of Texas shall deem any indebtedness incurred under the provisions of this Section to be detrimental to the interest of the share holders of any such association, he shall notify such association to reduce its indebtedness to such amount as shall be considered reasonable, giving such association a reasonable time in which to effect such reduction of indebtedness. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 44.]

\*The enrolled bill provides that "no loan shall be made for a longer period than two years."

**Art. 881a—44. Membership fee**

No association authorized to do business in this state is authorized to charge in excess of two per cent of the par or maturity value of each \$100.00 share of stock issued as a membership fee, a cancellation fee or a withdrawal fee, and provided that this limitation of charge shall apply to any fee or premium by whatsoever name called or designated, provided, however, the stipulated monthly payment upon any investment share upon which a membership or withdrawal fee may be charged shall not be less than 50 cents per \$100.00 share; and provided further that any domestic building and loan association in business on January 1, 1929, which does not solicit stock subscriptions in a territory other than the county of the home-office or at a distance greater than fifty miles from the town or city of its home office may charge, in lieu of the \$2.00 per \$100.00 membership fee, (but not in addition thereto), a monthly service charge of not to exceed 5c per \$100.00, providing said association is at the time of the passage of this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9] making such charge, and provided further, that such association if making such charge shall be limited in its expense disbursement for general operating purposes to such monthly expense receipts and shall not use

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interest profits for expense purposes. Each association doing business in this state shall cause to be printed, stamped or written upon the application for membership and stock, the application for a loan, and upon the stock certificate and the pass book, the amount of the membership fee, cancellation or withdrawal fee and premium applying to such transaction, if any, calculated in dollars; and provided, further, that any building and loan association doing business in this state which may undertake to guarantee either the rate of dividend or the time of maturity of its investment shares or certificates, must submit the form of such shares or certificates to the Banking Commissioner of Texas for approval; and such form shall not be approved if any of the terms contained therein violate the provisions of this Act, or if the withdrawal values expressed therein provide for the forfeiture of any sums paid in upon such investment shares or certificates to a greater amount than the \$2.00 per \$100.00 maturity value of such shares or certificates as provided in this section, and which withdrawal value must also give the holder the benefit of accrued interest or dividend up to the time of withdrawal at the rate, compounded semi-annually, expressed in said investment shares or certificates. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 45.]

**Art. 881a—45. [Refund on failure to grant loan]**

Any resident of this state who may be induced to purchase stock in any building and loan association upon the representation that he will obtain a loan of money secured by real estate from such association, and shall, at the time of subscribing for such stock or within a reasonable time thereafter, apply for such loan in writing to an agent or to the home office of such building and loan association, shall, upon complying with all the by-laws, rules and regulations of such association, which are not in conflict with this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9], be entitled to a loan of money not to exceed the par value of his stock in such association. If such association shall not, within one hundred and twenty days from the date of such application for loan from such stockholder, close up such loan and pay over the proceeds thereof to such borrower, less the expenses therein mentioned, then and in that event such association shall pay back to such proposed borrowing stockholder all money paid for stock of such association, without deduction for membership, cancellation or withdrawal fees. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 46.]

**Art. 881a—46. Withdrawals**

No building and loan association shall permit any member to withdraw any portion of his investment in excess of \$500.00 in any one month without thirty days written notice to the association, and any withdrawal must be made subject to the provisions of the by-laws with respect thereto, providing, however, that whenever the association has on hand idle funds it may pay same out to its members when and as may be determined by the Board of Directors, and provided in by-laws approved by the Banking Commissioner of Texas. The withdrawing shareholder or the legal representative of any deceased shareholder shall be paid the amount of the withdrawal value of the shares, provided, that upon withdrawal of shares pledged to the association for a stock loan, the association shall first deduct therefrom the indebtedness due the association, and withdrawals shall be paid in the order of their filing, except as hereinafter provided, and it shall be the duty of the secretary or other officer discharging such duties to enter upon each notice the order and date of filing. Except as hereinafter provided, not more than one-half of the receipts of the association in any month shall be applied to the payment of withdrawals without the consent of the board of directors. Whenever an application for withdrawal shall have been on file and shall have remained unpaid for a period of twelve months, all of the receipts of the association

in any month from dues, loans repaid, and the proceeds of all other investments shall be applied to the payment of withdrawals, and the board of directors or the Banking Commissioner of Texas, in their discretion, may direct that withdrawals thereafter be paid upon a ratable and proportionate basis. After filing notice of withdrawal provided herein, the withdrawing member shall be entitled to the dividends credited to the same class of shares until the final payment of his shares is made, and membership in the association shall remain unimpaired so long as any accumulation remains to his credit. No officer, director attorney, clerk or agent of the association, and no person in any way interested or concerned in the management of its affairs may discount directly or indirectly, or directly or indirectly purchase a share of any such association, whether filed for withdrawal or not, except by the payment therefor of the withdrawal value of such share as determined herein. [Acts 1929; 41st Leg., 2nd C. S., p. 100, ch. 61, § 47.]

#### Art. 881a—47. Defining withdrawal value

By the term "withdrawal value" as used herein is meant; the value of the shares at the time indicated in the connection in which the words are used less the lawful charges and deductions, if any, against such shares in favor of the association. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 48.]

#### Art. 881a—48. Matured shares

Whenever the dues and dividends credited to the shares of any such association shall equal their matured value, notice of such maturity shall be given to the holders thereof and the payment of dues thereon shall cease. For the purpose of maturing shares, a special dividend may be credited between dividend dates to shares nearly matured at the same rate at which the last periodical dividend was credited, providing the earnings for the current dividend period justify such special dividend. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 49.]

#### Art. 881a—49. Forfeiture and retirement of shares

If a shareholder be in arrears in the payment of dues upon unpledged shares, the board of directors may, if the shareholder fails to pay the amount of arrears within sixty days after notice, declare said shares forfeited. Fines for the non-payment of dues, interest or premium shall not exceed one per cent per month on each dollar in arrears. The withdrawal value of such shares at the time of forfeiture shall be ascertained and paid to such shareholder upon the surrender of the certificate and passbook. The board of directors may retire all classes of free shares, enforcing the withdrawal of same, provided, however, that the by-laws of such association shall clearly state the manner in which such withdrawals shall be enforced; and provided, also, that the holders thereof shall be paid the full withdrawal value of the shares. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 50.]

#### Art. 881a—50. Transfer of shares

Shares shall be non-negotiable and payments on shares made by any association to the holders of record shall be a full discharge thereof. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 51.]

#### Art. 881a—51. Conveying property mortgaged to association

The conveyance or transfer of property mortgaged to a building and loan association shall unless otherwise expressly stated in the instrument of conveyance, act as a transfer also of the shares of such association securing said loan. If a borrowing member of any building and loan association shall convey the title to any property upon which such borrowing member has given to the association a mortgage lien, without the pur-

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chaser assuming the payment of the indebtedness to the association thereby accrued, the board of directors may, in their discretion, declare the entire indebtedness due and proceed to the collection of the debt in the manner provided by the by-laws of such association and by this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9]. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 52.]

**Art. 881a—52. Member not disqualified to take acknowledgments or proof of written instrument**

No notary public or other public officer qualified to take acknowledgments or proofs of written instruments shall be disqualified from taking the acknowledgment or proof of an instrument in writing in which a building and loan association is interested, by reason of his membership or stockholding in or employment by the building and loan association interested in such instrument, and any such acknowledgments heretofore taken are hereby validated. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 53.]

**Art. 881a—53. Tax assessment of association**

Every building and loan association doing business in this state shall, in the city or town in which it is located, render its property therein located to the tax assessor at the time fixed by law and in the following manner: (a) The value of its office furniture and fixtures therein; (b) the value of all real estate in such city to which such association holds title; (c) the value of its assets therein in excess of an amount representing the total of (1) accounts payable and notes payable owing by such association; (2) the book value of the shares outstanding and (3) the assessed value of the furniture and fixtures and real estate held by such association and rendered by it for taxation. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 54.]

**Art. 881a—54. Consolidation**

At the annual meeting or at any meeting called for that purpose, any two or more building and loan associations organized under the laws of this state may, by vote of two-thirds of all shareholders of each of the different associations, resolve to consolidate into one association upon such terms as shall be mutually agreed upon by the directors of such associations; or any such association may transfer its engagements, funds and property to any other such association upon such terms as may be agreed upon by its board of directors, when approved by two-thirds of all the shares of all members convened in special meeting for that purpose, the notice sent to each member of record specifically stating the object of the meeting; if such notice shall state affirmatively the terms upon which such consolidation is contemplated and shall state that any member not present at the meeting in person or by representative will be regarded as having voted for the transfer or consolidation, such absent member shall be counted as being among the required two-thirds affirmative vote; but such transfer shall not prejudice the right of any creditor of any such association to have payment of his debt out of the assets and property thereof, nor shall any creditor be thereby deprived of or prejudiced in any right of action then existing against the officers or directors of said association for any neglect or misconduct; providing that the reorganized association shall be liable for all obligations to stockholders of the associations existing prior to such consolidation, and providing, further, that no consolidation or transfer provided herein shall take effect until the terms and conditions have been approved by the Banking Commissioner of Texas, and until a copy of the resolution, certified by a majority of the board of directors of each association, shall be filed with said Banking Commissioner of Texas, and recorded in the same manner here-

inbefore provided for amendments to charters. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 55.]

**Art. 881a—55. Voluntary liquidation**

At the annual meeting or at any meeting called for that purpose, any Building and Loan Association of this State may, by a vote of shareholders owning two-thirds of the voting shares in force, resolve to liquidate and dissolve the corporation; providing, that before such resolutions shall take effect, a copy thereof, certified to by the president and the secretary of such Association, together with an itemized statement of its assets and liabilities, sworn to by a majority of its Board of Directors shall be filed with the Banking Commissioner of Texas. When the Banking Commissioner of Texas has approved such resolution it shall thereafter be unlawful for such Association to issue stock or make any loans, but all its income and receipts in excess of actual expense of management shall be applied to the discharge of its liabilities; and the officers of the Association, under the direction of its Board of Directors and under the supervision of the Banking Commissioner shall thereupon proceed to liquidate the affairs of the Association and reduce the assets thereof to cash and distribute the same among the shareholders in proportion to the withdrawal value of the holdings of each shareholder at the time of the passage of the resolution to dissolve.

Provided, however, that the plan of the liquidation, including contemplated expenses and the sale of any or all of its assets shall have the approval of the Banking Commissioner or his authorized representative before any expenses are incurred or any sale or sales are made, and any and all expenses incurred by the Banking Commissioner or his duly authorized representative shall be paid from the assets of the Association. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 56, as amended Acts 1931, 42nd Leg., p. 331, ch. 198, § 1.]

**Art. 881a—56. Reduction of liability to members**

Whenever the losses of any building and loan association, resulting from depreciation in value of its securities or otherwise, exceed its contingent reserve fund, undivided profits and current earnings, so that the estimated value of its assets is less than the total amount due its members, the Banking Commissioner of Texas upon petition of such building and loan association, may order a reduction of its liability to its members, except upon juvenile shares, in such manner as to distribute the loss equitably among such members. If thereafter, such association shall realize from such assets a greater amount than was fixed in the order of reduction, such excess shall be divided among members whose credits were so reduced, but to the extent of such reduction only. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 57.]

**Art. 881a—57. Foreign building and loan associations**

Foreign building and loan associations may do business in this State in accordance with the laws of this State governing building and loan associations; provided, however, that said inhibition and subsequent requirements as to deposit of securities or surety bond by foreign corporations as provided in Section 59 shall not be held to apply to a foreign association whose domicile is in a city of a population of five thousand or more adjoining the State of Texas and the business of which association in Texas is confined to the county to which such city adjoins. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 58.]

**Art. 881a—58. Certificate of authority**

No foreign building and loan association shall do any business in this State until it has procured from the Banking Commissioner of Texas a certificate of authority to do so, and no certificate of authority shall be issued



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until the said Commissioner shall be satisfied that the requirements of this law have been fully met by such company. Before such certificate of authority shall be issued such foreign building and loan association shall comply with the following provisions: (1) It shall file with the Banking Commissioner of Texas a certified copy of its articles of incorporation, a copy of its by-laws and rules governing it, and of its certificates and all printed matter issued by it, together with a statement of financial condition such as is required semi-annually from all building and loan associations organized under the laws of this State. (2) It shall file with the Banking Commissioner of Texas written instrument, properly executed, agreeing irrevocably that any summons or process of any court in this state may issue against it from any county in this state, and, when served upon the Banking Commissioner of Texas, shall be accepted as valid service upon such foreign association; provided, however, that the Banking Commissioner of Texas shall mail a copy of such legal process served upon its Chairman to the home office of such foreign association, and the Banking Commissioner of Texas shall, within six days, certify to the Court from which such summons or process issued the fact of such mailing. The plaintiff shall for each process so served pay to the Banking Commissioner of Texas at the time of such service a fee of two dollars, which shall be recovered by the plaintiff as a part of the taxable costs if he prevail in the suit. (3) It shall deposit with the Banking Commissioner of Texas One Hundred Thousand Dollars in cash or bonds of the United States, or bonds of any state of the United States, or bonds of any county or municipal corporation in the state of Texas, or mortgages being first liens on improved and productive real estate located within this state and worth at least twice the amount of the liens, which securities shall be approved in advance by the Banking Commissioner of Texas. The Banking Commissioner of Texas shall have authority to require such associations to deposit additional securities, and to order a change in any of the securities so deposited, at any time. Such deposit shall be held as security for all claims of residents of this state against such foreign association, and shall be liable for all judgments or decrees thereon; and said securities shall not be released until all its obligations to residents of this state shall have been fully performed and discharged. Such foreign associations may collect and use the interest on any securities so deposited, so long as it fulfills its obligations and complies with the provisions of this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9]. It may also exchange them for other securities of equal value, if satisfactory to the Banking Commissioner of Texas. Any foreign building and loan association may, in lieu of the deposit of securities, as herein provided, deposit with the Banking Commissioner of Texas a surety company bond in the sum of One Hundred Thousand (\$100,000.00) Dollars, which bond shall be conditioned for the payment of any judgment entered against such foreign building and loan association, by any court of competent jurisdiction in this state, in favor of any resident of this state. Such judgment creditor shall have the right to bring suit on such bond in his own name in the county in which such judgment is rendered, and any resident of this state, having a claim against such foreign building and loan association may bring suit in his own name against such surety company, by joining such surety company with such foreign building and loan association as parties defendant. If the business of such association in this State be solely that of lending money in this State, and it sells none of its stock in this State except where loans are actually made on real estate in this State for the full amount of the stock so sold, and made at the time of the sales of such stock, then in such event, the provision of this section, requiring a deposit or bond of One Hundred Thousand Dollars shall not apply. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 59.]

**Art. 881a—59. Securities to be deposited with state treasurer**

All such securities deposited with the Banking Commissioner of Texas, shall be immediately deposited by them with the State Treasurer who, with his sureties, shall be responsible for the safe keeping thereof. The State Treasurer shall deliver such securities only upon the written order of the Banking Commissioner of Texas. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 60.]

**Art. 881a—60. Certificate to foreign associations**

Whenever such foreign association has complied with the provisions of this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9], and has furnished a full and complete statement of its financial affairs duly sworn to by its president and secretary, and said financial status of such association has been verified by an examination of its assets and its records for the purpose of ascertaining whether the same meet the requirements of this law, said examination to be made by the Banking Commissioner of Texas, or his duly authorized representative, for which examination the said foreign association shall pay in the same manner as hereinafter specified for regular examinations, the Banking Commissioner of Texas, if he be satisfied that such association is in sound financial condition, and that it is conducting its business in accordance with the laws of this State, and if he shall regard such association as safe, reliable and entitled to public confidence, he shall issue certificate of authority to such association to do business in this State upon the payment of fees as herein provided. Provided, that the Banking Commissioner of Texas may accept, in its discretion, a report of an examination of the affairs of such company made by a supervising officer of its own state under lawful authority. Such certificate shall be for the period of one year and must be renewed each year. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 61.]

**Art. 881a—61. Fees to be paid**

All foreign building and loan associations shall pay to the Banking Commissioner of Texas, the following fees, which shall be paid to the State Treasurer as hereinbefore provided, to-wit: For filing each application for admission to do business in this State, fifty dollars; for each certificate of authority and annual renewal of the same twenty-five dollars; and an annual franchise tax of two hundred and fifty dollars. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 62.]

**Art. 881a—62. In event of unsatisfied judgments**

If at any time any borrower from such foreign association residing in this State shall recover judgment against such foreign association and which after thirty days shall not have been satisfied, the State treasurer, upon an order from the Banking Commissioner of Texas, shall proceed to sell at current market value, sufficient of the bonds, or collect sufficient of the mortgage securities deposited with him to satisfy the amount of such judgment, together with five per cent for his services and expense; provided, that before ordering the State Treasurer to dispose of such securities as aforesaid, the Banking Commissioner of Texas, shall be served with an affidavit by the plaintiff or his attorney, setting forth the recovery of judgment, and that the same has remained unpaid for thirty days; and that no proceedings are pending for appeal or reversal of the same; provided, further, that such foreign association after notice of the service of such affidavits, shall not transact any new business in this state until any deficiency of securities caused by the necessity of satisfying such judgments shall have been made good by further deposit of similar securities with the Banking Commissioner of Texas. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 63.]

**Art. 881a—63. Examinations**

Every foreign building and loan association doing business in this State shall be subject to the same examinations as are building and loan associations organized under the laws of this State; provided, that the expense of all examinations of such foreign associations shall be paid by the association examined, upon bill approved by the Banking Commissioner of Texas; provided it shall not be necessary for such examination to be made but once in each year; provided, further, that such expense shall only include necessary traveling expenses of such examiner and the sum of not more than twenty-five dollars per day for each day actually required in making such examinations. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 64.]

**Art. 881a—64. Certificate of authority may be revoked**

Should the Banking Commissioner of Texas find, upon examination, that such foreign association does not conduct its business in accordance with law, or that the affairs of such association are in unsound condition, or if such foreign association refuses to permit examination to be made, it may revoke the certificate of authority granted such foreign association to do business in this State, provided that upon revocation of certificate of authority, the Banking Commissioner of Texas, shall mail a notice thereof to the home office of such foreign association and cause a similar notice to be published in at least one newspaper, published in the city of Austin. After publication of said notice it shall be unlawful for any agent of such foreign association to transact any business in this State, except to receive payments to apply on loan contracts then in effect. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 65.]

**Art. 881a—65. Contracts deemed made in this state**

Any contract made by any foreign association with any citizen of this State shall be deemed and considered a Texas contract, and shall be so construed by all the courts of this State according to the laws thereof. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 66.]

**Art. 881a—66. Compliance with provisions of act essential**

No foreign building and loan association shall be permitted to do business in this State unless all the provisions of this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9] are fully complied with and all contracts made by such foreign building and loan associations while in default shall be absolutely void. All of the rules and regulations, and all the terms and conditions herein contained applicable to the operation of domestic companies are hereby expressly made applicable to foreign companies under this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9]. Any such association violating any of the provisions of this Act, or failing to comply with any of its provisions, shall be subject to a fine of not less than one hundred dollars nor more than five hundred dollars, such fine to be recovered by an action in the name of the State of Texas in any court of competent jurisdiction and, upon the collection thereof, the same shall be paid into the State Treasury. Foreign Building and Loan Associations that are duly authorized to do a building and loan business in this State at the time of the taking effect of this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9] shall have sixty days from the date on which this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9] takes effect to comply with the provisions of this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9] as set forth in Section 59 [Art. 881a-58], provided, however, that the Banking Commissioner may, in his discretion, grant to any such association such extension of time as may, in his discretion, seem necessary or proper. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 67.]

**Art. 881a—67. Restrictions to use name "Building and Loan"**

No person, firm, company, association, copartnership, or corporation, either domestic or foreign, unless he or it is lawfully authorized to do business in this State under the provisions of this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9], and is actually engaged in carrying on a building and loan business in this state under the provisions of this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9], shall hereafter transact business under any name or title which contains the term "building and loan" nor use any sign or circulate or use any letterhead, billhead, circular, or paper whatever, or advertise in any manner, which indicates that his or its business is the character or kind of business carried on or transacted by a building and loan association, or which is calculated to lead the public to believe that his or its business is that of a building and loan association. Upon action brought by the Banking Commissioner of Texas, injunction will also lie to restrain any person, firm, company, copartnership, corporation, or agent thereof from continuing to violate any provisions of this Section. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 76.]

**Art. 881a—68. Repealing conflicting acts**

All acts and parts of Acts in conflict herewith be and the same are hereby repealed, provided, however, that corporations organized and now operating under the existing building and loan laws of this State shall continue their corporate existence and powers subject to all other provisions of this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9]. It is provided further that in case any section or clause, sentence, paragraph or part of this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9] shall for any reason be adjudged by any court of competent or final jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9] but shall be confined in its operation to the section, clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 77.]

**TITLE 25—CARRIERS****[6. REGULATION OF MOTOR BUS TRANSPORTATION]**

[Art. 911a. Motor bus transportation and regulation by railroad commission]

Sec. 1 (a) That the term "Corporation" when used in this Act [Art. 911a; P. C. 1690a] means a corporation, company, association or joint stock association.

(b) The term "Person" when used in this Act [Art. 911a; P. C. 1690a] means an individual, firm, or co-partnership.

(c) The term "Motor Bus Company" when used in this Act [Art. 911a; P. C. 1690a] means every corporation or persons as herein defined, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any motor propelled passenger vehicle, not usually operated on or over rails, and engaged in the business of transporting persons for compensation or hire over the public highways within the State of Texas, whether operating over fixed routes or fixed schedules, or otherwise; provided further, that the term "Motor Bus Company" as used in this Act [Art. 911a; P. C. 1690a] shall not include corporations or persons, their lessees, trustees, or receivers, or trustees appointed by any court whatsoever, insofar as they own, control, operate, or manage motor propelled passenger vehicles operated wholly within the limits of any incorporated

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(d) The term "Public Highway" when used in this Act [Art. 911a; P. C. art. 1690a] means every street, road, or highway in this State.

(e) The term "Highway Commission" when used in this Act [Art. 911a; P. C. art. 1690a] means the Board of Highway Commissioners of the State of Texas.

(f) The term "Commission" when used in this Act [Art. 911a; P. C. art. 1690a] means the Railroad Commission of the State of Texas. [As amended Acts 1929, 41st Leg., 1st C. S., p. 196, ch. 78, § 1.]

Effective 90 days after May 21, 1929, date of adjournment. Section 7 of Acts 1929, 41st Leg., 1st C. S., p. 196, ch. 78, repeals all conflicting laws and parts of laws and section 8 provides that if any provision is held unconstitutional, such decision shall not affect the validity of the remainder. Section 5 being an amendment of the Pen. Code is published as art. 1690a thereof.

#### Sec. 4.

(a) The Commission is hereby vested with power and authority, and it is hereby made its duty to supervise and regulate the public service rendered by every motor bus company operating over the highways in this State, to fix or approve the maximum, or minimum, or maximum and minimum, fares, rates or charges of, and to prescribe all rules and regulations necessary for the government of, each motor bus company; to prescribe the routes, schedules, service, and safety of operations of each such motor bus company; to acquire the filing of such annual or other reports and of such other data by such motor bus company as the Commission may deem necessary.

(b) The Commission is hereby vested with authority to supervise, control and regulate all terminals of motor bus companies, including the location of facilities and charges to be made motor bus companies for the use of such terminal, or termini; provided, that the Commission shall have no authority to interfere in any way with valid contracts existing between motor bus companies and the owner or owners of motor bus terminals at the time of the passage of this Act. [Art. 911a; P. C. art. 1690a.]

(c) The Commission is hereby vested with power and authority to require that each driver of a motor bus operated by any motor bus company shall have a driver's license, which license shall be issued by the Commission under such rules and regulations as it may prescribe; provided that every driver aforesaid shall acquire a driver's license within 30 days after this Act [Art. 911a; P. C. art. 1690a] takes effect, and shall annually thereafter, on or before the anniversary of the date of the original license, acquire a renewal thereof. Such license issued shall be for a term of one year. The Commission is hereby authorized to collect a fee of Three (\$3.00) Dollars for each license issued or renewed, provided that the Commission may revoke any such license for cause after notice and public hearing. The Commission is empowered further to issue temporary licenses in cases of emergency for such term as the Commission may deem expedient. It shall be unlawful for any motor bus company to operate a bus in this State unless such motor bus is operated by a driver holding a license issued by the Commission.

(d) The Commission is further authorized and empowered to supervise and regulate motor bus companies in all other matters affecting the relationship between such motor bus companies and the traveling public that may be necessary to the efficient operation of this law.

(e) It shall be unlawful for any motor bus company to sell any tickets for the transportation of passengers within this State over any motor bus line at any rates other than the rates authorized and approved by the Commission under the terms of this law; and it shall be unlawful for any booking agency or brokerage concern, directly or indirectly, to sell tickets

for the transportation of passengers over any motor bus line, and no motor bus company shall honor any ticket, or transport any passenger on any ticket so sold by any booking agency or brokerage concern.

(f) The Commission in prescribing and adopting routes and dealing with all other matters affecting the physical operation and control of motor bus companies over the public highways, under the power and authority of this Act [Art. 911a; P. C. art. 1690a], shall give due and proper consideration in forming its conclusions, and prescribing its orders and regulations to the general highway laws of this State, and to the orders, regulations, ordinances, or recommendations of the Highway Commission of Texas, or the Commissioners' Courts of any county or counties, or the local government of any municipality, through or between which the routes for such motor bus companies are prescribed and adopted. [As amended Acts 1929, 41st Leg., 1st C. S., p. 196, ch. 78, § 2.]

See note to section 1, ante.

Sec. 8. No application for certificate shall be considered by said Commission except that it be reduced to writing and set forth the following facts:

(a) It shall contain the name and address of the applicant, and the names and addresses of its officers, if any, and shall give full information concerning the financial condition and physical properties of the applicant.

(b) The complete route or routes over which the applicant desires to operate, together with a brief description of each vehicle which the applicant intends to use, including the seating capacity thereof.

(c) A proposed time schedule and a schedule of rates showing the passenger fares to be charged between the several points or localities to be served.

(d) It shall be accompanied by a plat or map showing the route or routes over which the applicant desires to operate, on which plat or map shall be delineated the line or lines of any existing transportation company or companies over the highways serving such territory, with the names and addresses of the owner or owners thereof, and shall point out the inadequacy of existing transportation facilities or services, and shall specify wherein additional facilities or service are required and would be secured by the granting of said application.

(e) Every application for a certificate of convenience and necessity shall be accompanied by a filing fee in the sum of Twenty-five (\$25.00) Dollars, which fee shall be in addition to other fees and taxes, and such fees shall be retained by the Commission whether the certificate of convenience and necessity be granted or not.

(f) Every application filed with the Commission for an order approving the lease, sale, or transfer of any certificate of convenience and necessity, or stock of any corporation owning or controlling a "motor bus company" shall be accompanied by a filing fee in the sum of Twenty-five (\$25.00) Dollars, which fee shall be in addition to the other fees and taxes, and shall be retained by the Commission whether the lease, sale, or transfer of the certificate of convenience and necessity, or stock of any corporation owning or controlling a "motor bus company" is approved or not, such fee to be paid by the purchaser.

(g) No stock of any corporation owning and operating any "motor bus company" shall be sold or transferred without first securing the approval of the Commission as provided for certificates of convenience and necessity, in Section 5 of House Bill No. 50, the same being Chapter 270 of the Acts of the Regular Session of the 40th Legislature of the State of Texas, 1927, and this paragraph shall be cumulative of that section, provided that the provisions of this sub-section shall apply only to those cases where the proposed sale will change the controlling interest in such

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motor bus company. [As amended Acts 1929, 41st Leg., 1st C. S., p. 196, ch. 78, § 3.]

See note to section 1, ante.

Sec. 11-A. It shall be unlawful for any motor bus company, as hereinbefore defined, to operate any motor bus within this State unless there shall be displayed and firmly fixed upon the front of such bus an identification metal plate to be furnished by the Commission. Each of such plates shall be so designed as to identify the vehicle on which same is attached as being a motor bus authorized to operate under the terms of this law, and the rules and regulations of the Commission, and said plate shall bear the number given to said vehicle by the Commission, and such other marks of identification as may be necessary. The identification plates provided for herein shall be in addition to the regular license plates required by law. It shall be the duty of the Commission to provide such plates and each motor bus operating in this State shall display one of said plates within sixty days after this Act takes effect, and such plates shall be issued annually thereafter and attached to each motor bus not later than September first of each year. The Commission is authorized to collect from the applicant a fee of One (\$1.00) Dollar for each plate so issued and said fee shall be deposited in the State Treasury to the credit of the "Motor Transportation Fund." [Acts 1929, 41st Leg., 1st C. S., p. 196, ch. 78, § 4.]

See note to section 1, ante.

Sec. 15. For the purpose of defraying the expense of administering this Act [Art. 911a; P. C. art. 1690a], every motor bus company now operating, or which shall hereafter operate in this State, shall, in addition to other fees and charges provided for by law, at the time of the issuance of a certificate of convenience and necessity, as provided herein, and annually thereafter, on or between September 1st and September 15th of each calendar year, pay a special minimum fee of Ten (\$10.00) Dollars for each motor propelled vehicle, and a further fee, computed on the basis of One (\$1.00) Dollar per passenger set for the rated passenger capacity of the vehicle, or vehicles used.

If the certificate of convenience and necessity herein referred to is issued after the month of September of any year, the fees paid shall be proportionate to the remaining portion of the year ending August 31st following, but in no case less than one-fourth the annual fee. In case of emergencies or unusual temporary demands for transportation, the fee for additional motor propelled vehicles for less periods shall be fixed by the Commission in such reasonable amount as may be prescribed by general rule or temporary order.

All fees accruing hereunder and all fines and penalties collected under the provisions of this Act [Art. 911a; P. C. art. 1690a] shall be payable to the State Treasurer at Austin, Texas, and shall, by the State Treasurer be deposited in the State Treasury at Austin and credited to the fund to be known and designated as the "Motor Transportation Fund," and out of which all warrants for expenditures necessary in administering and enforcing this Act [Art. 911a; P. C. art. 1690a] shall be paid. [As amended Acts 1929, 41st Leg., 1st C. S., p. 196, ch. 78, § 6.]

See note to section 1, ante.

#### [Art. 911b. Motor carriers and regulation by Railroad Commission]

Sec. 1. Definitions. When used in this Act unless expressly stated otherwise:

(a) The term 'person' means and includes an individual, a firm, co-partnership, corporation, company, an association or a joint stock association.

(b) The term 'Commission' means the Railroad Commission of the State of Texas.

(c) The term 'Highway Commission' means the Board of Highway Commissioners of the State of Texas.

(d) The term 'public highway' means every street, road or highway in this State.

(e) The term 'certificate' means a certificate of public convenience and necessity issued under this Act.

(f) The term 'permit' means the permit issued to contract carriers under the terms of this Act.

(g) The term 'motor carrier' means any person, firm, corporation, company, co-partnership, association or joint stock association, and their lessees, receivers or trustees appointed by any Court whatsoever, owning, controlling, managing, operating or causing to be operated any motor propelled vehicle used in transporting property for compensation or hire over any public highway in this State, where in the course of such transportation a highway between two or more incorporated cities, towns or villages is traversed; provided that the term 'motor carrier' as used in this Act shall not include, and this Act shall not apply to motor vehicles operated exclusively within the incorporated limits of cities or towns.

(h) The term 'contract carrier' means any motor carrier as hereinabove defined transporting property for compensation or hire over any highway in this State other than as a common carrier. [Acts 1929, 41st Leg., p. 698, ch. 314, as amended Acts 1931, 42nd Leg., p. 480, ch. 277, § 1.]

Sec. 2. No motor carrier, as defined in the preceding section, shall operate any motor propelled vehicle for the purpose of the transportation or carriage of property for compensation or hire over any public highway in the State except in accordance with the provisions of this Act; provided, however, that nothing in this Act or any provision thereof shall be construed or held to in any manner affect, limit or deprive cities and towns from exercising any of the powers granted them by Chapter 147, Pages 307 to 318, inclusive, of the General Laws of the State of Texas passed by the 33rd Legislature or any amendments thereto. [Acts 1929, 41st Leg., p. 698, ch. 314, as amended Acts 1931, 42nd Leg., p. 480, ch. 277, § 2.]

Sec. 3. No motor carrier shall, after this Act goes into effect, operate as a common carrier without first having obtained from the Commission, under the provisions of this Act, a certificate of public convenience and necessity pursuant to a finding to the effect that the public convenience and necessity require such operation. No motor carrier shall, after this Act goes into effect, operate as a contract carrier without first having obtained from the Commission a permit so to do which permit shall not be issued until the applicant shall have in all things complied with the requirements of this Act. [Acts 1929, 41st Leg., p. 698, ch. 314, as amended Acts 1931, 42nd Leg., p. 480, ch. 277, § 3.]

Sec. 4. (a) The Commission is hereby vested with power and authority and it is hereby made its duty to supervise and regulate the transportation of property for compensation or hire by motor vehicle on any public highway in this State, to fix, prescribe or approve the maximum or minimum or maximum and minimum rates, fares and charges of each motor carrier in accordance with the specific provisions herein contained, to prescribe all rules and regulations necessary for the government of motor carriers, to prescribe rules and regulations for the safety of operations of each of such motor carriers, to require the filing of such monthly, annual and other reports and other data of motor carriers as the Commission may deem necessary, to prescribe the schedules and services of motor carriers operating as common carriers, and to supervise and regulate motor carriers in all matters affecting the relationship between such carriers and the shipping public whether herein specifically mentioned or not.



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(b) The Commission is hereby vested with power and authority and it is hereby made its duty to require that each driver of a motor propelled vehicle owned or operated by a motor carrier under the provisions of this Act shall have a driver's license, which license shall be issued by the Commission pursuant to an examination testing the ability and fitness of the applicant and under such rules and regulations as the Commission may prescribe; provided that every driver aforesaid shall acquire a driver's license within thirty (30) days after this Act takes effect and shall annually thereafter on or before the anniversary of the date of the original license acquire a renewal thereof. Such license issued shall be for a term of one year. The Commission is empowered further to issue temporary licenses, in case of emergency, for such term as the Commission may deem expedient; provided such term shall not exceed ten (10) days and there shall be no right or privilege of renewal thereof. The Commission is hereby authorized to collect a fee of One Dollar (\$1.00) for each annual license fee or renewal. The Commission may suspend or revoke any such license for cause after notice and public hearing. It shall be unlawful for any motor carrier to operate a motor propelled vehicle in this State unless such vehicle is operated by a driver holding an unrevoked and uncanceled license issued by the Commission.

(c) The Commission is further authorized and empowered and it shall be its duty to supervise and regulate motor carriers in all matters affecting the relationship between such motor carriers and the shipping public that may be necessary in the interest of the public.

(d) The Commission is further authorized and empowered and it shall be its duty to supervise and regulate motor carriers in all matters whether specifically mentioned herein or not so as to carefully preserve, foster and regulate transportation and to relieve the existing and all future undue burdens on the highways arising by reason of the use of the highways by motor carriers, adjusting and administering its regulations in the interest of the public.

The Commission in prescribing and adopting rules and regulations and in forming its conclusions and in prescribing its orders shall invite the Highway Commission's opinion on the condition of the public highways involved and the ability of said highways to carry the existing and proposed additional traffic and the Commission shall give due and proper consideration to the orders, regulations, ordinances or recommendations of the Highway Commission of Texas; provided, however, nothing herein contained shall be deemed to restrict the powers of the Highway Commission under existing laws. The Commission shall also give due and proper consideration to the recommendations of the Commissioners' Courts of the several Counties and to the recommendations of the local government of any municipality through or between which motor carriers operate. [Acts 1929, 41st Leg., p. 698, ch. 314, as amended Acts 1931, 42nd Leg., p. 480, ch. 277, § 4.]

Sec. 5. No motor carrier shall hereafter operate as a common carrier for the transportation of property for compensation or hire over the public highways of this State without first having obtained from the Commission under the provisions of this Act a certificate declaring that the public convenience and necessity requires such operation; provided, however, the Commission shall, without application or hearing when this Act goes into effect, issue all motor carriers then operating lawfully under permanent certificates of public convenience and necessity heretofore issued to them, certificates in lieu of the certificates issued under the terms of the former law covering the same routes that said common carrier shall have been operating over, and no more.

Any certificate held, owned or obtained by any motor carrier operating as a common carrier under the provisions of this Act may be sold, assigned, leased, transferred or inherited; provided, however, that any

proposed sale, lease, assignment or transfer shall be first presented in writing to the Commission for its approval or disapproval and the Commission may disapprove such proposed sale, assignment, lease or transfer if it be found and determined by the Commission that such proposed sale, assignment, lease or transfer is not in good faith or that the proposed purchaser, assignee, lessee or transferee is not able or capable of continuing the operation of the equipment proposed to be sold, assigned, leased or transferred in such manner as to render the services demanded by the public necessity and convenience on and along the designated route, or that said proposed sale, assignment, lease or transfer is not best for the public interest; the Commission in approving or disapproving any sale, assignment, lease or transfer of any certificate may take into consideration all of the requirements and qualifications of a regular applicant required in this Act, and apply same as necessary qualifications of any proposed purchaser, assignee, lessee or transferee; provided, however, that in case a certificate is transferred that the transferee shall pay to the Commission a sum of money equal to ten per cent (10%) of the amount paid as a consideration for the transfer of the certificate, which sum of ten per cent (10%) shall be deposited in the State Treasury to the credit of the Highway Fund of the State; provided, further, that any certificate obtained by any motor carrier or by any assignee or transferee shall be taken and held subject to the right of the State at any time to limit, restrict or forbid the use of the streets and highways of this State to any holder or owner of such certificate. Every application filed with the Commission for an order approving the lease, sale or transfer of any certificate of convenience and necessity shall be accompanied by a filing fee in the sum of Twenty-five Dollars (\$25.00), which fee shall be in addition to the other fees and taxes and shall be retained by the Commission whether the lease, sale or transfer of the certificate of convenience and necessity is approved or not. [Acts 1929, 41st Leg., p. 698, ch. 314, as amended Acts 1931, 42nd Leg., p. 480, ch. 277, § 5.]

Sec. 6. (a) No motor carrier now operating as a contract carrier or that may hereafter desire to engage in the business of a contract carrier shall so operate until it shall have received a permit from the Commission to engage in such business and such permit shall not be issued until the applicant shall have in all things complied with the requirements of this Act; nor shall such permit be issued unless the character of business being done or to be done by the applicant strictly conforms with the definition of a contract carrier. The Commission shall have the power to suspend for ten (10) days any existing permit after notice and hearing and to revoke any existing permit when it appears that such permit holder has disobeyed or violated any provision of this Act or of General Laws regulating motor vehicles or violated any rule or regulation of the Commission authorized by this Act.

(b) No application for a permit shall be considered by the Commission unless it be reduced to writing and set forth the following facts:

(1) It shall contain the name and address of the applicant and the names and addresses of its officers, if any, and shall give full information concerning the financial condition and physical properties of the applicant.

(2) The application shall set forth the nature of the transportation in which the applicant wishes to engage stating substantially the territory to be covered by the operation and including the condition and character of the roads over which the transportation is to be performed.

(3) It shall give a description of each vehicle which the applicant intends to use, including weight and size of vehicle and its carrying capacity.

(c) No application for permit shall be granted by the Commission until after a hearing nor shall any such permit be granted if the Commission shall be of the opinion that the proposed operation of any such

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contract carrier will impair the efficient public service of any authorized common carrier or common carriers then adequately serving the same territory; provided, however, any person now lawfully operating as a Class "B" operator in this State who may desire to continue in the business of a motor carrier shall file an application for a permit or certificate under the terms of this Act within thirty (30) days after the effective date hereof and it shall be the duty of the Commission to determine such applications forthwith and such applicants may, subject to the provisions of this Act and to the orders, rules, rates and regulations of the Commission continue to operate as motor carriers pending the determination by the Commission of such application.

(d) The Railroad Commission is hereby given authority to issue upon application to those persons who desire to engage in the business of transporting for hire over the highways of this State live stock, mohair, wool, milk, live stock feedstuffs, household goods, oil field equipment, timber when in its natural state, farm machinery and grain special permits upon such terms, conditions and restrictions as the Railroad Commission may deem proper, and to make rules and regulations governing such operations keeping in mind the protection of the highways and the safety of the traveling public; provided that if this Act or any section, subsection, sentence, clause or phrase thereof, is held unconstitutional and invalid by reason of the inclusion of this subsection, the Legislature hereby declares that it would have passed this Act and any such section, subsection, sentence, clause or phrase thereof without this subsection. [Acts 1929, 41st Leg., p. 698, ch. 314, as amended Acts 1931, 42nd Leg., p. 480, ch. 277, § 6.]

Sec. 6-aa. The Commission is hereby vested with power and authority and it is hereby made its duty to prescribe rules and regulations covering the operation of contract carriers in competition with common carriers over the highways of this State and the Commission shall prescribe minimum rates, fares and charges to be collected by such contract carriers which shall not be less than the rates prescribed for common carriers for substantially the same service. [Acts 1931, 42nd Leg., p. 480, ch. 277, § 6.]

Sec. 6-bb. No application for permit to operate as a contract carrier shall be granted by the Commission to any person operating as a common carrier and holding a certificate of convenience and necessity, nor shall any application for certificate of convenience and necessity be granted by the Commission to any person operating as a contract carrier nor shall any vehicle be operated by any motor carrier with both a permit and a certificate. [Acts 1931, 42nd Leg., p. 480, ch. 277, § 6.]

Sec. 6-cc. No motor carrier operating in whole or in part in this State under a certificate or permit issued by the Railroad Commission of Texas, or any officer or agent of such motor carrier, shall require or knowingly permit any truck-driver or his helper to drive or operate a truck for a period longer than fourteen (14) consecutive hours; and whenever such driver or helper shall have been continuously on such duty for fourteen (14) hours, he shall be relieved and shall not be required or knowingly permitted to again go on duty until he has had at least eight (8) consecutive hours off duty; and no such driver or helper who has been on such duty fourteen (14) hours in the aggregate in any twenty-four (24) hour period, shall be required or knowingly permitted to continue or again go on duty without having had at least eight (8) consecutive hours off duty; and venue for prosecution under this Section shall lie in the county of the residence of the defendant; provided that in cases of emergency caused by the Act of God, the foregoing restrictions as to hours shall not apply. [Acts 1931, 42nd Leg., p. 480, ch. 277, § 6.]

Sec. 7. For the purpose of defraying the expenses of administering this Act every motor carrier operating as a contract carrier shall, at the time of the issuance of a permit to him and annually thereafter on or be-

tween September 1st and September 15th of each calendar year pay a special fee of Ten Dollars (\$10.00) for each motor vehicle operated or to be operated by such motor carrier. If the permit herein referred to is issued after the month of September of any year the fee paid shall be prorated to the remaining portion of the year ending August 31st following, but in no case less than one-fourth ( $\frac{1}{4}$ ) the annual fee. Provided that no person now authorized by law to operate as a Class "A" or Class "B" motor carrier, and who has paid annual vehicle fees required by law of the holders of certificates or permits for the year ending September 1, 1931, shall be required to pay any additional vehicle fees or additional fees incident to the issuance of certificates or permits required in this Act, for the year ending September 1, 1931, in lieu of those now required by law. Every application for a permit shall be accompanied by a filing fee in the sum of Ten Dollars (\$10.00) which fee shall be in addition to other fees and taxes and shall be retained by the Commission whether the permit be granted or not. [Acts 1929, 41st Leg., p. 698, ch. 314, as amended Acts 1931, 42nd Leg., p. 480, ch. 277, § 7.]

Sec. 8. The Commission is hereby vested with power and authority, and it is hereby made its duty upon the filing of an application for a certificate of public convenience and necessity to ascertain and determine under such rules and regulations as it may promulgate, after considering existing transportation facilities, and the demand for, or need of additional service, if there exists a public necessity for such service, and if public convenience will be promoted by granting said application and permitting the operating of motor vehicles on the highways designated in such application as a common carrier for hire. [Acts 1929, 41st Leg., p. 698, ch. 314, as amended Acts 1931, 42nd Leg., p. 480, ch. 277, § 8.]

Sec. 9. The Commission shall ascertain and determine if a particular highway or highways designated in an application for a certificate of public convenience and necessity are of such type of construction or in such state of repair, or subject to such use as to permit of the use sought to be made by the applicant, without unreasonable interference with the use of such highways by the general public for highway purposes. And if the Commission shall determine, after hearing, that the service rendered by existing transportation facilities or agencies is reasonably adequate, or that public convenience would not be promoted by granting of said application, and the operation of motor vehicles on the public highways therein designated, or that such highway or highways are not in such state of repair, or are already subject to such use as would not permit of the use sought to be made by the applicant without unreasonable interference with the use of such highways by the general public for highway purposes, then in either or any of such events said application may be denied and said certificate refused, otherwise the application shall be granted and the certificate issued upon such terms and conditions as said Commission may impose and subject to such rules and regulations as it has or may thereafter prescribe.

In determining whether or not a certificate should be issued to a motor carrier, the Commission shall give weight and due regard to:

(1) Probable permanence and the quality of service offered by the applicant.

(2) The financial ability and responsibility of the applicant and its organization and personnel.

(3) The character of vehicles and the character and location of depots or termini proposed to be used.

(4) The experience of the applicant in the transportation of property and the character of the bond or insurance proposed to be given to insure the protection of the public. [Acts 1929, 41st Leg., p. 698, ch. 314, as amended Acts 1931, 42nd Leg., p. 480, ch. 277, § 9.]

Sec. 10. No application for a certificate of public convenience and

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necessity shall be considered by said Commission unless it be in writing and set forth the following facts:

(1) It shall contain the name and address of the applicant and the names and addresses of its officers, if any, and shall give full information concerning the financial condition and physical properties of the applicant.

(2) The complete route or routes over which the applicant desires to operate, together with the description of each vehicle which the applicant intends to use.

(3) A proposed schedule of services and a schedule of rates to be charged between the several points or localities to be served.

(4) It shall be accompanied by a plat or map showing the route or routes over which the applicant desires to operate, on which plat or map shall be delineated the line or lines of any existing transportation company or companies serving such territory, and shall point out the inadequacy of existing transportation facilities or service, and shall specify wherein additional facilities or service are required and would be secured by the granting of said application.

The Commission in prescribing and adopting rules and regulations and in forming its conclusions and in prescribing its orders shall invite the Highway Commission's opinion on the condition of the public highways involved and the ability of said highways to carry the existing and proposed additional traffic and the Commission shall give due and proper consideration to the orders, regulations, ordinances or recommendations of the Highway Commission of Texas; provided, however, nothing herein contained shall be deemed to restrict the powers of the Highway Commission under existing laws. The Commission shall also give due and proper consideration to the recommendations of the Commissioners' Courts of the several Counties and to the recommendations of the local government of any municipality through or between which motor carriers operate. [Acts 1929, 41st Leg., p. 698, ch. 314, as amended Acts 1931, 42nd Leg., p. 480, ch. 277, § 10.]

Sec. 11. Upon the filing of said application for a certificate or permit, the Commission shall fix a time and place for hearing, and the place of hearing shall be in the City of Austin, Texas, unless otherwise ordered by the Commission. Notice of the filing of said application, and the time and place of hearing shall be given by mail not less than ten (10) days exclusive of the day of mailing before such hearing, addressed to the owner or owners of existing transportation facilities, serving such territory as applicant seeks to serve, as well as to the Highway Commission of the State of Texas, the County Judge or Judges of the counties and to the mayor of any incorporated city or town through which such carrier seeks to operate. [Acts 1929, 41st Leg., p. 698, ch. 314, as amended Acts 1931, 42nd Leg., p. 480, ch. 277, § 11.]

Sec. 12. (a) The hearing on an application for certificate or permit shall be conducted under such rules and regulations as the Commission may prescribe, and the parties interested, including the Highway Commission of this State, may appear either in person or by counsel and present such evidence and argument as they may desire and as the Commission may deem pertinent, in favor of or against the granting of such application. It shall be the duty of the Highway Commission, upon request of the Commission, to furnish information relating to the highway or highways designated in such application, as well as such other information as the Commission may deem pertinent to the hearing. After hearing and such investigation as the Commission may make, it shall be the duty of the Commission to grant or refuse the application, and in any contested hearing, the Commission shall along with its order, file a concise written opinion setting forth the facts and grounds for its action, and such opinion shall be admissible as evidence on any appeal taken therefrom; upon request of any party at interest in a contested hearing of any nature, the

proceedings shall be taken down and reported by a reporter under the direction of the Commission.

(b) The Commission at any time after hearing had, upon notice to the holder of any certificate or permit and after opportunity given such holder to be heard, may by its order revoke, suspend or amend any certificate or permit issued under the provisions of this Act, where in such hearing the Commission shall find that such certificate or permit holder has discontinued operation or has violated, refused or neglected to observe the Commission's lawful orders, rules, rates or regulations or has violated the terms of said certificate or permit; provided that the holder of such certificate or permit shall have the right of appeal as provided in this Act. [Acts 1929, 41st Leg., p. 698, ch. 314, as amended Acts 1931, 42nd Leg., p. 480, ch. 277, § 12.]

Sec. 13. Before any permit or certificate of public convenience and necessity may be issued to any motor carrier and before any motor carrier may lawfully operate under such permit or certificate as the case may be, such motor carrier shall file with the Commission bonds and insurance policies issued by some insurance company including mutuals and reciprocals or bonding company authorized by law to transact business in Texas in an amount to be fixed by the Commission under such rules and regulations as it may prescribe, which bonds and insurance policies shall provide that the obligor therein will pay to the extent of the face amount of such insurance policies and bonds all judgments which may be recovered against the motor carrier so filing said insurance policies and bonds, based on claims for loss or damages from personal injury or loss of, or injury to property occurring during the term of said bonds and policies and arising out of the actual operation of such motor carrier, and such bonds and policies shall also provide for successive recoveries to the complete exhaustion of the face amount thereof and that such judgments will be paid by the obligor in said bonds and insurance policies irrespective of the solvency or insolvency of the motor carrier, provided, however, such bonds and policies shall not cover personal injuries sustained by the servants, agents or employees of such motor carrier. Provided further that in the event the insured shall abandon his permit or certificate and leave the State, a claimant, asserting a claim within the provisions of said bonds or policies, may file suit against the company executing such bond or policies in a court of competent jurisdiction without the necessity of making the insured a party to said suit. Provided, however, that the Commission shall not require insurance covering loss of or damage to cargo in amount excessive for the class of service to be rendered by any motor carrier. Each such motor carrier shall, on or before the date of the expiration of the term of any policy or bond so filed by him, file a renewal thereof, or new bonds or policies containing the same terms and obligations of the preceding bonds and policies, and shall each year thereafter on or before the expiration date of the existing bonds and policies, file such renewal policies and bonds so as to provide continuous and unbroken protection to the public having legal claims against such motor carrier, and in the event such renewal bonds and policies are not so filed, the permit or certificate of public convenience and necessity of such motor carrier shall automatically expire and cease to exist.

Each motor carrier shall also protect his employees by taking out workmen's compensation insurance, either as provided by the Workmen's Compensation Laws of the State of Texas, or in a reliable insurance company authorized to write workmen's compensation insurance approved by the Commission. [Acts 1929, 41st Leg., p. 698, ch. 314, as amended Acts 1929, 41st Leg., 2nd C. S., p. 38, ch. 24, § 1; Acts 1931, 42nd Leg., p. 480, ch. 277, § 13.]

Sec. 13a. The Commission is vested with power and authority, and it is hereby made its duty to approve or disapprove the nature and char-

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acter of the equipment to be used under any permit or certificate and the amount and character of tonnage which may be hauled thereunder on any motor vehicle, trailer or semi-trailer used under such permit or certificate and in approving the amount and character of tonnage to be hauled on any such vehicles, trailers or semi-trailers under any permit or certificate, it may fix the number and size of boxes, packages, barrels or bales of any particular commodity to be transported on any such vehicles, trailers or semi-trailers under such permit or certificate and the method of loading such boxes, packages, barrels or bales of such commodity on the motor vehicles, trailers and semi-trailers to be used under such permit or certificate; provided, however, said Commission shall not authorize the use of any equipment of greater dimensions than otherwise permitted by law, nor any tonnage of greater weight than otherwise permitted by law.

Provided that if this section is for any reason held to be unconstitutional and invalid such decision shall not affect the validity of the remaining portions of this Act and the Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that this section be declared unconstitutional; provided further, that if this Act or any section, subsection, sentence, clause or phrase thereof is held to be unconstitutional and invalid by reason of the inclusion of this section, the Legislature hereby declares that it would have passed this Act and any such section, subsection, sentence, clause or phrase thereof without this section. [Acts 1929, 41st Leg., p. 698, ch. 314, as amended Acts 1931, 42nd Leg., p. 480, ch. 277, § 14.]

Sec. 13b. The Commission is hereby vested with power and authority and it is hereby made its duty to require all motor carriers to keep a set of accounts strictly in accordance with such classification of accounts and rules in respect thereto as may be established by the Commission and to file reports and such other data as the Commission may deem necessary, and which said accounts shall be open to the inspection of the Commission or its representatives at all times. [Acts 1931, 42nd Leg., p. 480, ch. 277, § 15.]

Sec. 14. The Commission shall have the power and authority under this Act to hear and determine all applications of motor carriers; to determine complaints presented to it by such carrier, by any public official or by any citizen having an interest in the subject matter of the complaint, or it may institute and investigate any matter pertaining to motor carriers upon its own motion. The Commission, or any member thereof, or authorized representative of the Commission, shall have power to compel the attendance of witnesses, swear witnesses, take their testimony under oath, make record thereof, and if such record is made under the direction of a Commissioner, or authorized representative of the Commission, a majority of the Commission may, upon the record, render judgment as if the case had been heard before a majority of the members of the Commission. The Commission shall have the power and authority under this Act to do and perform all necessary things to carry out the purpose, intent and provisions of this Act, whether herein specifically mentioned or not, and to that end may hold hearings at any place in Texas which it may designate.

Sec. 15. Every witness who shall be summoned to appear before the Commission, or a Commissioner or authorized representative outside the county of his residence shall receive for his attendance the same per diem and fees as now provided for witnesses in attendance in District Courts of this State in criminal cases; such fees and mileage shall be order [ordered] paid upon proper voucher, sworn to by such witness and approved by the Commission or the chairman thereof out of the monies or funds arising under this Act; provided that no witness shall be entitled to any witness fees or mileage who is directly or indirectly interested in any mo-

tor carrier involved or concerning which the investigation or hearing on account of which he is called, shall relate, and no witnesses furnished with free transportation shall receive pay for the distance he may have traveled on such free transportation. All process issued by the Commission for summoning witnesses or other purposes shall be directed to the sheriff or any constable of any county in the State of Texas, and any sheriff or constable of any county in this State shall promptly execute any subpoenas or other documents directed to him by the Commission and shall receive such fees for this service as is now paid for like services in the District Courts of this State, such payment to be made on accounts properly verified and approved by the Commission or the chairman thereof out of the fund provided in this Act.

Sec. 15a. Provided that any motor carrier at interest in any hearing may submit to the Commission the names and addresses of witnesses which he or it desires to use in such hearing, and it shall be the duty of the Commission to summon such witnesses. [Acts 1931, 42nd Leg., p. 480, ch. 277, § 16.]

Sec. 17. (a) For the purpose of defraying the expense of administering this Act, every common carrier\* motor carrier now regularly operating, or which shall hereafter regularly operate in this State, shall at the time of the issuance of a certificate of convenience and necessity, unless otherwise provided herein, and annually thereafter, on or between September 1st and September 15th of each calendar year, pay a special fee of Ten (\$10.00) Dollars, for each motor propelled vehicle operated or to be operated by such motor carrier in the carriage of property. If the certificate of convenience and necessity herein referred to is issued after the month of September of any year the fee paid shall be prorated to the remaining portion of the year ending August 31st following, but in no case less than one-fourth ( $\frac{1}{4}$ ) the annual fee. In case of emergency or unusual temporary demands for transportation the fee for additional motor propelled vehicles for less period shall be fixed by the Commission in such reasonable amounts as may be prescribed by general rule or temporary order. Every application for a certificate of convenience and necessity shall be accompanied by a filing fee in the sum of Twenty-five (\$25.00) Dollars, which fee shall be in addition to other fees and taxes and shall be retained by the Commission whether the certificate of convenience and necessity be granted or not. [Acts 1929, 41st Leg., p. 698, ch. 314, as amended Acts 1931, 42nd Leg., p. 480, ch. 277, § 18.]

Sec. 18. It shall be unlawful for any motor carrier as hereinbefore defined to operate any motor vehicle within this State unless there shall be displayed and firmly fixed upon the front and rear of such vehicle an identification plate to be furnished by the Commission. Each of such plates shall be designed so as to identify the vehicle on which the same is attached as being a vehicle authorized to operate under the terms of this law; said plate shall bear the number given to the vehicle by the Commission and such other marks of identification as may be necessary. The plates for common carrier vehicles and the plates for contract carrier vehicles shall be different in design. The identification plates provided for herein shall be in addition to the regular license plates required by law. It shall be the duty of the Commission to provide these plates and each motor vehicle operating in this State shall display such plates as soon as the same are received and such plates shall be issued annually thereafter and attached to each motor vehicle not later than September 1st of each year, or as soon thereafter as possible. The Commission shall be authorized to collect from the applicant a fee of One (\$1.00) Dollar, for each pair of plates so issued, and all fees for such plates shall be deposited in the State Treasury to the credit of the 'Motor Carrier Fund.' [Acts 1929, 41st Leg., p. 698, ch. 314, as amended Acts 1931, 42nd Leg., p. 480, ch. 277, § 19.]



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Sec. 19. (a) The Commission shall have power to employ and appoint from time to time such experts, assistants, and other help, in addition to its present force, as may be deemed necessary to enable it at all times to properly administer and enforce this Act. Such persons and employees of the Commission shall be paid for the service rendered such sums as may be fixed and prescribed by the Commission in monthly installments, and no employee of the Commission shall ask or receive any fee from any person for the taking of acknowledgments or any other service except as herein provided, and such salaries, wages, and all fees that may be paid to witnesses and officers shall be paid out of the Motor Carrier Fund by the State Treasurer on warrants of the Comptroller of Public Accounts on order or voucher approved by the Commission or the Chairman thereof. All actual and necessary traveling expenses of the members of the Commission and employees shall also be paid out of said Fund in the same manner as salaries, wages, and fees when such accounts shall have been itemized and sworn to by the Commission or employee incurring the expenses and approved by the Commission or the Chairman thereof.

(b) If the amount of total fees collected under the provisions of this Act shall not be sufficient during any annual period to pay such salaries, costs, charges, fees, and expenses, then the deficit shall be paid by the State Treasurer out of any fund not otherwise appropriated. Until sufficient funds have accrued to said Motor Carrier Fund for the payment of expenses, fees, etc., as provided herein, said expenses shall be paid by the State Treasurer out of any funds not otherwise appropriated, such sum to be paid out of the General Revenue not to exceed the sum of Five Thousand Dollars (\$5000.00), and said sum is hereby appropriated. Any surplus remaining in the Motor Carrier Fund at the end of any fiscal year, after paying such salaries, accounts, fees and charges and after deducting such amounts as may be contracted to be paid and incurred and such sums as may be reasonably estimated by the Commission for its use pending further collection of fees, shall be paid over to the General Revenue Fund. [Acts 1929, 41st Leg., p. 698, ch. 314, as amended Acts 1931, 42nd Leg., p. 480, ch. 277, § 20.]

Sec. 20. If any motor carrier or other party at interest be dissatisfied with any decision, rate, charge, rule, order act, or regulation adopted by the Commission, such dissatisfied person, association, corporation, or party after failing to get relief from the Commission may file a petition setting forth the particular objection to such decision, rate, charge, rule, order, act or regulations, or to either or all of them in the District Court in Travis County, Texas, against said Commission as defendant. Said action shall have precedence over all other causes on the docket of a different nature and shall be tried and determined as other civil causes in said court. Either party to said action may appeal to the Appellate Court having jurisdiction of said cause and said appeal shall be at once returnable to said Appellate Court having jurisdiction of said cause and said action so appealed shall have precedence in said Appellate Court over all causes of a different character therein pending; provided, that if the court be in session at the time such right of action accrues the suit may be filed during such term and stand ready for trial after ten days' notice. In all trials under this section the burden of proof shall rest upon plaintiff, who must show by the preponderance of evidence that the decisions, rates, regulations, rules, orders, classifications, acts, or charges complained of are unreasonable and unjust to it or them. The Commission shall not be required to give any appeal bond in any cause arising hereunder and no injunction shall be granted against any order of the Commission without hearing unless it shall clearly appear that irreparable injury will be done the complaining party if the injunction is not granted.

Sec. 21. Whenever notice is required in this Act to be given ten days exclusive of the day of service and return shall be considered as reason-

able notice; provided, that in case of emergency the Commission may hear any cause or complaint on less than ten days' notice.

Sec. 22. The State Board of Control is hereby authorized and directed to set aside such additional office space in the Capitol at Austin as may be deemed necessary by the Commission for the proper performance of its added duties as herein defined.

Sec. 22a. Any certificate of public convenience and necessity shall be cancelled by the Commission if the owner or owners thereof shall in any manner avoid, fail or refuse to pay any gasoline or other tax imposed by law on such business. [Acts 1929, 41st Leg., p. 698, ch. 314.]

Sec. 22b. Declaration of Policy. The business of operating as a motor carrier of property for hire along the highways of this State is declared to be a business affected with the public interest. The rapid increase of motor carrier traffic, and the fact that under existing law many motor trucks are not effectively regulated, have increased the dangers and hazards on public highways and make it imperative that more stringent regulation should be employed, to the end that the highways may be rendered safer for the use of the general public; that the wear of such highways may be reduced; that discrimination in rates charged may be eliminated; that congestion of traffic on the highways may be minimized; that the use of the highways for the transportation of property for hire may be restricted to the extent required by the necessity of the general public, and that the various transportation agencies of the State may be adjusted and correlated so that public highways may serve the best interest of the general public. [Acts 1931, 42nd Leg., p. 480, ch. 277, § 21.]

Sec. 22. [c]. All laws and parts of laws in conflict herewith are hereby expressly repealed. Provided, however, that nothing in this Act shall be construed as giving legislative sanction to any Act that would violate the provisions of the Anti-trust Laws of Texas. [Acts 1931, 42nd Leg., p. 480, ch. 277, § 22.]

\*[Common carrier in sec. 17 seems superfluous.]

Section 16 of said Acts 1929, 41st Leg., p. 698, ch. 314, being a penal provision is published as Penal Code art. 1690b.

Section 23 repeals all conflicting laws and parts of laws, provided it shall not be construed as giving legislative sanction to any act that would violate the Texas anti trust laws.

Section 24 declares that if any section is held unconstitutional, such decision shall not affect the remainder.

Effective May 28, 1931. Section 17, of said Acts 1931, 42nd Leg., p. 480, ch. 277, being a penal provision is published as Penal Code, art. 1690b.

Section 23 provides that if any section, subsection or clause of the act is held invalid, such decision shall not affect the remaining portions of the act.

## TITLE 26—CEMETERIES

[Art. 931a. Corporations for maintaining cemeteries, crematories or mausoleums]

Sec. 1. That corporations may be formed for the purpose of owning and maintaining public or private cemeteries, crematories and/or mausoleums and selling lots or parts of lots therein for profit.

Sec. 2. If definitely so stated in the charter of such corporation, such corporation shall have the right to create and maintain a fund for the perpetual care and maintenance of such cemetery and the lots and parts of lots therein; and such corporation shall be exempted from the provisions of Title 26, Revised Civil Statutes of Texas, 1925, in the event such fund for the perpetual care and maintenance of such cemetery and the lots therein is furnished created and paid entirely by such corporation out of its own funds and not created or provided by contributions and assessments upon the purchasers of lots or parts of lots in said cemetery.

Sec. 3. No cemetery shall hereafter be established within one mile of the city limits of an incorporated city or town of more than five thousand

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(5000) inhabitants in the State of Texas, nor shall any mausoleum and/or crematory be established within one mile of the city limits of any incorporated city or town in this state except in a cemetery heretofore established and operating. [Acts 1931, 42nd Leg., p. 353, ch. 210.]

Effective May 26, 1931.

## TITLE 28—CITIES, TOWNS AND VILLAGES

[Art. 969a. Lease of islands or submerged lands by certain cities]

Sec. 1. That any and every city located in any county of this State of less than one hundred thousand inhabitants, according to the last United States Census, and which county contains a city of more than forty-three thousand inhabitants according to said Census, to which the State of Texas or Republic of Texas shall heretofore have granted any island, flat or other submerged lands be, and are hereby granted power and authority to execute leases for periods of time not to exceed ninety-nine years for portions of such grants other than tracts reserved in Section 4 of this Act, as may from time to time be determined by such respective cities to which grants have heretofore been made; provided, however, that any and all such leases shall first be approved by a majority of the county Commissioners Court of the county wherein such property is situated.

Sec. 2. No provision shall ever be incorporated in any such lease restricting the right of the lessee to construct, establish, maintain, equip and operate docks, wharves, ferries, ferry landings, loading and unloading devices and shipping facilities and to demand and receive compensation for services furnished for private purposes or otherwise.

Sec. 3. Every such lease shall specify the purposes for which the same is made and provide a maximum period of five years within which the lessee shall exercise the rights and privileges granted.

Sec. 4. That there is reserved from this grant portions of any such island, flats or other submerged lands abutting and extending for a distance of two thousand feet along existing navigable channels now maintained by the United States Government, and extending back from such channels at the point of mean low tide for a distance of fifteen hundred feet, to be selected and laid out by such respective cities. [Acts 1929, 41st Leg., p. 197, ch. 82.]

Art. 1030. [927] [489] [428] Poll tax

The City Council shall have power to levy and collect an annual poll tax, not to exceed One (\$1.00) Dollar of every inhabitant of said city over the age of twenty-one (21) and under sixty (60) years, those persons exempt by law from paying the State Poll Tax excepted, who is a resident thereof at the time of such annual assessment. [As amended Acts 1931, 42nd Leg., p. 377, ch. 223, § 1.]

[Art. 1090a. Validating assessment ordinances and liens in certain cities]

Sec. 1. This Act shall affect all cities in the State of Texas having a population of more than one hundred thousand (100,000) according to the last preceding United States Census.

Sec. 2. In every instance where a city, coming under the provisions of this Act, has attempted to fix a lien upon property by assessment ordinance for the improvement and paving of streets, highways and boulevards, where the State, County and Federal Governments have contributed to the cost of such improvement, requiring the impounding of funds by such city for the purpose of guaranteeing its portion of the cost of such paving and improvements, all actions, resolutions, orders, ordinances and proceedings taken, made or passed in reference thereto, or pursuant thereto, are hereby confirmed, ratified and validated, and the lien attempted to

be fixed by said assessment ordinance is a valid and subsisting lien against the property assessed irrespective of any irregularities or defects in the proceeding and in like manner as if said assessment had been authorized in the first instance. [Acts 1931, 42nd Leg., p. 802, ch. 327.]

Effective April 25, 1931. Section 3 of said act repeals all conflicting laws and parts of laws and section 4 provides that if any provision is held unconstitutional, such decision shall not affect the remaining provisions.

**Art. 1107. [1003] [548] Condemnation of property**

5. Construct, maintain and operate municipal airports within or without the limits of such city or town. [As amended Acts 1931, 42nd Leg., p. 417, ch. 250, § 1.]

**[Art. 1109c. Eminent domain by cities or towns and independent school districts for playgrounds and other purposes]**

Sec. 1. All cities and towns in Texas, and all independent school districts having 150 scholastics or more, whether created under general or special laws, shall have the power by the exercise of the right of eminent domain, to acquire the fee simple title to real property for the purpose of supplying playgrounds, sites upon which to build school houses, and for such other purposes as may be necessary for such schools within any such city or town or independent school district.

In all such condemnations, the trial and all other proceedings, including the assessing of damages, shall be in conformity to the statutes of the State of Texas for condemning and acquiring property by railroads. Whenever final judgment is rendered in any such condemnation, the plaintiff therein shall be awarded the fee simple title to the property condemned, and such plaintiff thereupon shall acquire, and shall thereafter have, hold and possess such property in fee simple title, with full power over the same including the right of alienation.

Sec. 2. If the plaintiff in any condemnation proceeding should desire to enter upon and take possession of the property sought to be condemned pending suit, it may do so at any time after the award of the commissioners, upon the following conditions, to-wit:

First: It shall not be required to give any bond whatsoever, but it shall pay to the defendant the amount of damages awarded or adjudged against it by the Commissioners or deposit the same in money in Court subject to the order of the defendant, and also pay the costs awarded against it.

Second: If on an appeal from the award of the Commissioners the judgment shall exceed the amount of the award, plaintiff in the event it shall have previously taken possession of the property condemned, shall pay such judgment and costs that may be awarded against it, within sixty (60) days from the date of the final judgment in the case and, upon its failure so to do, the Court shall upon application of the defendant inquire what damages, if any, have been suffered by the defendant by reason of the temporary possession by plaintiff, and order the same paid out of the award so deposited in Court and order a writ of possession for the property in favor of the defendant, but if the final judgment on any such appeal shall be less than the amount of the award of the Commissioners, the Court shall adjudge the excess to be returned to the plaintiff.

Third: If the cause should be appealed from the decision of the County Court, the appeal shall be governed by the law governing appeals in other cases; except the judgment of the County Court shall not be suspended thereby. [Acts 1929, 41st Leg., p. 370, ch. 168.]

Section 3 of said Acts 1929, 41st Leg., p. 370, ch. 168, repeals all conflicting laws and parts of laws and provides that it shall be cumulative of all laws on the subject of eminent domain by cities or towns and independent school districts in so far as such laws do not conflict herewith. See, also, article 2905.

[Art. 1118a. Mortgage of gas, water, light or sewer systems by cities and towns]

Sec. 1. All cities and towns owning and operating their light systems and gas systems or water systems and gas systems or sewer and gas systems shall have power to mortgage and encumber any one or more of its gas, water, light or sewer systems and the franchise and income thereof and everything pertaining thereto acquired or to be acquired, to secure the payment of funds to purchase any one of same or to purchase additional water powers, riparian rights, or to build, improve, enlarge, extend or repair said systems or any one of said systems and as additional security therefor by the terms of such encumbrance may grant to the purchaser under sale or foreclosure thereunder a franchise to operate the system and properties so encumbered for a term not over twenty years after such purchase, subject to all laws regulating same then in force. No such obligation shall ever be a debt of such city or town, but solely a charge upon the properties so encumbered and shall never be reckoned in determining the power of such city or town to issue any bonds for any purpose authorized by law. Nothing herein shall be construed as prohibiting any such city or town from mortgaging and encumbering any one or more of said systems for the purpose of purchasing, building, improving, enlarging, extending, repairing or reconstructing another one or more of said systems and purchasing necessary land and other properties in connection therewith in the discretion of the governing body thereof.

Sec. 2. No such system or systems shall ever be sold until such sale is authorized by a majority vote of the qualified voters of such city; nor shall same be encumbered for more than Five Thousand (\$5,000.00) Dollars except for purchase money or to refund any existing indebtedness or for repair or reconstruction, unless authorized in like manner. Such vote where required shall be ascertained at an election of which notice shall be given in like manner as and which shall be held in like manner as in the cases of the issuance of municipal bonds by such city.

Sec. 3. Whenever the income of any system or systems shall be encumbered under this law, the expense of operation and maintenance, including all salaries, labor, materials, interest, repair and extensions necessary to render efficient service and every proper item of expense shall always be a first lien and charge against such incomes. The rates charged for services furnished for any such system shall be equal and uniform and no free service shall be allowed except for city public schools or buildings and institutions operated by such city. There shall be charged and collected for such service a sufficient rate to pay for all operating, maintenance, depreciation, replacement, betterment and interest charges and for interest and sinking fund sufficient to pay any bonds issued to purchase, construct or improve any such systems or of any outstanding indebtedness against same.

Sec. 4. Every contract, bond or note issued or executed under this law shall contain this clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

Sec. 5. The management and control of any such system or systems during the time they are encumbered shall by the terms of such encumbrance be placed in the city council or other governing body of said city. Such city council or other governing body shall have the power to make rules and regulations governing the furnishing of service to patrons and for the payment of same and providing for the discontinuance of such service, failing to pay therefor when due until payment is made. Such governing bodies shall have power to provide penalties for the violation of such rules and regulations and for the use of such service without the consent or knowledge of the authorities in charge therefor and to provide

penalties for all interference, trespassing or injury to any such system or systems, appliances or premises on which same may be located.

Sec. 6. A contract of encumbrance may provide for the selection of a trustee to make sale upon default in the payment of the principal or interest according to the terms of such contract and for the selection of his successor if disqualified or failing to act and for collection fees not exceeding five (5%) per cent of the principal. Such encumbrance shall provide that in the event of default and sale under foreclosure and the granting of a franchise to operate the system or systems and properties so purchased for a term of not over twenty years, as hereinbefore provided, that said city at any time during any stipulated time during said franchise, not to exceed periods of five (5) years during said time, shall have the right and privilege to repurchase said system or systems upon reasonable terms and at reasonable prices, to be set forth together with said optional periods of redemption in said encumbrance agreement and in said franchise.

Sec. 7. No collection fees shall accrue, and no foreclosure proceedings shall be begun in any court or through any trustee, and no option to mature any part of such obligation because of default in payment of any installment of principal or interest shall be exercised until ninety days written notice shall be given to each member of the city council of such city or town that payment has been demanded and default made, which notice shall date from the sending of a prepaid registered letter to each person to be notified, addressed to them at the post office in such city or town. If the installments of principal and interest then due shall be paid before the expiration of said ninety days, together with the interest prescribed in such contract, not exceeding ten (10%) per cent per annum, from the date of default until the date of payment, it shall have like effect as if paid on the date the same was originally due.

Sec. 8. In the encumbrance of any properties under this Act such city may encumber any such systems singly or together for the benefit and to secure funds for any one or more of said systems and may omit or include in said encumbrance the whole or any part of the properties mentioned in Section 1 of this Act.

Sec. 9. No part of the income of any such system or systems so encumbered shall ever be used to pay any other debt, expense or obligation of such city except a debt, expense or obligation of the system or systems encumbered or the system or systems for which said encumbered system or systems was so encumbered until the indebtedness so secured shall have been finally paid. [Acts 1931, 42nd Leg., p. 783, ch. 314.]

Effective April 9, 1931. Section 9a of said matter in cities of 27,000 and not more than acts 1931, repeals acts 1931, 42nd Leg., 28,000 inhabitants. p. 783, ch. 314, §§ 1-9 relating to the same

#### Art. 1119. [1018] Rates prescribed, etc.

The governing body of all cities and towns in this State of over five hundred (500) population, incorporated under the General Laws thereof, shall have the power to regulate, by ordinance, the rates and compensation to be charged by all water, gas, telephone companies, light and sewer companies, corporations or persons using the streets and public grounds of said city or town, and engaged in furnishing water, gas, light or sewerage service to the public, and also to prescribe rules and regulations under which such commodities shall be furnished, and service rendered, and to fix penalties to enforce such charges, rules and regulations. The governing body shall not prescribe any rate or compensation which will yield more than ten (10%) per cent per annum net on the actual costs of the physical properties, equipment and betterments. [As amended Acts 1931, 42nd Leg., p. 380, ch. 226, § 1.]

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

[Art. 1139a. Validating the incorporation of certain cities and towns]

That where, in any city or town heretofore incorporated or attempted to be incorporated under the General Laws of Texas, the petition calling for an election for the purpose of incorporating any such city or town, the order of the County Judge ordering such election, the notice, or notices of such election, the order of the County Judge declaring the result of such election, by inadvertence, oversight, or mistake, contained an incorrect description by metes and bounds of the territory incorporated or here attempted to be incorporated as such city or town, or where any other such irregularity in the proceedings for such incorporation was had, and where the governing body of such city or town has entered an ordinance correcting and setting forth the true field notes of the territory so incorporated or attempted to be incorporated, or where such ordinance has been entered correcting any other such irregularity in the proceedings for the incorporation of such city or town, and where such city or town has been acting or operating as an incorporated city or town, such incorporation, and any and all ordinances correcting the field notes, or any other irregularity of the proceedings has<sup>1</sup> for incorporation, are hereby in all things ratified, confirmed and validated and such cities or towns are hereby declared to be legally and validly incorporated. [Acts 1931, 42nd Leg., 1st C. S., p. 79, ch. 36, § 1.]

<sup>1</sup> Should probably be "had"

Art. 1174a. Validating charter or charter amendments

That each charter, and amendment to a charter adopted by any city or [of] more than five thousand inhabitants in this State, or where such city has amended or attempted to amend or adopt, such charter, since the enactment of Chapter 147, Acts of the Regular Session of the Thirty-Third Legislature of the State of Texas, 1913, relating to home rule, as well as all amendments and proceedings had under the same and all bonds issued under any amendment where the said bonds have been approved by the Attorney General and registered with the Comptroller, are hereby fully validated, ratified and confirmed and are hereby declared to be in full force and effect as if adopted in strict compliance with all of the requirements of said Chapter 147, Acts of the Thirty-Third Legislature, and the General Laws of Texas relating thereto, and this act shall take effect and be in force from and after its passage. [As amended Acts 1929, 41st Leg., p. 324, ch. 149, § 1.]

[Art. 1174b. Validation of annexation proceedings of home rule cities]

Sec. 1. All elections, election orders, election proceedings and city ordinances annexing adjacent territory to, or extending and prescribing the corporate limits of, any Home Rule City that has adopted a charter under Article Eleven (11), Section Five (5), of the Constitution of Texas, and the provisions of Chapter 147, Acts of the Regular Session of the 33rd Legislature of the State of Texas, 1913, but which City did not in fact have a population of five thousand according to the 1920 Federal Census, be and the same are hereby validated and confirmed.

Sec. 2. The city ordinances of all Home Rule Cities in the class described in the foregoing Section fixing and prescribing the corporate limits extended by the annexation or attempted annexation of adjacent territory are hereby validated. [Acts 1930, 41st Leg., 5th C. S., p. 139, ch. 16.]

[Art. 1175a. Extension of corporate limits by certain cities validated]

That all ordinances and proceedings, and all actions, proceedings and contracts, taken or made in pursuance thereof, of any city having a population of one hundred thousand and under one hundred fifty thousand, as shown by the preceding Federal Census, which have been, heretofore, passed under and in accordance with Article 1175, Revised Statutes 1925,

providing for the extension of the corporate limits of such city, are hereby ratified and confirmed, and such extensions and actions, proceedings and contracts, taken or made in pursuance thereof, shall be deemed and held valid in all respects and to the same extent as if done under Legislature [Legislative] authority, previously given. [Acts 1929, 41st Leg., p. 386, ch. 176, § 1.]

**Art. 1180A. [Improvement of streams within boundaries by certain cities]**

[Sec.] 1. Any City having a population in excess of 150,000 people and less than 240,000 people, according to the last or any succeeding Federal Census, shall have and exercise the power and right to straighten, widen, levee, restrain or other wise control or improve any river, creek, bayou, stream or other body of water, and to grade or fill land and otherwise protect life and property within the boundaries of such City, meaning hereby to confer the power to amend or abate any harmful excess of water, either constant or periodic, by any and all mechanical means, and, to that end, may provide and pay the cost of any such improvement, or any part thereof, in the manner and form provided by Articles 1179 and 1180, Revised Civil Statutes of 1925, or the cost of any such improvement, or any part thereof, may be provided in any other manner or form lawful to be exercised by any such City under the Constitution of Texas and not expressly prohibited by the Charter of any such City.

Sec. 2. Any such City, in addition to the power declared in Subdivision 1 of this Article, shall have these further specific powers, viz:

a. To contribute to the cost, upkeep, replacement, alteration, extension, maintenance and operation of any works or improvements contemplated hereby, when such improvements are to be provided and/or operated by another.

b. To solicit and receive from another contribution to the cost of any such improvements and/or the alteration, enlargement, operation and maintenance thereof, when such works are to be provided and operated by any such City.

c. To purchase, or otherwise acquire and take over any such improvements, and/or the maintenance or the operation thereof, any one or all, and, electively and when so contracted, to assume any outstanding bond debt or other debt secured by lien, which debt does not bear interest at a rate greater than six per cent per annum, and which debt may have been incurred in order to provide any such works and improvements. It is the intent hereof that this provision shall supercede and control any provision of a City Charter not in conformity hereto, but it is expressly provided that nothing herein contained shall be held to create indebtedness exceeding the limit for debt appropriately fixed by Law; provided no such city, in purchasing or acquiring any such improvements, or the right to maintain and control the properties of such levee or improvement district, shall assume any bonded indebtedness outstanding and owing by such levee or improvement district, unless and until such city shall have first been authorized to do so by an election, at which such question of assuming any indebtedness and/or maintenance shall be first submitted to, and adopted by, the qualified property-tax-paying voters of said city.

d. To enter into contract with another whereby any such City may, jointly with another or independently, do any one or all of the things by this Act intended.

Sec. 3. It is the intent hereof that any and all Bodies Politic which are subsidiary Governmental Agencies of the State, and otherwise having appropriate powers, may avail themselves of the provisions hereof and enter into contract one with another in order to accomplish the purpose of this Article.



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Sec. 4. Any such City and/or any other Body Politic and Corporate, which, under contract with a City having power hereunder, may seek to exercise the powers established by this Article, shall have the further power to provide the money required to construct, maintain and operate improvements hereunder, either separately or jointly under contract with another, in any manner lawful under the Constitution of Texas, and not expressly inhibited by the Charter and/or Statutory Act under which any such City or other contracting Body Politic may have its being.

Sec. 5. The word "another" or "others" as used herein shall be understood to include both the singular and the plural and shall be understood to include a City, a County, A Levee District, a Water Control and Improvement District, a Water Improvement District, a Navigation District and every other Body Politic under the Laws of Texas having Statutory powers concerning the control of harmful excess of water. [Acts 1931, 42nd Leg., p. 831, ch. 345.]

[Art. 1182a. Annexation of additional territory]

Sec. 1. Whenever the City Commission of any City within this State, acting under and by virtue of any Charter adopted under Home Rule Amendment Article 11, Section 5, of the Constitution of this State, shall initiate or order an election for the extension of the territorial limits of said city, to be submitted to the legally qualified property tax paying voters residing within the territorial limits of said city, to determine whether or not the adjacent territory desired to be annexed shall be included within the territorial limits of said city, said City Commissioners shall at the same time order an election to be held at some convenient place within said city limits, so that the legally qualified property tax paying voters residing in the territory contiguous to said city and proposed to be annexed, may appear and cast their vote for the purpose of determining whether a majority of the legally qualified property tax paying voters residing in said territory proposed to be annexed, favor the annexation of said territory proposed to be annexed.

Sec. 2. Whenever an election for the annexation of additional territory is held in accordance with the provisions of the foregoing section, said City Commissioners, when ordering such election for the annexation of said territory, shall prepare for the legally qualified property tax paying voters, printed ballots containing the following propositions to be voted on thereat.

"For annexation of additional territory and assumption by the city of all bonded indebtedness and flat rates owing to such water control and improvement district on the territory to be annexed and the levying and collecting of a tax on all property within the city limits sufficient to pay off and discharge said bonded indebtedness and flat rates."

"Against annexation of additional territory and assumption by the city of all bonded indebtedness and flat rates owing to such water control and improvement district on the territory to be annexed and the levying and collecting of a tax on all property within the city limits sufficient to pay off and discharge said bonded indebtedness and flat rates."

Sec. 3. If, at any election to be held under the provisions hereof, a majority of the legally qualified tax paying voters residing within the territorial limits of such city, and those residing within the territorial limits proposed to be annexed, shall each vote in favor of the annexation of such additional territory, said city shall thereby assume all of said bonded indebtedness and flat rates on the territory thus annexed and due such Irrigation District, Water Improvement District or Water Control and Improvement District, or either of them, and shall from thence forth out of the taxes collected on the territory thus annexed pay to said Irrigation District, Water Improvement District or Water Control and Improvement District, said bonded indebtedness and flat rates, owing to such district, or either of them as same become due and payable, and no city thus

annexing such territory shall be entitled to collect any taxes due it from the property owners within the territory annexed until said City shall pay such bonded indebtedness and flat rates, for the current year same become due and payable, and present to said property owner a receipt showing that said City has paid the same.

The order of election must give the metes and bounds of the territory to be annexed, and said metes and bounds shall be include [included] and made a part of the ordinance calling for the election.

The election herein provided for shall be ordered by the City Commissioners and the returns canvassed and the results declared as is provided by law for other elections pertaining to said City.

Said ordinance for the election must provide for separate elections and must be issued and public notice given thereof as in other city elections, and provided further that if a majority of the legally qualified property tax paying voters residing within the territorial limits of said city or if a majority of the legally qualified property tax paying voters residing within the territory desired to be annexed shall not be in favor of such annexations then such annexations shall not be made.

Sec. 4. Provided further, however, that nothing in this Act shall be held or construed to repeal or nullify any charter provision of any city of over one hundred thousand inhabitants according to the last United States census, operating under Article 11, Section 5 of the Constitution providing for the annexation of additional territory by ordinance, but shall be construed as an additional power and cumulative of the said charter provisions. [Acts 1929, 41st Leg., p. 251, ch. 110.]

Effective 90 days after March 14, 1929, date of adjournment. Section 5 of said Acts 1929, 41st Leg., p. 251, ch. 110, repeals all conflicting laws and parts of laws. Section 6 declares that if any section is held invalid, such decision shall not affect the remaining section.

Special laws 1931, p. 280, ch. 143, validates the extension of the corporate limits of

cities of more than 2500 inhabitants according to the last preceding Federal Census where such extension is made under any Home Rule Charter or ordinance since the enactment of Acts 1929, 41st Leg., c. 110, and validates all proceedings had, done or performed by the governing authorities of said cities or inhabitants thereof in regard to extension of city limits.

[Art. 1182b. Annexation of adjacent territory including water district or towns]

Sec. 1. In all cities having a population of more than One Hundred Fifty Thousand (150,000) and less than One Hundred Sixty Thousand (160,000) at the time of the taking of the Federal Census of 1920 and operating under a special charter or the Home Rule Act, the power to provide for the annexation of additional territory lying adjacent to said city according to such provisions as may be provided by said charter is hereby expressly granted, recognized, ratified and confirmed.

Sec. 2. Said cities may annex territory which includes one or more fresh water supply districts, organized under authority of Section 59 of Article 16 of the Constitution of the State of Texas whether organized under general or special law; also which includes cities and towns of less than five thousand (5,000) inhabitants operating under the general law.

Sec. 3. In the event such district or districts, or incorporated cities and towns are included in the annexed territory, it shall be the duty of the Governing Board of said City annexing such territory to adopt a resolution or pass an ordinance providing that all physical property belonging to said fresh water supply district or districts, or cities and towns so annexed, shall thereafter be vested in said city, provided that prior to the passage of any ordinance or resolution of the city annexing territory including fresh water supply district or districts, or incorporated cities and towns of under five thousand (5,000) inhabitants, the Board of Commissioners of such city annexing such territory, shall have been presented with an application for such annexation from the governing authority of such fresh water supply district or districts, or cities and towns of

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under five thousand (5,000) inhabitants included in the territory to be annexed.

Sec. 4. The ordinance or resolution passed or adopted by the governing board of said City shall provide that all bonded indebtedness of said fresh water supply district or districts and all legal indebtedness of such cities and towns, as provided herein, be assumed by said City. Immediately upon the passage of such resolution or ordinance the corporate existence of said fresh water supply district or districts, or cities and towns so annexed will have legally terminated and the outstanding bonds and interest unpaid thereon of said fresh water supply district or districts, and the legal indebtedness of such cities and towns, shall be paid by said City as they mature and accrue. [Acts 1929, 41st Leg., 1st C. S., p. 65, ch. 30.]

[Art. 1182c. Validating annexation by cities of fresh water supply districts]

Sec. 1. That in each instance when there has been presented to the governing body of any city having a population of 150,000 or more a petition by the supervisors of any fresh Water Supply District theretofore organized under Title 128, Chapter 4, Vernon's Revised Civil Statutes of 1925, or said Chapter 4 as amended asking that the territory therein described including such Fresh Water Supply District, be annexed to such city, and the governing body of such city, including such Fresh Water Supply District, said ordinance and all proceedings had in connection with its adoption and with said annexation of territory are hereby validated and legalized.

Sec. 2. That in each instance when the governing body of any such city has provided by ordinance for the annexation of territory, including any such Fresh Water Supply District, to such city and has provided in said ordinance that all outstanding legal indebtedness and all outstanding bonds and interest unpaid thereon of any such Fresh Water Supply District shall be assumed and paid by said city, such outstanding indebtedness and all such outstanding bonds and interest unpaid thereon are hereby declared to be the legal indebtedness of said city and for the payment thereof such city is authorized to levy taxes upon all taxable property therein, provided that this Act shall apply only on bonds or indebtedness of any Fresh Water Supply District, authorized and created pursuant to the approving vote of a majority of the qualified property taxpaying voters of any such District; and provided, further, that this Act shall not operate to abolish any of the contractual rights of the holders of said bonds or other evidence of indebtedness issued or incurred by such Fresh Water Supply District. [Acts 1931, 42nd Leg., Spec. L., p. 351, ch. 171.]

Section 3 of said act makes its provisions applicable only to petitions filed and ordinances adopted prior to its effective date.

[Art. 1193a. Validating extension of corporate limits of certain cities and towns]

Sec. 1. That this Act shall affect all cities in the State of Texas having a population of not less than 11,000 and not more than 11,500, according to the 1920 United States Census, and which are located in counties situated on a boundary of the State of Texas.

Sec. 2. In every instance wherein a city coming under the provisions of this Act has attempted to extend its corporate limits by including all of the territory of an adjoining city of less than 5,000 population, and has attempted to accomplish such extension of boundaries under Statutes providing for the consolidation of cities of more than 5,000 population, and/or in every instance wherein said extension of territory was attempt-

ed under Charter provisions which provide for the annexation of adjoining territory without reference to the fact that the adjoining territory is included in an incorporated city, all actions, resolutions, elections and ordinances taken, held, made or passed in reference thereto or pursuant thereto, are hereby confirmed, ratified and validated irrespective of any irregularities, and in like manner as if said consolidation or annexation had been authorized in the first instance. [Acts 1930, 41st Leg., 4th C. S., p. 2, ch. 2.]

[Art. 1193b. Validating extension of limits of certain cities]

That all ordinances and proceedings, and all actions and proceedings and contracts, taken or made in pursuance thereof, of any city having a population of more than twenty-five hundred (2500) inhabitants as shown by the last preceding Federal Census, which have been heretofore passed since the passage of Chapter 110 of the 41st Legislature of the State of Texas of 1929, providing for the extension of corporate limits of such city, are hereby ratified and confirmed, such extensions and actions, proceedings and contracts, taken or made in pursuance thereof, shall be deemed and held valid in all respects to the same extent as if done under legislative authority, previously given. [Acts 1931, 42nd Leg., Spec. L., p. 280, ch. 143, § 1.]

Art. 1206. Condemnation commission

(a) No property shall be taken without just compensation first made to the owner. If the amount of said compensation shall not be agreed upon, the governing body shall cause to be prepared, on behalf of the city, a statement in writing containing a description of the parcel or parcels of property sought to be taken, the names of the owner or owners thereof, if known, and the purpose for which said property is sought to be taken. The statement shall be filed with the Judge of a County Court at Law, if such Court exists in the county where the property is situated, otherwise with the County Judge of such county. Upon filing the statement the Judge shall forthwith, in term time or vacation, appoint a Commission consisting of three disinterested freeholders of said county who are qualified voters to assess the damages to accrue to said owners, or other interested parties, by reason of condemnation of said property.

In event of the death, disability, refusal to act, incapacity for any reason, or absence for more than thirty days from said county of any Commissioner appointed, at any time, the Judge shall forthwith appoint a new Commissioner or Commissioners having the qualifications herein prescribed, who shall succeed to and exercise all the powers and duties of the Commissioner or Commissioners originally appointed, and vacancies so caused in said Commission shall be so filled by the Judge whenever they occur. But all proceedings of said Commissioners prior to said vacancy shall be valid and it shall not be necessary for the Commissioners then qualified and acting to again do any Act or take any proceeding already done or performed, but said Commissioners shall proceed after the filling of said vacancy, and take all steps and do all things provided to be done hereunder as if no such vacancy had occurred.

(b) The clerk, secretary, or recording officer of the city, or the said Commission itself, shall give written notice to the owners of property proposed to be taken or damaged and to all persons having any interest in or lien upon said property, of a hearing before said Commission, which notice shall state the time and place of hearing, and may contain a brief statement of the nature and extent of the proposed improvement, and a description of the property proposed to be taken; such description may be by lot and block number, front feet, the name of the owner or owners, or by any other description which will substantially identify said property. Notice of said hearing shall be given by publication in a newspaper of general circulation in the county in which the property is situated, not

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

less than three separate days, the first publication to be not less than ten days prior to the date of hearing. Notice by publication shall be valid and binding upon the real and true owners of property and all persons having an interest in or lien upon the same, if it shall generally notify them to appear and be heard, without specifically designating said parties by name, and no error or mistake in the name of any person to whom said notice is directed shall invalidate the same. Said notice shall also be served by delivering to said owners, lienholders, or interested parties, if residents of the county where said property is situated, or to their agent or attorney, or if a minor to the Guardian thereof, a copy of said notice. The person serving said notice shall make and file with the clerk, secretary or recording officer of the city a return in writing thereon, stating when and how he served said notice. The governing body may provide for other and additional notice, but notice by publication shall in all cases be valid and binding, whether other notice is given or not. The governing body may provide for and cause to be given, in accordance with due process of law, any other and additional notice of any other hearing which may become or be deemed necessary upon the vacation of the office of a Commissioner and appointing of a new one, or for any other reason, and to provide for such hearings and the nature and effect thereof, and to cause as many and different hearings to be held in the course of condemnation proceedings as may be deemed necessary. Said Notices, and the return thereon, shall be filed with the city and preserved in its records.

(c) Hearings shall be adjourned and shall be kept open until all parties interested and appearing shall be fully heard. All owners, interested parties, or lienholders shall have the right to appear at said hearings in person or by agent or attorney, and be heard as to the value of property proposed to be taken or as to the damages to property not taken, resulting from the improvement, or as to the legality or regularity of the proceedings or any right of said owners and other parties. All objections or contests shall be in writing and filed with said Commission. When all parties have been heard the Commission shall close the hearing and find the damages due owners, lienholders, or others interested, for property taken or damaged, and shall in their findings apportion between them the amounts payable to each, and shall date and sign a report in writing, in duplicate, one of which reports shall be filed with the clerk, secretary or recording officer of the city, and one with the Clerk of the Court by whose Judge the Commission was appointed.

All proceedings of the governing body with reference to such condemnation, as well as all notices issued in connection therewith, returns thereof, orders, reports, and other proceedings of the Commission, and certified copies of all orders or proceedings of any Judge or Court with reference thereto, may be recorded in the Minutes of said governing body, and said record, or certified copies, thereof, and the original shall be prima facie evidence of the truth of all facts therein recited.

(d) Any party affected by the decision of said Commission who shall be dissatisfied therewith, shall, within ten days after the filing of said report with said Judge, file in his Court in opposition thereto, setting forth in writing the particular cause or causes of objection, and thereupon the adverse party or parties shall be cited and said cause shall be tried and decided as other civil causes in said Court. If no objections are filed with said Judge within said time, he shall cause the said report to be entered in the Minutes of his Court and make the same the judgment thereof, and may issue the necessary process to enforce the same.

Upon the expiration of said time for filing objections, the findings of said Commission shall become final and binding upon the parties, their heirs, successors and assigns, and shall not thereafter be questioned in any proceeding.

(e) Said Commissioners shall each be entitled to receive as compensation not exceeding Ten (\$10.00) Dollars for every day employed by them in the performance of their duties. [As amended Acts 1930, 41st Leg., 5th C. S., p. 236, ch. 75, § 1.]

Section 2 of Acts 1930, 41st Leg., 5th C. S., p. 236, ch. 75, provides that the provisions of Rev. Civ. St. 1925, title 28, ch. 17 (arts. 1201-1220) shall continue in force for the completion of proceedings heretofore commenced or initiated thereunder.

[Art. 1220a. Notices of assessments for street improvements]

Sec. 1. That the term "street" as used herein, shall include any street, avenue, alley, highway, boulevard, drive, public place, square or any portion or portions thereof.

Sec. 2. That whenever the Governing Body of any city, town or village shall, by resolution, ordinance or other proceedings, order, direct or provide or determine it to be necessary that any street be improved in any manner, then if it is proposed that all or any part of the cost of such improvements be levied or assessed and made a lien on property abutting thereon, there shall be filed with the County Clerk of the county or counties in which such property is situated, a notice signed in the name of such city, town or village by its Clerk, Secretary or Mayor or other officer performing the duties of such. Such notice shall meet all requirements of this Act when it shows substantially that the Governing Body of such city, town or village has ordered, directed or otherwise provided or determined it to be necessary that such street be improved and shall give the name thereof with the two cross streets or other approximate lengthwise limits between which same is to be or has been improved, or shall otherwise identify or designate same and shall state that a portion of the cost of such improvement is to be or has been specially assessed as a lien upon property abutting thereon. It is specially provided that one notice may embrace and include any number of streets or improvements.

Sec. 3. If it is proposed that all or any part of the cost of improving any such street be assessed as a lien on any property other than that abutting thereon, then a notice so signed shall be filed with the Clerk of the county or counties in which such property affected is situated, and such notice in such cases shall designate the property proposed to be assessed or the district within which assessments have been or may be made or shall otherwise identify the property against which a lien is proposed to be assessed.

Sec. 4. It shall not be necessary that any notice required by this Act give details or that it be sworn to or acknowledged, and same may be filed at any time and the County Clerk with whom any such notice is filed shall record same in the records of mortgages or deeds of trust and shall index same in the name of the city, town or village and in the name or other designation of the street or streets to the improvement of which the notice relates.

Sec. 5. That in all instances coming within the purview of this Act the lien of any assessment or re-assessment upon the property assessed or re-assessed shall take effect and be in force at and from the filing of the notice herein provided for and not before such filing and substantial compliance with the provisions of this Act shall be sufficient.

Sec. 6. That this Act shall not apply to or in any wise affect special assessments or re-assessments or liens fixed nor to any assessments, re-assessments or liens for any such improvements ordered, directed or provided for prior to the time this Act takes effect.

Sec. 7. That this Act shall supersede all other parts of laws with reference to the time that liens of any assessments or re-assessments shall take effect. [Acts 1930, 41st Leg., 5th C. S., p. 147, ch. 21.]

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

#### Art. 1265. Extension of limits

Amended by adding "5. Providing however that nothing in this Article shall be held or construed to repeal or nullify any charter provision of any city of over 100,000 and under 150,000 inhabitants, according to the preceding Federal census, operating under Article 11, Section 5 of the Constitution providing for the annexation of additional territory by ordinance but shall be construed as an additional power and cumulative of the said charter provisions, and all such charter provisions in effect at the time of the original passage of this Article are hereby ratified and confirmed and declared to be in full force and effect." [As amended Acts 1929, 41st Leg., 2nd C. S., p. 131, ch. 63, § 1.]

[Art. 1269. Repealed by Acts 1929, 41st Leg., p. 667, ch. 299, § 1]

[Art. 1269g. Repealed by Acts 1929, 41st Leg., 1st C. S., p. 209, ch. 83, § 4a]

This article was Acts 1929, 41st Leg., p. 614, ch. 231.

#### [Art. 1269h. Air ports, maintenance and operation]

Sec. 1. That the governing body of any incorporated city in this State may receive through gift or dedication, and is hereby empowered to acquire by purchase, without condemnation or by purchase through condemnation proceedings, and thereafter maintain and operate as an Air Port tracts of land, either within or without the corporate limits of such city and within the county in which such city is situated, the land acquired and held by any such city never to at any one time exceed six hundred forty acres, and the Commissioners' Court of any county may likewise acquire, maintain and operate for like purpose tracts of land within the limits of the county, not to exceed at any one time six hundred forty acres.

Sec. 2. For the purpose of condemning or purchasing either or both, lands to be used and maintained as provided in Section 1 hereof, and improving and equipping the same for such use, the governing body of any city or the Commissioners' Court of any county, falling within the terms of such Section, may issue negotiable bonds of the city or of the county, as the case may be, and levy taxes to provide for the interest and sinking funds of any such bonds so issued, the authority hereby given for the issuance of such bonds and levy and collection of such taxes to be exercised in accordance with the provisions of Chapter 1 of Title 22 of the Revised Civil Statutes of 1925.

Sec. 3. Any Air Port acquired under and by virtue of the terms of this Act [art. 1269h.] shall be under the management and control of the governing body of the city or the Commissioners' Court of the county acquiring the same, which is hereby expressly authorized and empowered to improve, maintain and conduct the same as an Air Port, and for that purpose to make and provide therein all necessary or fit improvements and facilities and to fix such reasonable charges for the use thereof as such governing body or Commissioners' Court shall deem fit, and to make rules and regulations governing the use thereof. All proceeds from such charges shall be devoted exclusively to the maintenance, up-keep, improvement and operation of such Air Port and the facilities, structures, and improvements therein, and no city or county shall be liable for injuries to persons resulting from or caused by any defective, unsound or unsafe condition of any such Air Port, or any part thereof, or thing of any character therein or resulting from or caused by any negligence, want of skill, or lack of care on the part of any governing Board or Commissioners' Court, officer, agent, servant or employee or other person with reference to the construction, improvement, management, conduct, or maintenance of any such Air Port or any structure, improvement, or thing of any character whatever, located therein or connected therewith.

Sec. 4. That in addition to and exclusive of any taxes which may be levied for the interest and sinking fund of any bonds issued under the authority of this Act [Art. 1269h.] the governing body of any city or the Commissioners' Court of any county, falling within the terms hereof, may and is hereby empowered to levy and collect a special tax not to exceed for any one year five cents on each One Hundred Dollars for the purpose of improving, operating, maintaining and conducting any Air Port which such city or county may acquire under the provision of this Act [Art. 1269h.], and to provide all suitable structures, and facilities therein. Provided that nothing in this Act [Art. 1269h.] shall be construed as authorizing any city or county to exceed the limits of indebtedness placed upon it under the Constitution. [Acts 1929, 41st Leg., 1st C. S., p. 209, ch. 83.]

Effective May 22, 1929. Section 4a of 83, repeals all conflicting laws and parts of Acts 1929, 41st Leg., 1st C. S., p. 209, ch. laws.

## TITLE 32—CORPORATIONS—PRIVATE

### Article 1302. [1121] [642] [566] Purposes

91. Corporations may be created to establish, support and maintain automobile clubs for the mutual benefit and protection of automobile operators, with power to acquire and own all property incidental to such business. Nothing in this Act shall be construed as legalizing corporations to write insurance as agents. [Acts 1929, 41st Leg., p. 102, ch. 47, § 1.]

91a. Private corporations may be created for the purpose of improving lands situated within Water Control and Improvement Districts, Water Improvement Districts, Levee Improvement Districts, Drainage Districts and to that end such corporations may own, improve, subdivide or sell such lands in the same manner that individuals may do for the purposes included in the Acts creating said districts. [Acts 1929, 41st Leg., p. 110, ch. 54, § 1.]

91-B. Private corporations may be created for the purpose of acquiring lands owned by private corporations and/or Trust Estates, operating by and through Trustees under Declaration of Trust, and acquired on or before March 1, 1931, from which the timber has been cut and removed, wholly or in part, for lumbering purposes, and such corporations, when so created, shall be authorized to acquire, own, subdivide, encumber, improve and sell such lands, the same as individuals may do. [Acts 1931, 42nd Leg., p. 116, ch. 74, § 1.]

Effective 90 days after May 23, 1931, date construed as affecting arts. 166 and 167 of adjournment. Section 2 repeals conflict- Title 5, Rev. Civ. St. 1925.  
ing laws but provides that it shall not be

[92]. Royalty Corporations. Corporations may be formed to acquire, bring together, hold, dispose of and deal in royalty and other interests in minerals, and to manage, control and exploit said mineral interests, and to collect the revenue arising therefrom. [Acts 1930, 41st Leg., 5th C. S., p. 144, ch. 19, § 1.]

[93]. Private corporations may be created for, or after being created, charters may be amended to include the supplying of water and sewerage service to the public. [Acts 1931, 42nd Leg., p. 41, ch. 32, § 1.]

Effective March 24, 1931. The Legisla- was added by Acts 1927, 40th Leg., p. 17,  
ture numbered this subd. 89, which number ch. 11, § 1.

[94]. Corporations may be created to establish, maintain, and operate orchestras, theatrical acts and concert attractions. [As amended Acts 1931, 42nd Leg., p. 414, ch. 247, § 1.]



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

[Art. 1302a. Corporations for owning abstract plants, insuring titles, lending money and dealing in securities, and acting as trustees, etc.; regulation by Insurance Commissioners]

Sec. 1. Private corporations may be created for the following named purposes;

(1) To compile and own, or to acquire and own records or abstracts of title to lands and interests in lands; and to insure titles to lands or interests therein, both in Texas and other states of the United States, and indemnify the owners of such lands, or the holders of interests in or liens on such lands, against loss or damage on account of incumbrances upon or defects in the title to such lands or interests therein.

Such corporations may also exercise the following powers by including same in the charter when filed originally, or by amendment:

(2) Make and sell abstracts of title in any counties of Texas or other states.

(3) To accumulate and lend money, to purchase; sell or deal in notes, bonds and securities, but without banking privileges.

(4) To act as trustee under any lawful trust committed to it by contract or will, appointment by any court having jurisdiction of the subject matter as trustee, receiver or guardian and as executor or guardian under the terms of any will and as any administrator of the estates of decedents under the appointment of the court.

Sec. 2. All corporations created and/or operating under the provisions of this law must have a paid-up capital of not less than One Hundred Thousand (\$100,000.00) Dollars. Any corporation organized hereunder having the right to do a title insurance business may invest as much as fifty per cent of its capital stock in an abstract plant or plants, provided the valuation to be placed upon such plants shall be approved by the Board of Insurance Commissioners of this State.

Provided that this Section shall not apply to corporations heretofore organized and operating, if such corporation has its domicile in a county of less than 10,000 inhabitants as shown by the United States census of 1920, and shall have a capital stock of at least \$25,000.00, and shall confine its writing of title policies to property located in the county of its domicile.

Sec. 3. Corporations so formed as well as foreign corporations and those created under Subdivision 57, Article 1302 of the Revised Statutes of 1925, or under Chapter 18, Title 78, Revised Statutes of 1925, or any other law insofar as the business of either may be a title insurance business, shall operate in Texas under the control and supervision and under such uniform rules and regulations as to forms of policies and underwriting contracts and premiums therefor, as may be from time to time prescribed by the Board of Insurance Commissioners of Texas; and no Texas or foreign corporation whether incorporated under this Act or any other law of the State of Texas shall be permitted to issue any title policy or mortgage certificate or underwriting contract on Texas property other than under this Act and under such rules and regulations. No policy of title insurance of [or] guarantee of any character on Texas titles shall be issued or valid unless written by a corporation complying with all provisions of and authorized or qualified under this Act. Before any rate provided for herein shall be fixed or changed, reasonable notice shall issue, and a hearing afforded to the companies affected by this Act. Every company doing business under this Act shall file with the Board of Insurance Commissioners the form of guarantee certificate, mortgage policy or any policy of title insurance before the same shall be issued, and the form must be approved by the Board, and be uniform as to all companies. Under no circumstances may any company use any form until after the same shall have been approved by the Board.

The Board of Insurance Commissioners shall have the right and it

shall be its duty to fix and promulgate the rates to be charged by corporations created or operating hereunder for premiums on policies or certificates and underwriting contracts. The rate fixed by the Board shall be reasonable to the public and nonconfiscatory as to the company. For the purpose of collecting data on which to determine the proper rates to be fixed, the Board shall have the right to require the companies operating in Texas to submit such information in such form as it may deem proper, all information as to loss experience [experienced], expense of operation, and other material matter for its consideration.

Rates when once fixed shall not be charged [changed] until after a public hearing shall be had by the Board, after proper notice sent direct to all companies interested in writing this business, and after public notice in such manner as to give fair publicity thereto for two weeks in advance. The Board must call such hearing to consider rate changes at the request of a company writing title insurance, or if the Board thinks that a change in rates may be proper. Any company or other person interested, feeling injured by any action of the Board with regard to rates, shall have the right to file a suit in the District Court of Travis County, within thirty days after the Board has made such order, to review the action, in which suit the Court may enter a judgment correcting the Board's order and fixing such rates as may be proper, or affirming the action of the Board. Under no circumstances shall any rate of premium be charged for policies or underwriting contracts different from those fixed and promulgated by the Board, or those fixed in a final judgment of the Court as herein provided.

Sec. 3-A. Corporations, domestic or foreign, operating under this Act shall not have the right to guarantee the payment of mortgages which cover real estate in Texas, and if any such corporation shall do so it shall forthwith forfeit and surrender its permit to do business.

Sec. 4. Corporations organized under the laws of any other State shall be permitted to do business in this State on exactly the same basis and subject to the same rules, regulations and prices and supervision as fixed for Texas corporations.

Sec. 5. Any foreign or domestic corporation issuing any form of policy or underwriting contracts or charging any premium rates to the public on either owners' or mortgagees' certificates or underwriting contracts on Texas properties other than forms and rates prescribed by the Board of Insurance Commissioners, hereunder, shall forfeit its right to do business in Texas; but this shall not be construed as intended to require the charge made by one title insurance company, qualified to do business under this Act and doing a general title insurance business for the public in this State, for reinsuring or underwriting all or any part of the business of another such company, to be the same as the charge to the public.

Sec. 6. All corporations, domestic and foreign, writing title or mortgage policies or underwriting contracts must at all times, have and keep on deposit with the State Treasury or such other depository as may be named by such corporation and approved by the Board of Insurance Commissioners, either cash or First Mortgage notes or such other securities as are now admissible for investment by Life Insurance Companies under the Laws of this State, to an amount equal to one-fourth of the authorized capital of such corporation; provided however that such deposit shall in no event exceed the sum of \$100,000.00.

Sec. 7. The General Laws applicable to payment of filing fees and franchise taxes of corporations having a capital stock are hereby made applicable to corporations coming under the provisions of this Act. Domestic corporations operating under this Law shall not be required to pay premium taxes.

Sec. 8. The Charter of corporations incorporated hereunder, and the amendments thereto, shall be filed with the Board of Insurance Commissioners, which said Board shall collect from the said companies filing fees and franchise taxes required under the law.

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Sec. 9. The Board of Insurance Commissioners after having satisfied itself by such investigation as it may deem proper with reference to the payment of capital stock and the value of the assets offered in payment thereof (the expense of which examination shall be borne by the company), shall issue to such company a certificate of authority to transact the characters of business provided for herein, which said certificate shall expire on the first of June next succeeding. Thereafter on or before the first of June and after the filing of the annual report herein required of each company, the said Board, upon being satisfied that the laws applicable to such companies have been complied with, shall issue a certificate of authority to said company to conduct such business until June 1st of the ensuing year. No company domestic or foreign shall transact business under this Act unless it shall hold a valid certificate of authority.

Sec. 10. Every company doing a title insurance business under the provisions of this Act shall set aside annually as a reserve 5% of its gross premiums so collected, before any dividends are paid, the totals of such reserve shall never be required to exceed a total reserve of \$100,000.00. Such reserve must be maintained separately and apart from the capital of the company, and shall be invested in such securities as are admissible for investment by life insurance companies under the Laws of this State. Funds accumulated under this provision shall never be used for the payment of any obligation other than those connected with title insurance, and, in the event of the insolvency of a company, the fund, hereby provided shall be used to protect title insurance policy holders even though there be no accrued title insurance claims and even though there be unpaid obligations of other sorts.

Sec. 11. No company operating under the provisions of this Act shall issue any policy of title insurance involving a contingent liability on said policy of more than fifty per cent of the capital stock and surplus of the company, unless the excess shall be simultaneously reinsured in some other responsible company qualified to do business in Texas. Such company may reinsure any or all of its business provided the reinsuring company shall be qualified to do business in Texas and the reinsuring contract shall be first approved by the said Board.

Sec. 12. The capital stock of every company operating under the provisions of this Act must be maintained intact over and above all of its outstanding liabilities, except contingent liabilities on policies of title insurance, and if such company shall permit the impairment of its capital stock, it shall not transact any further business of any sort until such time as it shall have made good its impairment and received permission of the Board of Insurance Commissioners to resume operations.

If such impairment shall be permitted to remain for a period of time up to six months, said Board of Insurance Commissioners shall immediately require the reinsurance of the outstanding policy or policies of any such concern and a liquidation of its assets and the winding up of its business.

Sec. 13. If any company operating under the provisions of this Law shall engage in the characters of business described in subdivisions (2) and (3) in the first Section hereof in such manner as might bring it within the provision of any other regulatory Statute now or hereafter to be in force within the State of Texas, all examination and regulation shall be exercised by the Board of Insurance Commissioners rather than any other State agency which may be named in such other laws, so long as such corporation engages in the title guaranty or insurance business.

Sec. 14. Every company, domestic and/or foreign, operating under the provisions of this act shall, upon or before the first of March each year, file with the Board of Insurance Commissioners a verified statement, in such form as the Board may require, setting forth the statement of the business done by it during the preceding year, and the condition of its affairs as of December 31st preceding. It shall be the duty of the Board of Insurance Commissioners biennially or oftener, if it shall be deemed

advisable, in person or through a duly appointed representative, to make a thorough examination of the company's books and affairs and the transactions in which it is engaged at the expense of said company, for which purpose the said Board, or its representative, shall have access to the books and records of the said company and shall have the right to interrogate and require answer under oath from any officer, agent or employee of the said company concerning any matters pertaining to the business thereof.

Sec. 15. Corporations chartered or operating under the provisions of this Act may use in their corporate name the words "Title and Trust Company" but they shall not use the word "Trust" alone, and where the word "Trust" appears, then in letter-heads and literature used by them they shall print the words, "Without Banking Privileges."

Sec. 16. Any foreign corporations desiring to transact the character of business provided for in this Act in this State shall make an application for permit or certificate of authority to the Board of Insurance Commissioners in such form as the Board shall prescribe and shall submit a financial statement showing its condition in such form as the Board shall prescribe.

Sec. 17. No such foreign corporation shall be permitted to do business in this State unless it shall show from its financial statement, and such other examination as the Board may desire to make, an unimpaired capital of at least One Hundred Thousand Dollars.

Sec. 18. Each such foreign corporation engaged in doing or desiring to do business in this State shall file with the Board of Insurance Commissioners an irrevocable power of attorney, duly executed, constituting and appointing the Life Insurance Commissioner and his successors in office, or any officer or Board which may hereafter be clothed with the powers and duties now devolving upon said Commissioner, its duly authorized agent and attorney in fact for the purpose of accepting service for it or being served with citation in any suit brought against it in any court of this State, by any person, or by or to or for the use of the State of Texas, and consenting that the service of any civil process upon him as its attorney for such purpose in any suit or proceeding shall be taken and held to be valid, waiving all claim and right to object to such service, and such appointment, agency and power of attorney shall, by its terms and recitals, provide that it shall continue and remain in force and effect so long as such company continues to do business in this State or to collect premiums of insurance from citizens of this State, and so long as it shall have outstanding policies in this State, and until all claims of every character held by the citizens of this State, or by the State of Texas, against such company, shall have been settled. Said power of attorney shall be signed by the President or a Vice-President and the Secretary of such company, whose signature shall be attested by the seal of the company; and said officer signing the same acknowledge its execution before an officer authorized by the Laws of this State to take acknowledgments. The said power of attorney shall be embodied in, and approved by, a resolution of the Board of Directors of such company, and a copy of such resolution duly certified to by the proper officer of said company, shall be filed with the said power of attorney in the office of the Commissioner, and shall be recorded by him in a book kept for that purpose, there to remain a permanent record of the said department.

Sec. 19. Whenever the said Commissioner shall accept service or to be served with citation in any suit pending against any title insurance company in this State, he shall immediately enclose the copy of the citation served upon him, or a substantial copy thereof, in a letter properly addressed to the general manager or general agent of the company against whom such service is had, if it shall have a general manager or general agent within this State, and if not, then to the home office of the company, and shall forward the same by registered mail, postage prepaid. No

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judgment by default shall be taken in any such cause until after the expiration of at least ten days after the general agent or general manager of such company, or the company at its home office as the case may be, shall have received such copy of such citation; and the presumption shall obtain, until rebutted, that such notice was received by such agent or company in due course of mail after being deposited in the mail in Austin.

Sec. 20. If any corporation, domestic or foreign, while holding a certificate of authority to transact business in this State, shall fail or refuse to comply with any of the provisions or requirements of this Act, the Board of Insurance Commissioners, upon ascertaining this fact, shall notify such company by actual notice in writing delivered to an executive officer of such company, of his intention to revoke its certificate of authority to transact business in this State at the expiration of thirty days after the mailing of such registered letter, or the date upon which such actual notice is served. If such provisions or requirements are not fully complied with upon the expiration of said thirty days, it shall be the duty of said Board to revoke the certificate of authority of such company. In case of such revocation, such company shall not be entitled to receive another certificate of authority for a period of one year, and until it shall have fully and in good faith complied with all such provisions and requirements of this Act. Any company feeling itself aggrieved by the action of the Board in revoking its certificate of authority to do business in this State may bring suit against it in Travis County to annul and vacate the order revoking such certificate.

Sec. 21. No commissions, rebates, discounts, or other device shall be paid, allowed or permitted by any company, domestic or foreign, doing the business provided for in this Act, relating to title policies or underwriting contracts; provided this shall not prevent any title company from appointing as its representative in any county any person, firm or corporation owning and operating an abstract plant in such county and making such arrangements for division of premiums as may be approved by the Board of Insurance Commissioners.

Sec. 22. Any corporation organized and incorporated under the laws of any other state, territory or country for the purpose of transacting a title insurance or title guaranty business shall be required to pay the same filing fees and occupation tax as any foreign casualty company is required to pay in order to procure a permit to do business in Texas. Such foreign title companies will not be required to pay a franchise tax.

Sec. 23. From and after the passage of this Act no corporation shall be chartered under Subdivision 57, Article 1302, Revised Statutes of Texas, 1925, but all corporations heretofore incorporated and now doing business in Texas, shall be permitted to continue in business and shall be subject to all the provisions of this Act and such companies shall have six months within which to comply with the requirements of this Act with reference to investments and deposits. Stockholders in a company acting hereunder shall not be liable in the event of default in the payment of any debt or liability of such company beyond their subscription for such stock unless such company shall have charter power to do a trust and fiduciary business under Subdivisions 3 and 4 hereof of Section No. 1 hereof; in which later event, if default shall be made in the payment of any debt or liability contracted by such company each stockholder of such corporation, as long as he owns shares therein and for twelve months after the date of the transfer thereof shall be personally liable for all debts of such corporation, existing at the date of such transfer, or at the date of such default to an additional amount equal to the par value of such shares. [Acts 1929, 41st Leg., p. 77, ch. 40, as amended Acts 1931, 42nd Leg., p. 449, ch. 269, § 1.]

Effective May 29, 1931. This act was filed without the Governor's signature.

Sec. 24. The terms and provisions of this Act are conditions upon which corporations doing the business provided for herein may continue to exist, and failure to comply with any of them or a violation of any of the terms of this Act shall be proper cause for revocation of the permit and forfeiture of charter of a domestic corporation or the permit of a foreign corporation. [Acts 1929, 41st Leg., p. 77, ch. 40.]

**Art. 1307. [1124] [679] [603] Notice by firm**

Whenever any banking, mercantile or other business firm desires to become incorporated without a change of the firm name, such firm shall, in addition to the notice of dissolution required at Common Law, give notice of such intention to become incorporated, for at least four (4) consecutive weeks in some newspaper published at the seat of State Government, and in the County in which such firm has its principal business office, if there be a newspaper in such County, and, if not, then in some newspaper published in some adjoining County; provided, however, that said notice shall only be published one (1) day in each week during said four (4) weeks. Until such notice has been so published for the full period above named, no change shall take place in the liability of such firm or the members thereof.

Sec. 2. All notices required to be given by Article 1307 heretofore, in which publication has been made once each week for four (4) consecutive weeks, is hereby validated and legalized. [As amended Acts 1931, 42nd Leg., p. 190, ch. 111.]

Effective 90 days after May 23, 1931, date the Governor's signature of adjournment. This act was filed without

**Art. 1313. [1130-1-2] Filing charter**

When the stockholders of any company shall furnish satisfactory evidence to the Secretary of State of a compliance with the provisions of this Chapter, said officer shall receive, and file the charter of such company in said office, upon application and the payment of all fees provided therefor, and give his certificate showing the filing of such charter and authority to do business thereunder. The charter shall thereupon be filed in the office of the Secretary of State who shall retain the original on file in said office. A copy of the charter, certified under the great seal of the State, shall be evidence of the creation of the corporation. The existence of the corporation shall date from the filing of the charter in the office of the Secretary of State. The certificate of the Secretary of State shall be evidence of such filing. [As amended Acts 1929, 41st Leg., p. 530, ch. 255, § 1.]

**Art. 1320. [1140] [651] [575] General powers**

Amended by changing subdivision 8 to read "8. To increase or diminish, by a vote of its stockholders cast as its by-laws may direct, the number of its directors or trustees, such number, however, to be not less than three." [Acts 1929, 41st Leg., p. 303, ch. 140, § 1.]

**[Art. 1321a. Construction of provision as to exclusive right of trustee to sue]**

That provisions of deeds of trust, indentures, mortgages, assignments and transfers of property executed to secure the payment of bonds, debentures or other obligations, issued thereunder, vesting in the Trustees named therein the exclusive right to institute any and all suits, at law or in equity, necessary or proper to enforce the covenants and agreements therein made, or to liquidate the trust therein created, and denying to the holders of such bonds, debentures and obligations the right to institute or prosecute such suit or suits, or to liquidate such trust until after a failure or refusal of such trustee so to do, upon request made in the manner provided for therein, shall not be construed as agreements to

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oust the Courts of this State of their rightful jurisdiction, nor as agreements against the public policy of this State. [Acts 1931, 42nd Leg., p. 738, ch. 288, § 1.]

#### Art. 1330. [1145] [652] [576] Increase of Capital Stock

The Board of Directors or other managing officers of a corporation may increase its authorized capital stock, including the issuance of preferred stock, which stock shall have such rights, powers, privileges and preferences as are now authorized by law, when empowered to do so by a two-thirds vote of all of its outstanding stock with voting privileges, at a special or regular meeting called for that purpose by complying with the provisions of Article 1308, and/or Article 1538-D, as the case may be. Par value stock, issued or unissued, may be converted into preferred stock in the same manner and subject to the same limitations as no par stock may be so converted under Article 1538-H, Revised Civil Statutes of 1925.

Upon such increase or conversion of stock being made in accordance with such provisions and certified to the Secretary of State by the Directors, and, if the increase has been made in accordance with law, he shall file such certificate; and thereupon, the same shall become a part of the capital stock of such corporation. Such certificate shall be filed and recorded in the same manner as the charter. All preferred stock heretofore authorized to be issued, or issued, or stock converted into preferred shares, by vote of two-thirds of the outstanding stockholders, is hereby ratified, legalized and validated. [As amended Acts 1931, 42nd Leg., p. 78, ch. 51, § 1.]

Section 2 repeals all conflicting laws and parts of laws and provides that if any part is held invalid, such decision shall not affect the remainder.

#### [Art. 1415a. Regulating commercial colleges]

Sec. 1. Any person, partnership, association of persons or any corporation which may desire to open a Commercial College, or to establish a branch college or school in this State for the purpose of teaching book-keeping, stenography, typing, telegraphy, and other courses which are usually taught in Commercial Colleges, before commencing business, must secure a permit from the Secretary of State of the State of Texas authorizing such person, partnership, association of persons, or corporations to open and to conduct such Commercial College or branch college or school. The application for such permit shall state specifically the name of such person, partnership, association of persons or corporation, and give the name and address of the person, the name and address of each member of the partnership, the name and address of each person forming the association, or the name of the corporation, and of each director and officer of such corporation.

Sec. 2. Before the Secretary of State shall issue such permit, the person, partnership, association of persons or corporation shall execute a bond in the sum of ten thousand dollars, signed by a solvent guaranty company authorized to do business in the State of Texas, payable to the County Judge of the County in which such college, or branch college or school will be located, and conduct its business conditioned that the principal in said bond will carry out and comply with each and all contracts, either verbal or written, made and entered into by said college, or branch college or school, acting by and through its officers or agents, with any student who desires to enter such college and to take any course in commercial training, and to pay back to such student all amounts collected for tuition and fees in case of failure on the part of the parties obtaining a permit from the Secretary of State to open and conduct a Commercial College, or branch college or school, to comply with its contracts to give the instruction contracted for, and for the full period evidenced by such contract. Such bond shall be filed with county clerk of the county in which

the College or branch college or school executing the bond is located and recorded by such Clerk in a book provided for that purpose.

Sec. 3. In any and all cases where the party receiving the permit from the Secretary of State fails to comply with any contract made and entered into with any student or with the parents or guardians of such student, such student or his parents or guardian shall have a cause of action against the sureties on the bond executed as herein provided for the full amount of the payments made to such person, with 10% interest from the date of the payment of said amount, and for reasonable attorney's fees for instituting and prosecuting such suit. Any court of competent jurisdiction in the county in which the college or branch college or school is located shall have venue to try and prosecute such suits.

Sec. 5. The provisions of this Act shall not apply to any University, College or regular High School which has heretofore adopted or which may hereafter adopt one or more commercial courses nor to any Commercial College heretofore established, provided the tuition fees and charges, if any made by such University, Commercial College, College or regular High School, shall be collected by their regular officers in accordance with the rules and regulations prescribed by the Regents or Board of Trustees of such University, Commercial College, College or High School.

Sec. 6. All persons, partnerships, associations of persons which are non-residents of Texas, or corporations organized and chartered under the laws of any other State, must comply with the provisions of this Act before such can open and conduct a Commercial College or branch college or school in the State of Texas. [Acts 1929, 41st Leg., p. 523, ch. 250.]

Effective March 19, 1929. Section 4 of said Acts 1929, 41st Leg., p. 523, ch. 250 is a penal provision published as Penal Code,

art. 301a. Section 7 provides that if any section is held invalid, the remainder shall nevertheless remain in effect.

Arts. 1520-1524. [Repealed by Acts 1931, 42nd Leg., p. 280, ch. 165, § 11]

[Art. 1524a. Corporations for loaning money and dealing in bonds and securities without banking and discounting privileges; regulations]

Sec. 1. This Act shall embrace corporations heretofore created and hereafter created having for their purpose or purposes any or all of the powers now authorized in Subdivisions 48, 49 or 50 of Article 1302, Revised Civil Statutes of Texas, 1925, and heretofore or hereafter created having in whole or in part any purpose or purposes now authorized in Chapter 275, Senate Bill Number 232 of the General and Special Laws of the Regular Session of the 40th Legislature. No such corporation shall act as agent or trustee in the consolidation of or for the purpose of combining the assets, business or means of other persons, firms, associations or corporations, nor shall such corporation as agent or trustee carry on the business of another. No such corporation shall offer for sale or sell its bonds, notes, certificates, debentures or other obligations unless it shall have an actual paid in capital of not less than Ten Thousand (\$10,000.00) Dollars.

Sec. 2. The Banking Commissioner of Texas shall examine or cause to be examined such corporations annually or oftener if he deems it necessary. Said corporation shall pay the actual traveling expenses, hotel bills, and all other actual expense incident to such examination and a fee not exceeding one-eighth of one per cent of its actual paid-in capital. If such corporation had not sold in Texas its bonds, notes, certificates, debentures or other obligations and does not offer for sale or sell in Texas its bonds, notes, certificates, debentures or other obligations, the Banking Commissioner of Texas, in lieu of an examination, shall accept a



*For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes*

financial statement made on such form, containing such information as he desires. The Banking Commissioner of Texas is hereby authorized to appoint not to exceed one examiner for every fifty (50) of such corporations. Each examiner shall take the oath and furnish a bond as required of State Bank Examiners, and shall receive an annual salary as follows:

Three Thousand (\$3,000.00) Dollars for the first year; Three Thousand Five Hundred (\$3,500.00) Dollars for the second year; Four Thousand (\$4,000.00) Dollars for the third year and subsequent years. Such examiner shall have authority to administer oath in performance of his duties.

Sec. 3. Refusal on the part of any such corporation to submit to an examination by the Banking Commissioner of Texas, or his representatives, or the withholding of information from the Banking Commissioner of Texas, or his representatives, shall constitute grounds for forfeiture of the charter of such corporation at the suit of the Attorney General upon the request of the Banking Commissioner of Texas.

Sec. 4. Such corporation that has sold in Texas its bonds, notes, certificates, debentures or other obligations or is offering for sale in Texas its bonds, notes, certificates, debentures or other obligations, shall publish in some newspaper of general circulation in the County where it has its principal place of business, on or before the first day of February each year a statement of its condition on the previous 31st day of December, in such form as may be required by the Banking Commissioner of Texas showing under oath its assets and liabilities and shall file a copy of such statement with the Banking Commissioner of Texas together with a fee of Ten (\$10.00) Dollars for filing.

Such corporation that has not sold in Texas its bonds, notes, certificates, debentures or other obligations and does not offer for sale or sell in Texas its bonds, notes, certificates, debentures or other obligations, shall file with the Banking Commissioner of Texas on or before the first day of February of each year a statement of its condition on the previous 31st day of December, in such form as may be required by the Banking Commissioner of Texas showing under oath its assets and liabilities, together with a fee of Two (\$2.00) Dollars for filing, which report, when so filed, shall not be open to the public but shall be for the information of the Banking Commissioner and his employees. The Banking Commissioner, or his authorized assistants or representatives, shall not make public the contents of said report, or any information derived therefrom, except in the course of some judicial proceedings in this State.

Sec. 5. If any such corporation shall fail to comply with Section 4 of this Act in the manner and within the time required, such failure shall subject such corporation to a penalty of not less than Two Hundred (\$200.00) Dollars nor more than One Thousand (\$1,000.00) Dollars, which shall be collected at the suit of the Attorney General if not paid within thirty (30) days after February first of each year. A second failure to publish or file such statement, as so required, shall be grounds for forfeiture of the charter of said corporation at the suit of the Attorney General upon request of the Banking Commissioner of Texas.

Sec. 6. Any officer, director, or stockholder of any corporation affected by the provisions of this Act, or any person acting for any such corporation, who shall write, print, publish or advertise in any manner, any false statement pertaining to the financial condition of such corporation, shall be fined not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars, or be confined in jail not less than three nor more than twelve months, or both such fine and imprisonment.

Sec. 7. All bonds, notes, certificates, debentures, or other obligations sold in Texas by any corporation affected by a provision of this Act shall be secured by securities of the reasonable market value, equaling at

least at all times the face value of such bonds, notes, certificates, debentures or other obligations. If such corporation sells in Texas bonds, notes, certificates, debentures or other obligations upon which it receives installment payments, such bonds, notes, certificates, debentures and other obligations shall be secured at all times by securities having the reasonable market value equal to the withdrawal or cancellation value of such obligations outstanding. Said securities shall be placed in the hands of a corporation having trust powers approved by the Banking Commissioner of Texas as Trustee under a trust agreement, the terms of which shall be approved in writing by the Banking Commissioner of Texas. Provided, that before selling or offering for sale on the installment plan in Texas any such bonds, notes, certificates, debentures, or other obligations, such corporation shall file with the Banking Commissioner specimen copies of such bonds, notes, certificates, debentures or other obligations. Unless within sixty (60) days after the filing of any such specimen copy the Banking Commissioner issues a notice to such corporation of a hearing to determine whether such instrument is fraudulent, unreasonable or inequitable, the same shall be deemed to have been approved by the Banking Commissioner. But if, after hearing pursuant to notice issued within said period of sixty (60) days, the Banking Commissioner should find and determine that any such bond, note, certificate, debenture, or other obligation is either fraudulent, unreasonable, or inequitable, such corporation shall have no right to sell or offer for sale in the State of Texas such bond, note, certificate, debenture or other obligation so found to be fraudulent, unreasonable, or inequitable. Provided, that any such corporation may have such finding reviewed in the District Court of Travis County, Texas, by filing suit against the Banking Commissioner in such Court at any time within sixty (60) days after receiving notice of such finding. In such suit such corporation shall be entitled to a trial de novo on the issues on which the Banking Commissioner shall have made such adverse findings. If as the result of such trial the issues shall be determined favorably to such corporation, the adverse findings of the Banking Commissioner shall have no further binding force or effect; and in that event, the right to sell such notes, bonds or other obligations may be protected by injunction issued in said cause. Provided, that either party shall have the right of appeal according to Statutes governing appeals in Civil cases.

All cash or securities left with the State Treasurer in compliance with Article 696, Revised Civil Statutes of 1925, shall be considered as part of the collateral required under this Section.

All bonds, notes, certificates, debentures or other obligations, sold or offered for sale in Texas by such corporation shall definitely describe the character of collateral securing the payment of such obligation.

In the event any such corporation shall sell or offer for sale in Texas, any bonds, notes, certificates, debentures or other obligations without complying with this Section, such conduct shall constitute grounds for the forfeiture of its charter at the suit of the Attorney General, which suit shall be brought upon the request of the Banking Commissioner of Texas.

Sec. 8. Every officer, director, employee or agent of such corporation whose bonds, notes, certificates, debentures or other obligations have been sold and are outstanding, or such corporation that is offering for sale its bonds, notes, certificates, debentures or other obligations, who handles or has the custody of funds, books or records belonging to such corporation, shall, before entering upon the discharge of his duties, give a good and sufficient bond in the sum as shall be fixed by the Board of Directors of such corporation, conditioned for the faithful performance of his duties and such pecuniary loss as the association may sustain for money or other securities embezzled, wrongfully abstracted or willfully misapplied by any such officer or employee in the course of his employment as

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such, or in the course of his employment in any other position in such corporation. Such bond shall be made by a Surety company authorized to do business in this State. The terms, amount of the bond and the solvency of said Surety company shall be subject to the approval of the Banking Commissioner of Texas.

Sec. 9. If upon examination of such corporation that has sold and has outstanding its bonds, notes, certificates, debentures or other obligations, or of such corporation that is offering for sale its bonds, notes, certificates, debentures or other obligations, it shall appear that the assets of such corporation are less than its liabilities, including its capital stock, the Banking Commissioner of Texas shall notify it thereof in writing and if such corporation shall not, within thirty days from the receipt of said notice, restore and make good such impairment of its capital, then it shall be the duty of the Attorney General upon request of the Banking Commissioner of Texas to file suit for the forfeiture of the charter of such corporation and the appointment of a receiver to wind up its affairs. Or, if it shall appear from such examination that such corporation has exceeded its corporate powers or has been guilty of unlawful act or acts, or is failing to comply with this Act, said Banking Commissioner of Texas shall give notice to such corporation to cease such act or practices and to conduct its business in accordance with law and its charter powers. Failure or refusal to comply with the notice of the Banking Commissioner of Texas within 30 days from receipt of said notice shall constitute grounds for the forfeiture of the charter of such corporation at the suit of the Attorney General upon request of the Banking Commissioner of Texas.

Sec. 10. The provisions of this Act shall apply to foreign corporations who have heretofore been granted permission to do business in Texas and who may hereafter be granted permission to do business in Texas and having as their purpose or purposes any part of the provisions set out in Section One of this Act. Every foreign corporation having such a permit to do business in this State shall be subject to the examination of the Banking Commissioner of Texas in the same manner and under the same terms and conditions as examination of domestic corporations. In lieu of such examinations, the Banking Commissioner of Texas may, in his discretion, accept reports of examination made by the supervising authority of the State in which the home office of such foreign corporation is domiciled. Failure to comply with this Act shall constitute grounds for forfeiture of the permit of such foreign corporation to do business in this State at the suit of the Attorney General upon request of the Banking Commissioner of Texas.

Sec. 12. None of the provisions of this Act, except that portion of Section 4 requiring the filing of financial statements, shall apply to sales made by any corporation affected by this Act, except sales by such corporations of bonds, notes, certificates, debentures or other obligations issued by and that are direct obligations of the corporation selling or offering the same for sale. The words "bonds", "notes", "certificates", "debentures", and "other obligations", as used in this Act, shall not be construed to cover or include notes executed by corporations to banks and other financial institutions for money borrowed by such corporations for use in the usual course of its business. [Acts 1931, 42nd Leg., p. 280, ch. 165.]

Effective May 21, 1931. Section 11 of Acts 1931, 42nd Leg., p. 280, ch. 165, repeals Rev. Civ. Sts. arts. 1520 to 1524 and provides that if any provision is held invalid, such decision shall not affect the remainder.

#### Art. 1536. [1318] [746] Penalties

No such corporation can maintain any suit or action, either legal or equitable, in any Court of this State upon any demand, whether arising out of contract or tort, unless at the time such contract was made, or tort committed, the corporation had filed its articles of incorporation under

the provisions of this Chapter. If any corporation shall transact intrastate business in Texas without first having obtained a permit under the provisions of this Chapter such corporation shall forfeit to the State of Texas not less than One Hundred (\$100.00) Dollars nor more than Five Thousand (\$5,000.00) Dollars for each month or fraction thereof it shall transact such business without a permit as required hereunder, to be recovered in a suit to be brought by the Attorney General in Travis County, Texas, and the State shall have a lien on all properties of the corporation for said penalties and any corporation may be enjoined by the Attorney General when transacting such business without a permit as required hereunder. [As amended Acts 1931, 42nd Leg., p. 264, ch. 158, § 1.]

Art. 1538-i. [Repealed by Acts 1930, 41st Leg., 5th C. S., p. 220, ch. 68, § 1]

### TITLE 33—COUNTIES AND COUNTY SEATS

Art. 1595. [1389] [811] Election for removal of

No county seat situated within five miles of the geographical center of any county shall be removed except by a vote of two-thirds of all the electors in said county voting on the subject; nor shall any county seat be removed from a point more than five miles from the geographical center of any county to any other point more than five miles from such center, nor from a point within five miles of the geographical center to any other point within five miles of such center, except by a two-thirds vote of all the electors in said county voting on the subject. No person shall be allowed to vote except he be a bona fide citizen of the county in which he offers to vote. A majority of said electors, however, voting at such election may remove a county seat from a point more than five miles from the geographical center of the county to a point within five miles of such center; in either event the center to be determined by a certificate from the Land Commissioner. [As amended Acts 1929, 41st Leg., p. 343, ch. 160, § 1.]

Art. 1600. [1394] [816] County seats removed, when

When such entry has been made, the county seat, if the election be held to move the county seat from a point within five miles of the geographical center, to a point more or less than five miles from the geographical center, or from a point more than five miles from the geographical center, to any other point more than five miles from such center, shall be removed to the place receiving the votes of two-thirds of all the electors voting on the subject; and such place shall thereafter be the county seat of such county. If the election be held to move the county seat from a point more than five miles from the geographical center to a point within five miles of such center, then the county seat shall be moved to the place receiving a majority of all the electors in the county voting at such election, and such place shall thereafter be the county seat of such county. [As amended Acts 1929, 41st Leg., p. 343, ch. 160, § 2.]

Art. 1605. [1399] Location of officers

The County Judge, sheriff, clerks of the District and of the County Courts, County Treasurer, Assessor of Taxes, Collector of Taxes, County Surveyor and County Attorney of the several counties of this State shall keep their offices at the County seats of their respective counties; provided, however, that in all counties having a city or cities, other than the County seats, within their boundaries, having a population of 5,000 and over, and in counties of over 350,000, according to the last Federal Census, the Assessor of Taxes and the Collector of Taxes when authorized by Order of the Commissioners' Court may maintain a branch office in said city

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or cities, and may appoint one or more deputies for said offices, and the salaries to be paid said deputies together with the office rent and other expenses incidental to maintaining said offices shall be considered as a part of the necessary expenses of the Assessor of Taxes and Collector of Taxes, respectively, and shall be paid in the manner now provided by Law for the payment of the expenses of the Assessor of Taxes and Collector of Taxes. (Acts 1925, p. 508.) [As amended Acts 1931, 42nd Leg., p. 819, ch. 338, § 1.]

[Art. 1605a. Branch office buildings in counties having city of 20,000 outside county seat]

Sec. 1. In all counties having a city or cities other than the county seats within their boundaries, of a population of twenty thousand (20,000) and over, according to the last Federal Census, the Commissioners' Court of each said county shall have the power and authority to provide, maintain, and repair an office building and/or jail in the same manner as said Commissioners' Court may now provide for and maintain a courthouse and jail at the county seat, and upon the acquisition or construction of such office building, the Commissioners' Court may authorize in the same manner as authorized by Article 1605, the maintaining of branch offices in each of said cities except the District Clerk, County and District Judges; provided that the County Clerk shall not keep any part of his records relating to real and/or personal property except at the county seat; provided, further, that all officers shall keep all original records at the county seat, and deputies may be provided as authorized by Article 1605. The Commissioners' Court shall have power to place such limitations as it may see fit on the authorization and maintaining of branch offices, and it may hold special meetings in said office building, and may sit there as a Board of Equalization on certain days for the equaling of values on property situated in said section of the county.

Sec. 2. Said office building and sub-jail may be provided for, maintained, and repaired by the issuance of bonds as authorized by Chapter 2, Title 22, Revised Civil Statutes of 1925, or to provide, maintain, and repair the same by evidences of indebtedness in the same manner as courthouses and jails at the county seats, and taxes may be levied therefor in the same manner and subject to the same limitations as for courthouses and jails at the county seats; provided, however, that no such office building and/or jail shall cost more than One Hundred Fifty Thousand Dollars (\$150,000.00). [Acts 1931, 42nd Leg., p. 810, ch. 333.]

## TITLE 34—COUNTY FINANCES

Art. 1641—A. [Public accountant in certain counties]

In counties of a population of not less than 298,000 and not more than 355,000, according to the last Federal Census, that the Grand Jury of any County or the State Auditor when in the judgment of either, an imperative public necessity exists therefor, shall have authority to employ a disinterested, competent and expert public accountant for the same purposes authorized by Article 1641, or for any other necessary purpose; provided, however, that same shall not be made more than once every two years, except for the purposes of supplementing any audit theretofore made. The same notice shall be given as provided in the preceding Article, one week prior to the making of said contract with such Auditor, and the same shall be paid for out of the general funds of said County. [Acts 1931, 42nd Leg., p. 842, ch. 353, § 1.]

[Art. 1644a. Expenses of survey for drainage, etc., or water control]

In any county in this State having taxable values of Two hundred ninety million dollars or more, according to the latest approved tax rolls of

the county, the Commissioner's Court may spend not to exceed \$15,000.00 in any one year out of the general fund of the county for the purpose of making a preliminary engineering survey relating to drainage, reclamation, conservation, levee improvement, or water control. [Acts 1929, 41st Leg., p. 342, ch. 159, § 1.]

[Art. 1644b. Authorizing counties to purchase property to satisfy claims]

Sec. 1. That any County in this State, whose population according to the United States Census of 1930 did not exceed Fifteen Thousand, having at the time of the passage of this Act, any claim for money against any person, partnership, corporation, joint stock or other association, and whose claim shall amount to at least fifty per cent of all the claims against such debtor, and the property of such person, partnership, corporation, joint stock or other association shall be sold, within two years from the date this Act shall become effective, under any proceedings in bankruptcy, receivership, or in any other Judicial proceeding whatever, and the Commissioners' Court of such County shall be of the opinion that it is necessary or advisable, in the protection of the interests of such County so to do, the said Commissioners' Court be, and is hereby authorized to purchase any or all of the property of such debtor or debtors so sold, within two years from the date this Act shall become effective, when offered for sale by any trustee in bankruptcy, receiver, or by any other officer under the order of any court, for such price as the Commissioners' Court may deem advisable and for the best interests of the County, and to have such property by said trustee in bankruptcy, receiver, or other Judicial officer conveyed and transferred to the County.

Sec. 2. The Commissioners' Court of any such County is hereby expressly authorized and empowered to borrow money on the credit of the County, and to execute or cause to be executed the obligations of the County therefor, for the purpose of making such purchase or purchases; and it is further expressly authorized to pledge, hypothecate or mortgage any property so purchased to secure the payment of all sums so borrowed.

Sec. 3. The said Commissioners' Court is hereby expressly granted the full power and authority to determine upon what terms, for what length of time and at what rate of interest said sums shall be borrowed.

Sec. 4. Said Commissioners' Court is further hereby expressly authorized to liquidate all assets so purchased for the use and benefit of the County, in any manner that a private individual might liquidate such assets, and to sell and convey all or any of the properties so acquired, either for cash or upon credit, for such length of time and at such rate of interest as said Court may deem advisable, and to sue upon any obligations so acquired or contracted to said County, and to pay any and all expenses and costs incurred in connection with all or any of the foregoing matters from said property or the proceeds of the sale or liquidation thereof, the net proceeds received by said County to be paid to and for the use and benefit of the respective funds of the County to which said original claim belonged pro-rata. [Acts 1931, 42nd Leg., 2nd C. S., p. 40, ch. 22.]

Art. 1645. [1460] Appointment authorized

In any County having a population of Thirty-Five Thousand inhabitants, or over, according to the preceding Federal Census, or having a tax valuation of Fifteen Million Dollars, or over, according to the last approved tax roll, there shall be biennially appointed an Auditor of Accounts and Finances, the title of said officer to be County Auditor, who shall hold his office for two years, and who shall receive as compensation for his services One Hundred Twenty-Five (\$125.00) Dollars for each million dollars, or major portion thereof on the assessed valuation, the annual salary to be computed from the last approved tax roll; said an-

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nual salary from county funds shall not exceed Three Thousand Six Hundred (\$3,600.00) Dollars. Provided, that in all Counties of not less than Thirty-Five Thousand, nor over Thirty-Seven Thousand inhabitants according to the 1920 Federal Census, the salary shall not be less than Two Thousand Four Hundred (\$2,400.00) Dollars annually, said salary to be paid monthly out of the general revenue of the County upon an order of the Commissioners' Court. Provided, further, that in counties having more than 200,000 population and not more than 300,000 population according to the last Federal Census where there is a City and County hospital to care for the city and county patients, and where a financial record for such hospital must be kept and reports made to the City and County, the Auditor shall in addition to the regular duties performed by him as required by Law, keep such financial record of such hospital, and make such report to the executive bodies of the City and County, the Mayor and City Commissioners for the City, and the County Judge and County Commissioners for the County, and shall receive for such additional services rendered in compiling the necessary reports and records, and keeping such financial record, an additional sum of One Thousand Two Hundred (\$1,200.00) Dollars per annum payable monthly, out of the fund created for said hospital.

If any section, sentence or any part whatever of this Act should be held to be unconstitutional or invalid, the same shall not affect the remaining portion of this Act and it is hereby declared that the Legislature would have passed that part which is constitutional and valid. [As amended Acts 1931, 42nd Leg., 2nd C. S., p. 29, ch. 15, § 1.]

This article was also amended by Acts effective 20 days after May 21, 1929, date 1929, 41st Leg., 1st C. S., p. 62, ch. 28, § 1, of adjournment.

#### Art. 1646. Auditors for other counties

When the Commissioners' Court of a county, not mentioned and enumerated in the preceding Article shall determine that an auditor is a public necessity in the dispatch of the county business, and shall enter an order upon the Minutes of said Court fully setting out the reasons and necessity of an auditor, and shall cause said order to be certified to the District Judges having jurisdiction in the county, said Judges shall, if such reason be considered good and sufficient, appoint a County Auditor, as provided in the succeeding Article, who shall qualify and perform all the duties required of County Auditors by the Laws of this State; provided, said Judge shall have the power to discontinue the office of such County Auditor at any time after the expiration of one year when it is clearly shown that such auditor is not a public necessity and his services are not commensurate with his salary received; provided, that in counties having a population of not less than 34,700 inhabitants, and not more than 35,000 inhabitants, according to the 1920 Federal census, and having a tax valuation of not less than \$8,800,000.00 and not more than \$8,900,000.00, according to the approved tax rolls of 1928, and in counties having a population of not less than 25,159 and not more than 25,161 according to the United States census of 1920, and having a tax valuation of not less than twenty million nor more than twenty-one million dollars according to the approved tax rolls of 1928, if the Commissioners' Court thereof, shall determine that an auditor is a public necessity in the dispatch of the County's business, such Commissioners' Court may enter an order so stating and may appoint a County Auditor, who shall qualify and perform all the duties required of County Auditors in this State; and said Commissioners' Court shall have the power to discontinue the office of such County Auditor at any time that it is not a public necessity. [As amended Acts 1929, 41st Leg., p. 687, ch. 308, § 1.]

**Art. 1667. Improvement district finances**

In all counties which have or may have a county auditor, and containing a population of seventy-five thousand (75,000) or more, as shown by the preceding Federal Census, in which there exists or in which there may be created any improvement, navigation, drainage, road or irrigation district, or any other character of district having for its purpose the expenditure of public funds for improvement purposes or for improvements of any kind, whether derived from the issuance of bonds or through any character of special assessment, the county auditor shall exercise such control over the finances of said districts as hereinafter provided. [As amended Acts 1931, 42nd Leg., 2nd C. S., p. 62, ch. 38, § 1.]

**TITLE 35—COUNTY LIBRARIES****[Art. 1702a. County law library]**

For the purpose of establishing a "County Law Library" there shall be taxed, collected and paid as other costs, the sum of fifty cents in each case, civil or criminal, except suit for delinquent taxes, hereafter filed in every County and/or District Court, Civil or Criminal, in each county having eight or more District Courts and four or more County Courts. Provided, however, that in no event shall the county be liable for said costs in any civil or criminal case. Such costs shall be collected by the clerk of the respective courts and when collected shall be paid to the County Treasurer to be kept by him in a separate fund to be known as the "County Law Library Fund;" such fund shall be administered by the Commissioners' Court for the purchase and maintenance of a law library, and furniture and equipment necessary thereto, in a place convenient and accessible to the judges and litigants of such county, and for the payment of salary to a librarian, to be appointed by the Commissioners' Court; the Commissioners' Court of counties affected by this Act shall make rules for the use of books in said library and provide space for housing same.

The salary of the custodian or librarian herein provided for shall be fixed by the Commissioners' Court at a sum not to exceed Eighteen Hundred (\$1800.00) Dollars per annum. The Commissioners' Court of any county coming within the provisions of this Act may pledge the credit of this fund not to exceed Twenty-five Thousand (\$25,000.00) Dollars for making the initial purchases to establish a library, which debt shall be repaid from the "County Law Library Fund" created herein, and when said initial debt has been repaid no further purchases shall be made on credit. [Acts 1931, 42nd Leg., Spec. L., p. 457, ch. 236, § 1.]

**TITLE 37—COURT—SUPREME****Art. 1721. [1536] [1023]. Deputy clerks**

When authorized by the Court by an order recorded in the minutes, the clerk may appoint three deputies, who may discharge the duties required by Law of the clerk, and who shall give bond in like sum and conditions required by the clerk, to be approved by the Court. The compensation of such deputies shall be unanimously agreed upon by the Judges and their action recorded in the Minutes of the Court, such compensation not to exceed Two Thousand Dollars a year for each of said deputies, to be paid out of the fees collected by the clerk of the Supreme Court. The court in its discretion may dispense with the services of one or more of such deputies, temporarily or permanently. [As amended Acts 1929, 41st Leg., p. 468, ch. 218, § 1.]

**[Art. 1735a. Mandamus to officers of political parties]**

The Supreme Court, or any Court of Civil Appeals, shall have power, or authority, or jurisdiction, to issue the Writ of Mandamus, or any other



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mandatory or compulsory Writ or Process, against any Chairman or member of any Executive Committee, or primary committee, or primary election officer, of any political party, to compel the performance, in accordance with the laws of this State, of any duty imposed upon them, respectively, by law. If it appear to the Court that delay will [will] not prove injurious to either party, and that justice may be subserved thereby, it may cause notice of the application for any such Writ or Process, and of the time fixed for considering the same, to be given the opposite party, in such manner as it may direct. This Act shall be cumulative of all other laws affecting its subject matter. Provided that any petition for any such writ pertaining to a nomination for any state office presented to any court of civil appeals shall be presented to the court of Civil Appeals of the district in which the Chairman of the State Executive Committee of the party affected, resides, and any petition for any such writ pertaining to a nomination for any District or County or precinct office shall be presented to a court of Civil appeals in which such district or a portion thereof or such county or precincts is located. [Acts 1930, 41st Leg., 4th C. S., p. 4, ch. 4, § 1.]

**Art. 1740. [1540] [942] Petition for writ of error**

A writ of error before the Supreme Court may be applied for by petition addressed to said Court and the petition shall contain such other requisites as may be prescribed by the Supreme Court; provided that said petition shall be sufficient if it complies with the requirements of Article 1741. [As amended Acts 1931, 42nd Leg., p. 250, ch. 149, § 1.]

**Art. 1741. [1521-40] Requisites of application**

In all cases taken to the Supreme Court by writ of error it shall be sufficient if the petition for the writ of error shall contain the following:

(1) A brief statement as to the nature and result of the suit in the Court of Civil Appeals.

(2) Specifying briefly the particular grounds and/or ruling or rulings of the Court of Civil Appeals on which the error is based, with such statements from the record as are necessary to show that same was erroneous and was material to the decision.

(3) The authorities relied on, if any.

(4) A statement and/or argument on the errors for which relief is sought.

Provided that more than one question may be presented in the same petition; and further provided that the Supreme Court may adopt rules with reference to writ of error procedure, but not inconsistent with the provision of this Act or any other Statute. [As amended Acts 1931, 42nd Leg., p. 250, ch. 149, § 2.]

**Art. 1747. [1545] [942] Bond**

When a Writ of Error is granted and the plaintiff in error has given no bond, the Supreme Court in granting the writ shall specify what bond shall be given; and the plaintiff in error shall file such bond in the trial court, to be approved by the Clerk of said Court, and a certified copy thereof shall be at once sent to the Supreme Court. Upon the filing of said certified copy, the Clerk of the Supreme Court shall issue the proper citations in error, provided however, that no bond may be required where the party appealing, has made an affidavit that he is unable to pay the costs of appeal, or give security therefor, as required under Article 2266 of the Revised Civil Statutes of Texas, 1925. [As amended Acts 1930, 41st Leg., 5th C. S., p. 140, ch. 17, § 1.]

**Art. 1757. [1547] [968] [1033] Briefs**

In all cases appealed to the Court of Civil Appeals and/or taken to the Supreme Court, it shall be sufficient if said briefs contain the following:

1. A statement as to the nature and result of the suit.
2. The alleged error or errors upon which the appeal is predicated.
3. The authorities relied upon.
4. A statement and/or argument on the errors assigned. Provided, however, that the Supreme Court may adopt rules with reference to the form and time of filing of briefs generally, but not inconsistent with the provisions hereof. [As amended Acts 1931, 42nd Leg., p. 68, ch. 45, § 1.]

**Arts. 1781-1794**

See art. 1800a post.

**Art. 1795. Clerk**

See, also, arts. 1800a, 1836c post.

**Arts. 1796-1800**

See, art. 1800a post.

**[Art. 1800a. Commission of appeals]**

Sec. 1. The Supreme Court of this State is hereby authorized to appoint a Commission, to be composed of six attorneys at law, having those qualifications fixed by the laws and Constitution of this State for the judges of the Supreme Court of Texas, which Commission shall be for the aid and assistance of said court in disposing of the business before it; and such Commission shall discharge such duties as may be assigned it by said Court. Each member of said Commission shall receive for his services the same salary, paid in the same manner as are the salaries of the members of the present Commission of Appeals.

Sec. 2. The present members of the Commission of Appeals shall continue in office until the expiration of the terms for which each of them has been appointed. Upon the expiration of the terms of office of the present members of the Commission of Appeals the Supreme Court of this State shall appoint six Commissioners hereinbefore provided for, two of whom shall serve for a period of two years, two for four years and two for six years from the date of their appointment, such terms to be designated by the Supreme Court, and thereafter the Supreme Court shall every two years appoint two Commissioners whose terms of office shall be for a period of six years.

Sec. 3. In case of a vacancy on said Commission of Appeals by the death, resignation or removal of any member thereof, it shall be the duty of the Supreme Court to fill the same by appointment, and the person so appointed shall continue in office for the unexpired portion of the term for which the Commissioner so vacating his office had been appointed.

Sec. 4. The Commission of appeals shall hear the submission of causes under such rules and regulations as may be prescribed by the Supreme Court and such court may adopt the opinion prepared by any member of the said Commission and make the same the judgment of the Supreme Court.

Sec. 5. Two of said Commissioners designated by the Supreme Court acting with one member of the Supreme Court shall be authorized to pass upon all applications for writs of error presented from the courts of civil appeals, and the action of said two Commissioners and one member of the Supreme Court in passing upon such applications shall be given the same force and effect as if the same were passed upon by the Supreme Court; provided, upon any application in which the three judges are not unanimous, the same shall be determined by the Supreme Court.

Sec. 6. In cases referred to the Commission the papers shall not be re-filed with said Commission, and only such additional costs as may be essential to carry into effect the provision hereof shall be incurred by the parties to such cases by reason of the reference thereto.

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Sec. 7. The Commission shall hold its sessions in Austin at the same time and place as the Supreme Court, but it shall continue work during the vacation of the Supreme Court in midsummer. The judges of the Commission may take a vacation, not to exceed eight weeks during said period.

Sec. 8. The Commission shall appoint stenographers not exceeding four, each of whom shall receive an annual salary not to exceed Fifteen Hundred Dollars, to be paid in monthly installments, on warrants approved by the Chief Justice of the Supreme Court.

Sec. 9. The Clerk of the Supreme Court shall perform the duties of clerk of said Commission and shall be allowed for services rendered to said Commission by him and his deputies, an additional compensation of Fifteen Hundred Dollars per annum, to be paid out of the fees of his office.

Sec. 10. Said Commission of Appeals shall have a seal, being a star with five points and the words "Commission of Appeals of the State of Texas" around the same.

Sec. 11. Regular dockets and minutes of all proceedings by or before said Commission of Appeals shall be kept and the records and proceedings of courts of record and all cases shall be docketed in the order in which they are transferred or referred by the Supreme Court. Said Commission shall have the right to issue writs of certiorari to perfect the record, and such process as the Supreme Court might issue to make parties, and shall have power to punish for contempt. All laws and rules regulating practice and procedure in the Supreme Court shall be of force in the practice and proceedings of the Commission of Appeals so far as applicable. It is the intention of this Act to make more elastic the operation of the Commission of Appeals in order to expedite the disposition of causes in the Supreme Court and the Supreme Court is given full authority to assign such duties to the Commission of Appeals or the members thereof as it may deem proper in order to facilitate the dispatch of business before the Supreme Court.

Sec. 12. The salaries of the six Commissioners, stenographers, porters, clerical help and other expenses essential to carry on the work of the Commission of Appeals shall be paid out of the appropriation made to take care of the salaries and expenses of the present Commission as it now exists. [Acts 1930, 41st Leg., 5th C. S., p. 112, ch. 2.]

## TITLE 38—COURT OF CRIMINAL APPEALS

### Art. 1808. [1162-3-4] Clerk

See also art. 1836c post.

Compensation of clerk, see art. 1836a.

Copy of opinion furnished clerk of lower court and attorneys, see Art. 1836b.

### Art. 1811. State Prosecuting Attorneys

The Court of Criminal Appeals shall appoint an attorney to represent the State in all proceedings before said Court, to be styled "State Prosecuting Attorney," who shall take and subscribe the official oath, hold office for a term of two (2) years and until his successor is appointed and qualified, and who shall have had at least five (5) years experience as a practicing attorney in this State in criminal cases. All the duties and matters incumbent upon, or in any manner incident or relative to the office of "Assistant State Prosecuting Attorney," as now provided by law, are hereby transferred to, and made additional to those now provided by law for the State Prosecuting Attorney. For cause the Court of Criminal Appeals shall have power to remove from office State Prosecuting Attorneys. [As amended Acts 1931, 42nd Leg., p. 234, ch. 139, § 1.]

**Art. 1811b. Term of office**

Said Commissioners shall hold office for terms of six years from the date of their appointment, and until their successors are appointed and qualify, and any vacancy occurring on said Commission by reason of the death, resignation or removal of any such Commissioners, shall be filled by appointment by the Governor of this State for the unexpired term; provided that the term of office of the first Commissioners appointed hereunder shall be four and six years respectively. [As amended Acts 1929, 41st Leg., p. 297, ch. 137, § 1.]

**TITLE 39—COURTS OF CIVIL APPEALS****Art. 1819. [1589] [996] Jurisdiction defined**

The appellate jurisdiction of the Courts of Civil Appeals shall extend to all civil cases within the limits of their respective districts of which the District Courts and County Courts have or assume jurisdiction when the amount in controversy or the judgment rendered shall exceed One Hundred Dollars exclusive of interest and costs. [As amended Acts 1929, 41st Leg., p. 68, ch. 33, § 1.]

**Art. 1821. [1591] [996] Judgment conclusive on law**

The judgments of the Courts of Civil Appeals shall be conclusive on the law and facts, nor shall a writ of error be allowed thereto from Supreme Court in the following cases to wit:

1. Any civil case appealed from the County Court or from a District Court, when, under the Constitution, a County Court would have had original or appellate jurisdiction to try it, except in probate matters, and in cases involving the Revenue Laws of the State or the validity or construction of a Statute, or cases involving conflicts between decisions of the Courts of Civil Appeals or between a decision of a Court of Civil Appeals and a decision of the Supreme Court.

2. All cases of slander.

3. All cases of divorce.

4. All cases of contested elections of every character other than for State officers, except where the validity of Statute is questioned by the decision.

5. In all appeals from interlocutory orders appointing receivers of trustees, or such other interlocutory appeals as may be allowed by law.

6. In all other cases as to law and facts, except where appellate jurisdiction is given to the Supreme Court, and not made final in said Courts of Civil Appeals. [As amended Acts 1929, 41st Leg., p. 68, ch. 33, § 1.]

**Art. 1824. [1595] [1000] May mandamus district courts**

Said Courts or any Judge thereof, in vacation, may issue the writ of Mandamus to compel a Judge of the District or County Court to proceed to trial and judgment in a cause, returnable as the nature of the case may require. [As amended Acts 1929, 41st Leg., p. 68, ch. 33, § 1.]

**Art. 1831. [1600-1] Records and judgments**

Each clerk shall file and carefully preserve all records certified to his court and all papers relative thereto; docket all causes in the order in which they are filed; record the proceedings of said court, except opinions, and certify their judgments to the proper courts. He shall annually have bound in one or more volumes, to be preserved a permanent record, the original opinions of the judges of said court, shall number the pages thereof consecutively, prepare and attach to each volume an index showing the style, number and page where each opinion is found, also prepare a general index showing the volume and page where each opinion can be found; the expense of which shall be paid out of the fund provided by the Legislature for the purchase of record books for said court.

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He shall, after ascertaining that, any case filed in said court has been finally disposed of for a period of ten years, destroy all records filed in said court in connection therewith. [As amended Acts 1929, 41st Leg., p. 540, ch. 263, § 1.]

[Art. 1836a. Compensation of clerk, deputy and stenographer]

Each clerk of a court of civil appeals, and clerk of the Court of Criminal Appeals, each chief deputy clerk, and each stenographer in the office of any such clerk shall receive such compensation, in addition to the salary prescribed by law, as the court may allow, to be paid from fees collected by the clerk of said court, but in no event shall the salary plus the additional compensation exceed the following:

Clerk	\$4,000.00 per year
Chief Deputy Clerk	200.00 per month
Stenographer	1,800.00 per year

Provided, however, that the Clerk or Chief Deputy Clerk may be allowed by the Court for any year the Supreme Court directs, the transfers of cases from said Court to other Courts, as provided by law, additional compensation for the extra services that may be rendered incidental to said transfer, a sum not exceeding \$300.00 per year to be paid monthly from the fees collected by the Clerk of said Court, who is hereby authorized to pay same if and when approved by the Court of Civil Appeals and the Court of Criminal Appeals. All fees collected by the clerk of said court, or said Chief Deputy Clerk, or stenographer in excess of said salaries shall be paid over to the State Treasurer for the General Revenue Fund. [Acts 1929, 41st Leg., p. 233, ch. 98, § 1.]

[Art. 1836b. Copy of opinion to clerk of lower court and attorneys]

It shall be the duty of the Clerk of each Court of Civil Appeals, as soon as any opinion is rendered by the Court of Civil Appeals, to immediately mail free of charge, a copy of said opinion, to the clerk of the court from which the appeal was taken, one copy for appellant and one for appellee. The Clerk of the Court of Criminal Appeals shall upon the delivery of a decision furnish one copy of such opinion to the appellant's attorney and when requested by State Attorney one copy of opinion free of charge to him. [Acts 1929, 41st Leg., p. 233, ch. 98, § 2.]

[Art. 1836c. Appellate court opinions to be furnished trial courts]

Sec. 1. That hereinafter it shall be the duty of the Clerk of each of the Courts of Civil Appeals, the Court of Criminal Appeals, and the various Commissions of Appeals, and the Clerk of the Supreme Court, within three days after the rendition of a decision by such Court, to mail to the Judge before whom the case was tried in the Trial Courts, a legible and clear copy of the opinion rendered by such Appellate Court.

Sec. 2. For such duty the Clerk of the Civil Appellate Courts shall receive a fee not to exceed \$1.00, which such fee shall be charged as costs in the Appellate Court. [Acts 1930, 41st Leg., 4th C. S., p. 86, ch. 45.]

Art. 1839. [1608] [1015] Time to file transcript

In appeal or Writ of Error the appellant or plaintiff in error shall file the transcript with the Clerk of the Court of Civil Appeals within sixty days from the final Judgment or Order overruling motion for new trial, or perfection of the Writ of Error; provided, that for good cause shown before the expiration of such sixty day period, the Court shall permit the transcript to be thereafter filed upon such terms as it shall prescribe. [As amended Acts 1931, 42nd Leg., p. 100, ch. 66, § 1.]

Effective 90 days after May 23, 1931, date of adjournment. Section 2 repeals all conflicting laws and parts of laws.

**Art. 1840—A. Amendment of appeal bonds**

When an appeal has been or shall be taken from the judgment of any of the courts of this State by filing a bond or entering into a recognizance within the time prescribed by law in such cases, and it shall be determined by the court to which appeal is taken that such bond or recognizance is defective in form or substance; such Appellate Court may allow the appellant to amend such bond or recognizance by filing a new bond on such terms as the court may prescribe. [Acts 1931, 42nd Leg., p. 315, ch. 187, § 1.]

Effective May 21, 1931. Section 2 repeals all conflicting laws and parts of laws.

**Art. 1844. [1612] [1018] Assignments of error**

The appellant or plaintiff in error need not file assignments of error with the Clerk of the Court below but he may embody in his brief in the appellate court all assignments of error distinctly specifying the grounds on which he relies. All errors not distinctly specified are waived, but an assignment shall be sufficient which directs the attention of the Court to the error complained of. The appellee or defendant in error need not file his cross-assignments of error with the Clerk of the Court below but may embody them in his brief filed in the appellate court. [As amended Acts 1931, 42nd Leg., p. 117, ch. 75, § 1.]

Effective 90 days after May 23, 1931, date of adjournment. Section 2 repeals all conflicting laws and parts of laws.

**Art. 1845. [1613] [1022] Docket of causes**

When a Cause is carried to the Court of Civil Appeals, either by appeal or by Writ of Error, it shall be docketed in the Order received upon the trial docket and the adverse party shall be notified by the clerk of the receipt of the record in such cause. [As amended Acts 1931, 42nd Leg., p. 99, ch. 65, § 1.]

Effective April 21, 1931. Section 2 repeals all conflicting laws and parts of laws.

**Art. 1846. [1614] [1019] Appearance by brief, etc.**

The attorneys for both the plaintiff and defendant may file written, typewritten or printed briefs or argument, if written not to exceed fifteen (15) pages; and the Court shall be required to notice the same as if it were the personal appearance of said attorney, and shall not dismiss any suit or cause where such brief or argument is filed with the papers for want of further prosecution. Said briefs shall be sufficient if they comply with the requirements of Article 1757. [As amended Acts 1931, 42nd Leg., p. 68, ch. 45, § 2.]

**Art. 1847. [1615] [1020] Service of notice**

Causes on the trial docket of said Court which are not advanced as otherwise provided by Law, shall be submitted in the order of the date of filing and the Clerk shall notify the parties or their attorneys of the date of filing and of the date set for submission, by registered letter through the mails properly directed, and shall file the return registry receipts with the record of the cause. [As amended Acts 1931, 42nd Leg., p. 98, ch. 64, § 1.]

Effective April 21, 1931. Section 2 repeals all conflicting laws and parts of laws.

**Art. 1848. [1616] [1022] Order of hearing; filing briefs**

Cases upon the trial docket which have not been advanced as provided by Law, shall be set for submission eight weeks ahead of the date of submission and the parties or their attorneys of record notified of the date for submission, as provided in Section 1 of this Act. The appellant, or plaintiff in error, shall have thirty days from the date of such notice in

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which to file his brief in the Court of Civil Appeals and the appellee's brief shall be so filed at least five days before the date set for submission. Upon good cause shown, the Court of Civil Appeals may grant either or both parties further time for the filing of their respective briefs and may extend the time for the submission of the case. [As amended Acts 1931, 42nd Leg., p. 98, ch. 64, § 1.]

## TITLE 40—COURTS—DISTRICT

### Art. 1894. [1685] [1078] [1100] Election and Power

A clerk of the district court of each county shall be elected at each general election for a term of two years. Each such clerk shall have power to administer oaths and affirmations required in the discharge of their official duties, to take the depositions of witnesses, and generally to perform all such duties as are or may be imposed upon them by law. [As amended Acts 1929, 41st Leg., p. 572, ch. 277, § 1.]

### Art. 1898. [1690-92] Deputies

The district clerk may, in writing, under his hand and the seal of his court, appoint one or more deputies. The appointment shall be recorded in the office of the county clerk. Such deputies shall take the official oath, and shall act in the name of their principal, and may do and perform all such official acts as may be lawfully done and performed by such clerk in person. If the clerk does not reside at the county seat he shall have a deputy residing there. [As amended Acts 1929, 41st Leg., p. 277, ch. 123, § 1.]

## TITLE 41—COURTS—COUNTY

### [Art. 1934a: Stenographer or clerk for County Judge in certain counties]

In any county in this State of less than one hundred thousand inhabitants according to the United States census of nineteen hundred twenty, which county contains a city of more than forty-three thousand inhabitants according to said census, the County Judge shall be allowed to employ a stenographer or clerk at a salary not exceeding one Hundred Twenty-five Dollars per month, such salary to be paid monthly by the county by warrants drawn on the general county fund. Such stenographer or clerk shall be subject to removal at the will of such County Judge. [Acts 1929, 41st Leg., p. 296, ch. 136, § 1.]

### [Art. 1934a—1. County judge to employ stenographer or clerk, salary]

Sec. 1. In any county of this State of less than one hundred thousand inhabitants, wherein is situated a city having an actual population of 38,489 inhabitants or more, the County Judge shall ascertain the population of any city in his county necessary to be ascertained under this Act by making application to the mayor of any such city for a certificate as to the population of such city. It shall be the duty of any such mayor to ascertain by some reasonable, accurate estimate the population of any such city and his certificate to same under oath shall authorize the County Judge to assume its correctness and act upon the information contained in such certificate in making any appointment of a stenographer or clerk under this Act. The population of the county shall be based on the latest United States Census for the purposes of this Act.

Sec. 2. In any county in this State of less than 100,000 inhabitants wherein is situated a city having a population of 38,489 inhabitants so certified by the mayor of the town, as provided in Section 1, hereof, the County Judge shall be allowed to employ a stenographer or clerk at a salary not exceeding One hundred and Twenty-five (\$125.00) Dollars per

month, such salary to be paid monthly by the County by warrants drawn on the general county fund, under orders of the Commissioners Court of such county. Such stenographer or clerk shall be subject to removal at the will of such County Judge. [Acts 1929, 41st Leg., 2nd C. S., p. 156, ch. 79.]

**Art. 1935. [1743] [1133] [1142] Election and Power**

A clerk of the county court of each county shall be elected at each general election for a term of two years. Each such clerk shall be authorized to issue all marriage licenses, to administer all oaths and affirmations, and to take affidavits and depositions to be used as provided by law in any of the courts. [As amended Acts 1929, 41st Leg., p. 571, ch. 276, § 1.]

**Art. 1961. [1776] [1167] Terms of court**

The County Court shall hold at least four terms for both Civil and Criminal business annually, and such other terms each year as may be fixed by the Commissioners' Court. After having fixed the times and number of the terms of a County Court, they shall not change the same until the expiration of one year. Until, or unless otherwise provided, the term of the County Court shall be held on the first Monday in February, May, August and November, and may remain in session three weeks; provided said court shall be open at all times for the transaction of probate business. [As amended Acts 1929, 41st Leg., 1st C. S., p. 107, ch. 48, § 2.]

**Article 1965. [1779-1780] [1170] [1175] Minutes**

The Minutes of the proceedings of each preceding day of the session shall be read in open-court on the morning of the succeeding day, except on the last day of the session, on which day they shall be read, and if necessary be corrected, and signed in open court by the County Judge. Each special judge shall sign the minutes of such proceedings as were had before him; provided the probate minutes of said court shall be approved by the presiding judge every thirty days. [As amended Acts 1929, 41st Leg., 1st C. S., p. 107, ch. 48, § 3.]

**Art. 1967. [Repealed by Acts 1929, 41st Leg., 1st C. S. p. 107, ch. 48, § 4]**

Section 4 of Acts 1929, cited above also repeals all conflicting laws.

**ACTS CREATING COUNTY COURTS AT LAW AND SIMILAR COURTS, AND AFFECTING PARTICULAR COUNTY COURTS, AND DECISIONS THEREUNDER**

**Art. 1970-31. Salaries of judges of county courts at law**

The Judge of the County Court of Dallas County at Law No. 1 and the Judge of the County Court of Dallas County at Law No. 2 shall each receive a salary of Five Thousand Dollars (\$5,000.00) per annum, payable monthly, out of the Treasury of Dallas County, under the orders of the Commissioners' Court and said Judges shall devote their entire time to the duties of their offices; and shall not engage in the practice of law while in office. [As amended Acts 1929, 41st Leg., 1st C. S., p. 60, ch. 26, § 1.]

**Art. 1970-80. Jurisdiction continued, etc.; additional jurisdiction; appeals; criminal jurisdiction, etc.**

The County Court at Law of Harris County, Texas, shall have all the jurisdiction heretofore conferred upon it under the name of the County Court of Harris County for civil cases, and its judge shall have all the powers heretofore conferred upon the judge of the County Court of Harris County for civil cases; provided, however, that said court shall have no jurisdiction over any of these [those] matters the jurisdiction



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over which is vested exclusively in the County Court of Harris County or the judge thereof. [As amended Acts 1929, 41st Leg., p. 44, ch. 16, § 1.]

**Art. 1970—85. Judge to be elected, when; qualifications; term**

There shall be elected in said County by the qualified voters thereof, at each general election, a judge of the County Court at Law of Harris County, Texas, who shall have been a duly licensed and practicing member of the bar of this State for not less than five years, and who shall hold his office for two years and until his successor shall have duly qualified. Any vacancy occurring in the office of judge of said County Court at Law of Harris County, Texas, shall be filled by the Commissioners Court of Harris County, the appointee thereof to hold office until the next succeeding general election. [As amended Acts 1929, 41st Leg., p. 44, ch. 16, § 3.]

**Art. 1970—90. Fees; salary of judge**

The judge of the County Court at Law of Harris County, Texas, shall receive a salary of five thousand, five hundred dollars per annum, to be paid out of the county treasury by the Commissioners Court, in equal monthly installments. [As amended Acts 1929, 41st Leg., p. 44, ch. 16, § 4.]

**Art. 1970—92. [Repealed by Acts 1929, 41st Leg., p. 44, ch. 16, § 7]**

**Art. 1970—93. Transfer of misdemeanor criminal cases**

All misdemeanor criminal actions now pending in said County Court at Law of Harris County, Texas, as well as criminal cases on appeal to said County Court at Law of Harris County, Texas, shall immediately upon the taking effect of this Act, be transferred to the County Court at Law No. 2 of Harris County, Texas, and the same are hereby so transferred, and upon said County Court at Law No. 2 of Harris County, Texas, is hereby conferred jurisdiction of such criminal actions and criminal proceedings. And all civil actions and proceedings now pending originally or upon appeal to said County Court at Law No. 2 of Harris County, Texas, shall immediately upon taking effect of this Act, be transferred to the County Court at Law of Harris County, Texas, and the same are hereby so transferred, and upon said County Court at Law of Harris County, Texas, is hereby conferred jurisdiction of such civil actions and civil proceedings. [As amended Acts 1929, 41st Leg., p. 44, ch. 16, § 2.]

**Art. 1970—94. [Repealed by Acts 1929, 41st Leg., p. 44, ch. 16, § 7]**

**[Art. 1970—94a. Exchange of judges; powers]**

In case of disqualification, an over-crowded docket, sickness, or absence from the county, of either of the judges of said County Courts at Law of Harris County, they may exchange benches, and said judge of said County Court at Law of Harris County, Texas, when so exchanging benches with said judge of said County Court at Law No. 2 of Harris County, Texas, shall have all power and jurisdiction of said last named court and of the judge thereof while so exchanging benches; and in like manner said judge of said County Court at Law No. 2 of Harris County, Texas, shall have all the power and jurisdiction of said last named court and of the judge thereof while so exchanging benches. [Acts 1929, 41st Leg., p. 44, ch. 16, § 5.]

**[Art. 1970—94b. Court reporter; salary]**

That said judge of the County Court at Law of Harris County, Texas, may appoint and discharge an official court reporter in the same manner as such a reporter is appointed or discharged by the district courts, and who shall receive the salary provided by the law, the same to be paid by the County Treasurer out of the general fund of the county, and in addition to said salary the compensation for transcript fees as provided by law. [Acts 1929, 41st Leg., p. 44, ch. 16, § 6.]

**Art. 1970—96. Jurisdiction**

Said County Court at Law No. 2 of Harris County, Texas, shall have, and it is hereby granted the same jurisdiction over criminal matters that is now or may be vested in County Courts having jurisdiction in criminal actions and proceedings under the constitution and laws of Texas, and shall have appellate jurisdiction in all appeals in criminal cases from Justice Courts and Corporation Courts within Harris County, and the judge of said court shall have the same powers, rights and privileges as to criminal matters as are or may be vested in the judges of county courts having criminal jurisdiction; provided that said court shall have no jurisdiction over any of those matters which is now vested exclusively in the County Court of Harris County or in the judge thereof. [As amended Acts 1929, 41st Leg., p. 57, ch. 24, § 1.]

**Art. 1970—97. [Repealed by Acts 1929, 41st Leg., p. 57, ch. 24, § 4]****Art. 1970—98. Qualifications of judge; appointment; oath; bond; fees and salary**

At each general election, there shall be elected a judge of the County Court at Law No. 2 of Harris County, Texas, who shall have been a duly licensed and practicing member of the bar of this state for not less than five years, and who shall hold his office for two years and until his successor shall have been duly qualified; and he shall receive a salary of five thousand, five hundred dollars per annum, to be paid out of the county treasury by the Commissioners' Court in equal monthly installments; but such judge shall not collect any fee from the county for disposing of any criminal case, as provided in the Code of Criminal Procedure of Texas. Said Court or the judge thereof shall have the power to issue writs of habeas corpus in criminal misdemeanor cases, and all writs necessary to the enforcement of its jurisdiction. The civil jurisdiction of the County Court at Law of Harris County shall not in anywise be impaired or affected by this Act. Any vacancy occurring in the office of the judge of said County Court at Law No. 2 of Harris County, Texas, shall be filled by the Commissioners' Court of Harris County, the appointee thereof to hold office until the next succeeding general election. [As amended Acts 1929, 41st Leg., p. 57, ch. 24, § 2.]

**Art. 1970—103. [Repealed by Acts 1929, 41st Leg., p. 57, ch. 24, § 4]****Art. 1970—104. [Repealed by Acts 1929, 41st Leg., p. 57, ch. 24, § 4]****Art. 1970—106. Transfer of cases**

All civil actions or civil proceedings now pending in said County Court at Law No. 2 of Harris County, Texas, as well as all civil actions or civil proceedings on appeal to said court, shall immediately upon the taking effect of this Act, be transferred to the County Court at law of Harris County, Texas, and the same are hereby so transferred, and upon said County Court at Law of Harris County, Texas, is hereby conferred jurisdiction of such civil actions and civil proceedings; and all criminal actions and criminal proceedings now pending in said County Court at Law of Harris County, shall, immediately upon the taking effect of this Act, be transferred to the County Court at Law No. 2 of Harris County, Texas, and the same are hereby so transferred, and upon said County Court at Law No. 2 of Harris County, Texas, is hereby conferred jurisdiction of said criminal actions and criminal proceedings. [As amended Acts 1929, 41st Leg., p. 57, ch. 24, § 3.]

**[Art. 1970—106a. Exchange of judges]**

The judges of the said County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, may exchange benches as is or may be provided in the laws relating to the County Court at Law of Harris County, Texas. [Acts 1929, 41st Leg., p. 57, ch. 24, § 5.]

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

**Art. 1970—107. [Repealed by Acts 1929, 41st Leg., p. 57, ch. 24, § 4]**

**Art. 1970—110. [Repealed by Acts 1929, 41st Leg., p. 57, ch. 24, § 4]**

**Art. 1970—119. Clerk, seal, and sheriff**

The County Clerk of Jefferson County, Texas, shall be the Clerk of the County Court of Jefferson County at Law, and the Seal of said Court shall be the same as provided by law for County Courts, except the seal shall contain the words "County Court of Jefferson County at Law", and the sheriff of Jefferson County, Texas, shall, in person, or by deputy, attend such Court when required by the Judge thereof, and the County Clerk of Jefferson County, Texas, is hereby authorized and directed to appoint a deputy, who shall be acceptable to the Judge of said Court, to specially attend the sessions of said Court and to attend to all matters pertaining to the County Court of Jefferson County at Law, and said deputy shall receive a salary of Two Hundred (\$200.00) Dollars per month, and to be paid out of the County Treasury of Jefferson County, upon order of the Commissioners' Court of said County. For the purpose of preserving a record in any matter or proceeding heard in said Court for the information of the Court, Jury, or Parties, the Judge of said Court is hereby authorized to appoint an official shorthand reporter for such Court, who shall be well skilled in his profession, who shall be a sworn officer of the Court and shall hold his office at the pleasure of the Court, and the provisions of Chapter 13, of Title 40, of the Revised Civil Statutes of Texas, 1925, relating to the appointment of a stenographer for the District Courts shall apply, in all its provisions in so far as applicable, to the official shorthand reporter herein authorized to be appointed by the Judge of said Court, and such reporter shall be entitled to the same fees and shall perform the same duties as provided in said Title, except that in addition to the lawful fees for transcribing testimony and preparing statement of facts he shall receive a salary of One Hundred Fifty (\$150.00) Dollars per month, which salary shall be paid monthly out of the County Treasury of said County, upon order of the Commissioners' Court. [Acts 1931, 42nd Leg., p. 750, ch. 295, § 1.]

**Art. 1970—122. Salary of judge; fees collected and accounted for**

The Judge of the County Court of Jefferson County at Law, shall receive a salary of Forty Two Hundred (\$4200.00) Dollars per annum, to be paid out of the County Treasury of Jefferson County, Texas, on order of the Commissioners' Court of said County, and said salary shall be paid monthly in equal installments. The Judge of the County Court of Jefferson County at Law, shall assess the same fees as are now prescribed by law relating to County Judge's fees, all of which shall be collected by the Clerk of the Court and shall be paid into the County Treasury on collection. No part of which shall be paid to the said Judge, but he shall draw a salary as above specified in this section. [Acts 1931, 42nd Leg., p. 750, ch. 295, § 2.]

**[Art. 1970—308. Jurisdiction of Washington County Court]**

Sec. 1. The county court of Washington County shall have and exercise original concurrent jurisdiction with the justices' courts in all civil matters which by the general laws of this State is conferred upon said justice of the peace courts.

Sec. 2. Said [Said] county court shall also have and exercise such jurisdiction over and pertaining to all matters, things and proceedings as is by the General Laws of this State conferred upon county courts.

Sec. 3. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of said county court in civil cases of which said court has appellate jurisdiction or original concurrent jurisdiction with the justices' court where the judgment or amount in con-

troverly does not exceed one hundred dollars exclusive of interest and costs.

Sec. 4. Nothing in this Act shall be construed to deprive the justices' courts of the jurisdiction now conferred upon them by law or in any manner to impair or alter their jurisdiction, but only to give original concurrent jurisdiction to said county court over such matters as are specified in Section 1 of this Act; nor shall this Act be construed to deny the right of appeal from the Justices' court to said county court in any case originally brought in any justice court where the right of appeal now exists by General law. [Acts 1929, 41st Leg., p. 542, ch. 265.]

Effective March 19, 1929. Section 5 of said Acts 1929, 41st Leg., p. 542, ch. 265, repeals all conflicting laws and parts of laws.

**[Art. 1970—309. Reporters and compensation]**

That the Official Shorthand Reporters of the County Courts at Law of each county having a population of not less than 202,000 and not more than 203,000, according to the 14th Census of the United States of the year 1920, shall, from and after the passage and taking effect of this Act, be entitled to receive the same fee allowed the Official Shorthand Reporters of the District Courts, and, in addition thereto, shall be entitled to receive a salary of Two Thousand Five Hundred (\$2,500.00) Dollars, annually, to be paid in equal monthly installments by said county by warrants drawn from the general funds thereof, out of the County Treasury by the orders of the Commissioners' Court. [Acts 1929, 41st Leg., 2nd C. S., p. 19, ch. 14, § 1.]

**Art. 1970—310. Other acts creating or affecting jurisdiction of particular county courts**

- Angelina—*Jurisdiction restored*: Acts 1893, March 21, ch. 34, p. 31.  
 Atascosa—*Jurisdiction increased*: Acts 1915, March 22, ch. 88, p. 141.  
 Bailey—*Jurisdiction increased*: Acts 1911, March 20, ch. 93, p. 171.  
 Bandera—*Jurisdiction diminished*: Acts 1881, Feb. 25, ch. 19, p. 13.  
 Bee—*Jurisdiction increased*: Acts 1903, March 26, ch. 62, p. 88.  
 Blanco—*Jurisdiction diminished*: Acts 1881, Feb. 9, ch. 6, p. 3.  
 Bosque—*Jurisdiction diminished*: Acts 1881, March 26, ch. 60, p. 64.  
 Brazoria—*Jurisdiction restored*: Acts 1881, March 30, ch. 71, p. 74.  
 Brazos—*Jurisdiction diminished*: Acts 1887, March 26, c. 74, p. 55 and restored as to civil jurisdiction Acts 1889, April 3, ch. 73, p. 82.  
 Brewster—*Jurisdiction restored*: Acts 1889, Feb. 21, ch. 9, p. 6.  
 Brown—*Jurisdiction restored*: Acts 1881, March 30, ch. 71, p. 74.  
 Burnet—*Jurisdiction restored*: Acts 1885, March 24, ch. 49, p. 47.  
 Callahan—*Jurisdiction restored*: Acts 1881, March 30, ch. 71, p. 74.  
 Camp—*Jurisdiction restored*: Acts 1895, April 26, ch. 65, p. 91.  
 Cameron—*Jurisdiction diminished*: Acts 1931, April 9, ch. 307, p. 769.  
 Carson—*Jurisdiction restored*: Acts 1919, July 15, 2d C. S., ch. 17, p. 37.  
 Cass—*Jurisdiction diminished*: Acts 1879, July 8, C. S., ch. 25, p. 21.  
 Chambers—*Jurisdiction restored*: Acts 1905, April 12, ch. 79, p. 111.  
 Coke—*Jurisdiction restored*: Acts 1901, March 29, ch. 37, p. 47.  
 Coleman—*Jurisdiction restored*: Acts 1881, March 30, ch. 71, p. 74.  
 Comal—*Jurisdiction diminished*: Acts 1883, March 16, ch. 35, p. 24.  
 Comanche—*Jurisdiction restored*: Acts 1883, April 9, ch. 66, p. 55.  
 Concho—*Jurisdiction restored*: Acts 1909, April 7, 1st C. S., ch. 5; p. 268.  
 Coryell—*Jurisdiction restored*: Acts 1887, March 25, ch. 68, p. 47.  
 Crockett—*Jurisdiction diminished*: Acts 1909, 90 days after March 13, date of adjournment, 1st C. S., ch. 31, p. 351.  
 Dawson—*Jurisdiction increased*: Acts 1915, March 22, ch. 88, p. 141.  
 Delta—*Jurisdiction restored*: Acts 1895, March 12, ch. 27, p. 32.  
 Dickens—*Jurisdiction increased*: Acts 1915, March 15, ch. 59, p. 108.  
 Dimmitt—*Jurisdiction restored*: Acts 1905, 90 days after April 15, date of adjournment, ch. 92, p. 136.  
 Donley—*Jurisdiction restored*: Acts 1889, March 21, ch. 53, p. 48.  
 Duval—*Jurisdiction diminished*: Acts 1899, Jan. 31, ch. 3, p. 2.  
 Erath—*Jurisdiction restored*: Acts 1885, March 31, ch. 109, p. 103.  
 Falls—*Jurisdiction diminished*: Acts 1917, March 20, ch. 89, p. 243.  
 Franklin—*Jurisdiction restored*: Acts 1905, Feb. 9, ch. 10, p. 12.  
 Frio—*Jurisdiction restored*: Acts 1907, March 18, ch. 25, p. 40.  
 Gaines—*Jurisdiction increased*: Acts 1915, March 22, ch. 88, p. 141.  
 Garza—*Jurisdiction increased*: Acts 1915, March 22, ch. 88, p. 141.  
 Gillespie—*Jurisdiction diminished*: Acts 1881, Feb. 25, ch. 19, p. 13.  
 Goliad—*Civil jurisdiction increased*: Acts 1895, April 15, ch. 45, p. 57.  
 Gray—*Jurisdiction diminished*: Acts 1905, Jan. 25, ch. 5, p. 3.  
 Greer—*Jurisdiction restored*: Acts 1889, March 21, ch. 53, p. 48.  
 Gregg—*Jurisdiction restored*: Acts 1895, Feb. 15, ch. 3, p. 6.  
 Grimes—*Jurisdiction restored*: Acts 1885, Feb. 10, ch. 10, p. 11.  
 Hamilton—*Jurisdiction restored*: Acts 1893, March 13, ch. 24, p. 22.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

- Hansford—*Jurisdiction restored*: Acts 1917, Feb. 13, ch. 19, p. 31.  
 Hardin—*Jurisdiction restored*: Acts 1897, March 20, ch. 31, p. 28.  
 Hartley—*Jurisdiction restored*: Acts 1903, 90 days after April 1, date of adjournment, ch. 46, p. 64.  
 Haskell—*Jurisdiction increased*: Acts 1919, 90 days after March 19, date of adjournment, ch. 33, p. 55.  
 Hemphill—*Jurisdiction increased*: Acts 1915, March 22, ch. 125, p. 192.  
 Henderson—*Jurisdiction restored*: Acts 1883, Feb. 3, ch. 26, p. 14, and Acts 1909, 90 days after March 13, date of adjournment, ch. 37, p. 80.  
 Hidalgo—*Jurisdiction restored*: Acts 1903, March 26, ch. 62, p. 88.  
 Houston—*Jurisdiction restored*: Acts 1883, April 13, ch. 87, p. 84.  
 Hutchinson—*Jurisdiction diminished*: Acts 1905, Jan. 31, ch. 8, p. 8.  
 Karnes—*Jurisdiction restored*: Acts 1903, 90 days after April 1, date of adjournment, ch. 14, p. 20.  
 Kimble—*Jurisdiction increased*: Acts 1931, April 16, ch. 320, p. 793.  
 King—*Jurisdiction restored*: Acts 1903, 90 days after April 1, date of adjournment, ch. 46, p. 64.  
 Lamb—*Jurisdiction increased*: Acts 1911, 90 days after March 11, date of adjournment, ch. 93, p. 171.  
 Lampasas—*Jurisdiction restored*: Acts 1897, May 7, ch. 127, p. 181.  
 La Salle—*Jurisdiction diminished*: Acts 1889, March 27, ch. 97, p. 109.  
 Leon—*Jurisdiction restored*: Acts 1897, April 3, ch. 80, p. 103.  
 Liberty—*Jurisdiction restored*: Acts 1895, April 15, ch. 44, p. 55.  
 Lipscomb—*Jurisdiction restored*: Acts 1907, March 13, ch. 17, p. 23.  
 Live Oak—*Jurisdiction restored*: Acts 1887, March 25, ch. 68, p. 47.  
 Llano—*Jurisdiction restored*: Acts 1885, March 24, ch. 49, p. 47.  
 Lynn—*Jurisdiction increased*: Acts 1915, March 22, ch. 88, p. 141.  
 McCulloch—*Jurisdiction restored*: Acts 1901, 90 days after April 9, date of adjournment, ch. 82, p. 216.  
 McMullen—*Jurisdiction increased*: Acts 1915, March 22, ch. 88, p. 141.  
 Marion—*Jurisdiction diminished*: Acts 1897, March 11, ch. 36, p. 38.  
 Mason—*Jurisdiction diminished*: Acts 1887, March 26, ch. 73, p. 54.  
 Matagorda—*Jurisdiction restored*: Acts 1903, Jan. 30, ch. 5, p. 5.  
 Medina—*Jurisdiction restored*: Acts 1895, April 15, ch. 44, p. 55.  
 Mills—*Jurisdiction restored*: Acts 1907, April 15, ch. 101, p. 199.  
 Mitchell—*Jurisdiction increased*: Acts 1919, 90 days after March 19, date of adjournment, ch. 11, p. 15.  
 Montgomery—*Jurisdiction restored*: Acts 1885, March 24, ch. 49, p. 47.  
 Morris—*Jurisdiction diminished*: Acts 1883, Feb. 9, ch. 11, p. 6.  
 Nacogdoches—*Jurisdiction restored*: Acts 1891, March 10, ch. 23, p. 24.  
 Navarro—*Jurisdiction restored*: Acts 1881, March 12, ch. 37, p. 23.  
 Newton—*Jurisdiction restored*: Acts 1905, May 9, ch. 126, p. 312.  
 Nueces—*Jurisdiction diminished*: Acts 1930, 90 days after March 20, date of adjournment, 5th C. S., ch. 69, p. 224.  
 Ochiltree—*Jurisdiction restored*: Acts 1909, 90 days after March 13, date of adjournment, ch. 63, p. 115.  
 Orange—*Jurisdiction restored*: Acts 1897, March 31, ch. 74, p. 92, and Acts 1903, March 6, ch. 29, p. 41.  
 Palo Pinto—*Jurisdiction restored*: Acts 1881, March 30, ch. 71, p. 74.  
 Panola—*Jurisdiction restored*: Acts 1887, March 25, ch. 63, p. 47.  
 Parker—*Jurisdiction restored*: Acts 1883, Feb. 3, ch. 26, p. 14.  
 Pecos—*Jurisdiction restored*: Acts 1883, April 9, ch. 66, p. 55.  
 Polk—*Jurisdiction restored*: Acts 1903, March 7, ch. 33, p. 46.  
 Potter—*Creating County Court at law*: Acts 1931, March 17, ch. 303, p. 760.  
 Presidio—*Jurisdiction restored*: Acts 1883, April 9, ch. 66, p. 55.  
 Real—*Jurisdiction diminished*: Acts 1917, March 1, ch. 53, p. 92.  
 Red River—*Jurisdiction restored*: Acts 1883, Feb. 3, ch. 26, p. 14.  
 Roberts—*Jurisdiction restored*: Acts 1905, 90 days after April 15, date of adjournment, ch. 79, p. 111.  
 Robertson—*Jurisdiction diminished*: Acts 1917, March 26, ch. 96, p. 256.  
 Sabine—*Jurisdiction restored*: Acts 1905, 90 days after April 15, date of adjournment, ch. 98, p. 146.  
 San Augustine—*Jurisdiction restored*: Acts 1909, March 5, ch. 32, p. 71.  
 San Jacinto—*Jurisdiction restored*: Acts 1907, March 21, ch. 34, p. 55.  
 San Patricio—*Jurisdiction restored*: Acts 1893, April 28, ch. 65, p. 85.  
 San Saba—*Jurisdiction restored*: Acts 1903, March 10, ch. 35, p. 51.  
 Schleicher—*Jurisdiction increased*: Acts 1931, March 6, ch. 298, p. 754.  
 Scurry—*Jurisdiction increased*: Acts 1919, July 15, 2d C. S., ch. 13, p. 39.  
 Starr—*Jurisdiction restored*: Acts 1903, March 26, ch. 62, p. 88.  
 Stephens—*Jurisdiction restored*: Acts 1881, March 30, ch. 71, p. 74.  
 Taylor—*Jurisdiction restored*: Acts 1881, March 30, ch. 71, p. 74.  
 Terry—*Jurisdiction increased*: Acts 1915, March 22, ch. 88, p. 141.  
 Throckmorton—*Jurisdiction restored*: Acts 1887, March 25, ch. 63, p. 47.  
 Titus—*Jurisdiction restored*: Acts 1901, 90 days after April 9, date of adjournment, ch. 78, p. 201, and Acts 1905, 90 days after April 15, date of adjournment, ch. 45, p. 56.  
 Tom Green—*Jurisdiction restored*: Acts 1883, April 9, ch. 66, p. 55.  
 Travis—*Jurisdiction restored*: Acts 1891, March 25, ch. 56, p. 75.  
 Trinity—*Jurisdiction restored*: Acts 1905, Jan. 25, ch. 6, p. 5.  
 Tyler—*Jurisdiction restored*: Acts 1893, March 3, ch. 16, p. 12.  
 Uvalde—*Jurisdiction restored*: Acts 1883, Feb. 3, ch. 26, p. 14.  
 Webb—*Jurisdiction diminished*: Acts 1893, Feb. 11, ch. 9, p. 5.  
 Wharton—*Jurisdiction restored*: Acts 1893, March 13, ch. 24, p. 22.  
 Wilson—*Jurisdiction restored*: Acts 1889, March 16, ch. 46, p. 41.  
 Yoakum—*Jurisdiction increased*: Acts 1915, March 22, ch. 88, p. 141.  
 Young—*Jurisdiction restored*: Acts 1885, March 24, ch. 49, p. 47.

**TITLE 42—COURTS—PRACTICE IN DISTRICT AND COUNTY****Art. 1977. [2174] [1504] Requisites of pleadings**

The pleadings in such cases shall state the real names of the plaintiff and defendant, and shall describe the property involved with sufficient certainty to identify the same, the interest which the plaintiff claims, and such proceedings shall be had in such action as may be necessary to fully settle and determine the question of right or title in and to said property between the parties to said suit, and to decree the title or right of the party entitled thereto; and the Court may issue the appropriate order to carry such decree, judgment or order into effect; and whenever such petition has been duly filed and citation thereon has been duly served by publication as required by Article 2039 of the Revised Statutes of Texas of 1925, the plaintiff may, at any time prior to entering the decree, by leave of Court first had and obtained file amended and/or supplemental pleadings that do not subject additional property to said suit without the necessity of reciting the defendants so cited as aforesaid. [As amended Acts 1931, 42nd Leg., p. 363, ch. 213, § 1.]

**Art. 1995. [1830] [1194] [1198] Venue, general rule**

28a. [Fraternal benefit societies and statewide mutual assessment companies.] In all actions brought against Fraternal Benefit Societies and/or Statewide Mutual Assessment Companies, regardless of the plan upon which they operate and whether incorporated or not, growing out of or based upon any alleged right or claim or loss or proceeds due, arising from or predicated upon any policy or contract issued or made by such Fraternal Benefit Society and/or Statewide Mutual Assessment Companies, venue shall lie in the county where the policyholder or beneficiary instituting such suit resides or in the county of the principal office of such association or where such cause of action arose. [Acts 1931, 42nd Leg., p. 251, ch. 150, § 1.]

**Art. 2024. [1854] [1216] [1217] If sheriff is a party**

If the sheriff of any county is [in] which any process or writ is to be executed, is a party to, or interested in, the suit, the citation shall be addressed to any constable of his county; provided, however, that if there be no constable duly qualified and acting as such in any justice precinct in such county, or if there should be a constable, but he should be a party to, or interested in, said suit, or if there should not be any constable in such county who is not likewise so disqualified, the Judge of the court in which said cause may be pending may enter an order in the cause directing that all process to be executed in said county shall be directed to the sheriff of some adjoining county, to be designated in said order, and thereupon the sheriff of said county so designated shall have full power and authority to execute any such process or writ and make due return thereof as in other cases. But in every such case a certified copy of such order shall be attached to all such process or writs. [As amended Acts 1929, 41st Leg., 1st C. S., p. 50, ch. 18, § 1.]

**[Art. 2033a. Service on local representative of nonresident individual or partnership supplying public utility service]**

In suits against individuals and partnerships engaging in supplying gas, water, electricity or other public utility service to villages, towns, or cities in Texas, where such individuals or members of such partnerships reside out of the State of Texas, citation may be served upon the local agent, representative, superintendent or person in charge of the business of such individuals or partnerships. [Acts 1931, 42nd Leg., p. 209, ch. 122, § 1.]

[Art. 2039a. Citation of nonresident motor vehicle owner by serving  
Highway Commissioner]

The acceptance by a non-resident of this State of the rights, privileges and benefits of the public highways or public streets of this State as evidenced by his operating a motor vehicle or motorcycle on any such public highway or public street, shall be deemed equivalent to an appointment by such non-resident of the Chairman of the State Highway Commission of this State, or his successor in office, to be his true and lawful attorney upon whom may be served all lawful process in any civil action or proceeding against him growing out of any accident or collision in which said non-resident may be involved while operating a motor vehicle or motorcycle on such public highway or public street, and said acceptance or operation shall be a signification of his agreement that any such process against him which is so served shall be of the same legal force and validity as if served upon him personally. Service of such process shall be made by leaving a copy of the process in the hands of the Chairman of the State Highway Commission of Texas, or at this office, and such service shall be sufficient service upon the said non-resident; provided that notice of such service and a copy of the process are forthwith sent by registered mail by the plaintiff to the defendant, and the defendant's return receipt and the plaintiff's affidavit of compliance herewith are appended to the return of the officer serving such process upon the Chairman of the State Highway Commission. The Court in which the action or proceeding is pending may order such continuances as may be necessary to afford the defendant reasonable opportunity to defend the action. [Acts 1929, 41st Leg., p. 279, ch. 125, § 1.]

[Art. 2041a. Suits against unknown owners or claimants of interest in  
land; citation by publication]

Sec. 1. When land in this State or any interest of any kind in land has been or may hereafter be conveyed, or any lease or contract with reference to land made, by written instrument (a) to any person or persons as trustee or trustees and in the conveyance or instrument constituting source of title or claim of title the names of the persons taking or holding the equitable or beneficial title are not disclosed and are unknown, or (b) to any association, joint stock company or partnership, in an association, company or firm name, without disclosing the names of the members, shareholders or partners or persons owning interests in such association, company or firm, and such association, joint stock company or partnership shall thereafter be dissolved and the names of the persons holding or acquiring title to such lands after dissolution are not disclosed in such instrument and are unknown; in each of such cases any person claiming ownership of or any interest in such lands or having a claim or cause of action against such unknown owners or claimants relative to such property, may bring action or actions against such unknown owners or claimants as such. The provisions hereof shall apply to conveyances made to all character and kinds of companies, associations and organizations, and in which conveyances the names and identity of the persons taking and holding the beneficial or equitable title are not disclosed and are unknown; provided, however, that if the grantee in such conveyance is shown therein to be a corporation or if the grantee is known to be a corporation, in such event this Act shall not apply, but the rights of action shall be governed by Article 2040 of Revised Civil Statutes; but if the character of the organization as whether incorporated or unincorporated is not shown in such conveyance and such facts are unknown, then suit brought under the provisions of this Act against the unknown owners or claimants of property under such conveyance shall be sufficient to give the Court jurisdiction over such unknown owners or claimants regardless of whether the named grantee is in fact a corporation or unincorporated.

Sec. 2. In suits authorized by this Act, all persons claiming under such conveyance whose names are known to plaintiff shall be made parties by name and cited to appear, in the manner now provided by law, as in other suits; all other persons claiming any interest in such land under such conveyance may be made parties to the suit and cited by publication under the designation of "All persons claiming any title or interest in land under deed heretofore given to \_\_\_\_\_, of \_\_\_\_\_, as grantee"; (inserting in the blanks the name and residence of grantee as given in such conveyance).

Sec. 3. If the plaintiff, his agent or attorney, shall make and file with the Clerk of the Court an affidavit, stating (a) the name of the grantee as set out in the conveyance constituting source of title of defendants, and (b) stating that affiant does not know the names of any persons claiming title or interest under such conveyance other than as stated in plaintiff's petition, and (c), if the conveyance is to a company or association name as grantee, further stating whether grantee is incorporated or unincorporated, if such fact known, and if such fact is unknown, so stating, said Clerk shall thereupon issue a citation for service upon all persons claiming any title or interest in such land under such conveyance. The citation in such cases shall contain the requisites of and conform to the provisions of Articles 2039, 2041 and 2043 of the Revised Civil Statutes, with respect to the contents of such citation and the service and return thereof. It shall be permissible to join in one suit all persons claiming under two or more conveyances affecting title to the same tract of land. [Acts 1931, 42nd Leg., p. 369, ch. 216.]

#### Art. 2092. Rules of practice and procedure

23. If a Judge of any court is disqualified in any case pending in his Court, and his disqualification is certified to the Governor, the Governor may require the Judge of any other of such Courts to exchange benches or districts with the disqualified Judge, and may, at any time, require any of such Judges to exchange districts with each other or with any other District Judge. In case of the absence, sickness or disqualification of any Judge, any other of said Judges may hold court for him or may transfer from his Court to any other of said Courts any case or proceeding then pending in the Court of said absent, sick or disqualified Judge, and in such circumstances the practicing lawyers of the Court may elect a special Judge of said Court in the same manner as provided in Chapter 1 of Title 40 of the Revised Civil Statutes of 1925, and such special Judge when so elected shall have and exercise all the powers and duties which the regular Judge of said Court could have and exercise. [As amended Acts 1929, 41st Leg., p. 476, ch. 222, § 1.]

28. Motion for New Trial. A motion for new trial filed during one term of court may be heard and acted on at the next term of court. If a case or other matter is on trial or in process of hearing when the term of court expires, such trial, hearing or other matter may be proceeded with at the next term of the court. No motion for new trial or other motion or plea shall be considered as waived or over-ruled, because not acted on at the term of court at which it was filed, but may be acted on at the succeeding term or at any time which the Judge may fix or to which it may have been postponed or continued by agreement of the parties with leave of the court. All motions and amended motions for new trials must be presented within thirty (30) days after the original motion or amended motion is filed and must be determined within not exceeding forty-five (45) days after the original or amended motion is filed, unless by written agreement of the parties in the case, the decision of the motion is postponed to a later date. [As amended Acts 1930, 41st Leg., 5th C. S., p. 227, ch. 70, § 1.]



Art. 2094. [5151] Selecting names for wheel

Between the first and fifteenth days of August of each year, in each county having a population of at least fifty-eight thousand or having therein a city containing a population of at least twenty thousand, as shown by the preceding Federal Census, the Tax Collector or one of his deputies, together with the Tax Assessor or one of his deputies, together with the Sheriff or one of his deputies, and the County Clerk or one of his deputies, and the District Clerk or one of his deputies, shall meet at the court house of their county and select from the list of qualified jurors of such county as shown by the tax lists in the Tax Assessor's office for the current year, the jurors for service in the District and County Courts of such county for the ensuing year in the manner hereinafter provided. [As amended Acts 1929, 41st Leg., p. 89, ch. 43, § 1.]

Art. 2095. [5152-3] Cards put in wheel

Said officers shall write the names of all men who are known to be qualified jurors under the law, residing in their respective counties, on separate cards of uniform size and color, writing also on said cards, whenever possible, the post office address of each jurors [juror] so selected, except that in counties of one hundred fifty thousand population, or over, as shown by the preceding Federal census, the commissioner's court shall provide a sum necessary, not exceeding three hundred (\$300.00) dollars in any one year, for the payment of such typist and other expenses as may be necessary, who shall, under the direction and supervision of the district clerk, type the names and addresses of said qualified voters upon the cards as herein described. The cards containing said names shall be deposited in a circular hollow wheel, to be provided for such purpose by the Commissioner's Court of the county. Said wheel shall be made of iron or steel and shall be so constructed as to freely revolve on its axle; and shall be kept locked at all times, except when in use as hereinafter provided, by the use of two separate locks, so arranged that the key to one will not open the other lock; and said wheel, and the clasps thereto attached into which the locks shall be fitted, shall be so arranged that said wheel cannot be opened unless both of said locks are unlocked at the time the wheel is opened. The keys to such locks shall be kept, one by the sheriff and the other by the district clerk. The sheriff and the clerk shall not open such wheel, nor permit the same to be opened by any person, except at the time and in the manner and by the persons herein specified; but said sheriff and clerk shall keep such wheel, when not in use, in a safe and secure place, where the same cannot be tampered with. [Acts 1929, 41st Leg., p. 263, ch. 116, § 1.]

Arts. 2104-2116. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 176, ch. 67, § 17, as to counties of 16,775 and not more than 17,000 population]

[Art. 2116a. Jury commissioners in counties of not less than 95,000 nor more than 125,000 population]

Sec. 1. Between the 1st and 15th days of July, 1931, and between the 1st and 15th of July each year thereafter the Judges of the District Courts of the county hereinafter described shall appoint Jury Commissioners for the said Courts as follows:

One Commissioner from each rural Justice Precinct and in Justice Precincts having therein a city containing a population of not less than twenty thousand (20,000) and not more than thirty-five thousand (35,000), two Commissioners; and the Precincts containing a city of more than thirty-five thousand (35,000) and not more than seventy-five thousand (75,000), four Commissioners; and the Precincts containing seventy-five thousand (75,000) and not more than one hundred twenty-five thousand

(125,000), six Commissioners; and in Precincts, a city of more than one hundred twenty-five thousand (125,000), eight Commissioners; and shall cause the Sheriff to notify them of their appointment and when they are to appear. Such Commissioners shall possess the following qualifications:

First: Be intelligent citizens of the county and be able to read and write English.

Second: Be qualified Jurors and freeholders in the State or landholders of the county.

Third: Have no suit in said Court or Courts which require the intervention of the Jury.

Fourth: The same person shall not act more than once as Jury Commissioner in the same year.

Such Commissioners shall meet in the Courthouse of their county on a date fixed by the Court between the 1st and 15th days of August, 1931, and between the 1st and 15th days of August each year thereafter and select from the qualified Jurors of such county the Jurors for the service in the District and County Courts of such county for the ensuing year in the manner hereinafter provided. Said Commissioners shall receive Five (\$5.00) Dollars per day for their services to be paid out of the Jury funds of the county, and shall take oath of office now required for Jury Commissioners.

Sec. 2. Said Commissioners shall write the names of as many men who are known to be qualified Jurors under the law residing in their respective counties as may be directed by the Courts on separate cards of uniform size and color, writing also on said cards whenever possible the post office address of each Juror so selected. The cards containing said names shall be deposited in a circular hollow wheel, to be provided for such purposes by the Commissioners' Court of the county. Said wheel shall be made of iron or steel and shall be so constructed as to freely revolve on its axle; and shall be kept locked at all times, except when in use as hereinafter provided, by the use of two separate locks so arranged that the key to one will not open the other lock; said wheel and the clasps hereto attached into which the locks shall be fitted, shall be so arranged that said wheel cannot be opened unless both of said locks are unlocked at the time the wheel is opened. The keys to such locks shall be kept, one by the Sheriff and the other by the District Clerk. The Sheriff and the Clerk shall not open such wheel, nor permit the same to be opened by any person, except at the time and in the manner and by persons herein specified; but said Sheriff and Clerk shall keep such wheel when not in use in a safe and secure place where the same cannot be tampered with.

Sec. 3. Whenever directed by the Court having charge of said Jurors, the District Clerk or one of his deputies in the presence and under the direction of the District Judge, if the Jurors are to be drawn for the District Court or the Clerk of the County Court or one of his deputies, or the Sheriff or one of his deputies in the presence and under the direction of the County Judge, if the Jurors are to be drawn for the County Court, shall draw from the wheel containing the names of the Jurors after the same has been well turned, so that the cards therein are thoroughly mixed one by one, the names of thirty-six Jurors, or a greater or less number where such Judge has so directed, for each week of the term of the District or County Courts for which a Jury may be required, and shall record such names as they are drawn upon as many separate sheets of paper as there are weeks for such term or terms for which Jurors will be required. At such drawing, no person other than those above named, shall be permitted to be present. The officers attending such drawing shall not divulge the name of any person that may be drawn as a Juror to any person.

Sec. 4. If for any reason an insufficient number of names should be in the wheel mentioned above when a Jury may be required, said Commission may be called together by the Court and instructed to supply additional names to be placed in said Wheel.

Sec. 5. This Act shall be applicable in every county in this State having a population of not less than ninety-five thousand (95,000) and not more than one hundred twenty-five thousand (125,000) according to the latest\* United States Census. No other law of this State inconsistent with the provisions hereof shall affect the provisions of this Act. [Acts 1929, 41st Leg., 1st C. S., p. 63, ch. 29, as amended Acts 1931, 42nd Leg., p. 820, ch. 339.]

\* Should be "latest."

[Art. 2116b. Selection of juries and drawing venires in counties of not less than 16,775 nor more than 17,000 population]

Sec. 1. That as soon after the passage of this Act [Art. 2116b; P. C. 418a.] as possible and between the 1st and 15th day of September of each year thereafter, in all counties in this State having a population of at least sixteen thousand seven hundred and seventy-five and not more than seventeen thousand, as shown by the Federal Census of 1920, the Tax Collector, or one of his deputies, and the Tax Assessor, or one of his deputies, and the sheriff, or one of his deputies, and the County Clerk, or one of his deputies, and the District Clerk, or one of his deputies, shall meet at the Court House of the county and select from the qualified jurors of the county the jurors for service in the District and County Courts in such county for the ensuing year, in the manner hereinafter provided.

Sec. 2. The aforesaid officers shall select and write the names of at least one-half the total number of men who are known to be qualified jurors under the Law, and are not subject to exemption from jury duty, residing in their respective counties, on separate cards of uniform size and color, writing also on said cards, whenever possible, the postoffice address of the jurors so selected.

Sec. 3. The cards containing the aforesaid names shall be deposited in a circular, hollow wheel, to be provided for such purpose, by the Commissioners' Court of the county and said wheel shall be made of iron or steel and shall be so constructed as to freely revolve on its axle, and said wheel shall be kept locked at all times except when in use as hereinafter provided, by the use of two separate locks, so arranged that the key to one will not open the other lock, and said wheel and the clasps thereto attached into which the locks shall be fitted shall be so arranged that said wheel cannot be opened unless both of said locks are unlocked at the time the wheel is opened; and the keys to such locks shall be kept one by the Sheriff and the other by the District Clerk, and the Sheriff and the Clerk shall not open such wheel nor permit the same to be opened by any person except at the time specified in this Act [Art. 2116b; P. C. 418a], and in the manner and by the persons herein specified, but said Sheriff and Clerk shall keep such wheel, when not in use in a safe and secure place, where the same cannot be tampered with.

Sec. 4. Not less than ten days nor more than forty days prior to the first day of a term of Court, the Clerk of the District Court, or one of his deputies, in the presence and under the direction of the County Judge, if jurors are to be drawn for the District Court, or the Clerk [of the County Clerk] of the County Court, or one of his deputies, in the presence and under the direction of the County Judge, if jurors are to be drawn for the County Court, shall draw from the wheel containing the names of jurors, after the same has been well turned so that the cards therein are thoroughly mixed, one by one the names of thirty-six jurors, for each week of the term of the District Court, and one by one the names of fifteen jurors for each week of the term of County Court, or a greater or less number where the Judge of the Court for which they are to be drawn shall have so directed, and no jury shall be drawn for any week or weeks of any term of either District or County Court where the Judge thereof shall have previously directed that no jury be drawn for such week or weeks, and

such names when so drawn shall be recorded as they are drawn upon as many separate sheets of paper as there are weeks for such terms, for which jurors will be required, and at such drawing no person other than those above named shall be permitted to be present, and the officers attending such drawing shall not divulge the name of any person that may be drawn as a juror to any person.

Bracketed words are superfluous.

Sec. 5. The several lists of names drawn as provided in the preceding Section, shall be certified under the hand of the Clerk or the deputy doing the drawing, and the County Judge in whose presence said names of jurors were drawn from the wheel, to be the list drawn by said Clerk for the said several weeks, and shall be sealed up in separate envelopes, endorsed "List of petit Jurors for the \_\_\_\_\_ week of the \_\_\_\_\_ term of the \_\_\_\_\_ Court, of \_\_\_\_\_ County," (filling in the blanks properly) and the Clerk or his deputy doing the drawing shall write his name across the seal of the envelopes and under which the County Judge shall write his name across the seal of said envelopes.

Sec. 6. The County Judge in whose presence said jurors are drawn shall immediately deliver the same to the Clerk of the Court for which they are so drawn or one of his deputies, and at the same time the Judge shall administer to the Clerk and to each of his deputies an oath in substance as follows: "You and each of you do solemnly swear that you will not open the jury lists now delivered to you nor permit them to be opened, until the time prescribed by law nor communicate to anyone the name or names of the men appearing on any of the jury lists, that you will not directly or indirectly converse or communicate with anyone selected as juror concerning any case pending for trial at its next term of court, so help you God."

Sec. 7. When the names are drawn under Section 4 of this Act, the cards containing such names shall be sealed in separate envelopes endorsed "Cards containing the names of jurors for the \_\_\_\_\_ week of the \_\_\_\_\_ term of the \_\_\_\_\_ Court of \_\_\_\_\_ County," (filling in the blanks properly) which said envelopes shall be retained securely by the Clerk, unopened, until after the jury has been impanelled for such week, and after such jurors so impanelled have served four or more days, the envelopes containing the cards bearing the names of the jurors for that week shall then be opened by the Clerk or his deputy, and those cards bearing the names of men who had not been impanelled and served as many as four days, shall be immediately returned to the wheel by the Clerk or his deputy, and the cards bearing the names of the men serving as many as four days shall be put in a box provided for that purpose for the use of the officers mentioned in Section 1 hereof who shall next select the jurors for the wheel.

Sec. 8. In all counties embraced within the provisions of this Act [Art. 2116b; P. C. 418a] on Monday of each week of the Court for which a jury shall be summoned, and for which there may be jury trials, or where the jury trials have been set for some other day, then on such day the Court shall select thirty qualified jurors, or a greater or less number in its discretion to serve as jurors for the week. If such selection is not from any cause then made, it may be made on any later day. Such jurors shall be selected from the names included in the jury list for the week, if there be the requisite number of such in attendance who are not excused by the Court; if such number be not in attendance at any time, the Court shall direct the Clerk of the Court to draw from the jury wheel such additional names as it deems necessary who shall be immediately summoned by the Sheriff or his deputies to make up the requisite number. The Court may adjourn the whole number of jurors for the week or any part thereof, to any subsequent day of the term, but the jurors shall not be paid for the time they may stand adjourned.

Sec. 9. When there are not as many as twelve names drawn from

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the box, if in the District Court, or if in the County Court as many as six the Court shall direct the Clerk of said Court to draw from the jury wheel such additional names as the Court deems necessary to complete the panel who shall be immediately summoned by the Sheriff or his deputies. The names of those thus summoned shall be placed in the box and drawn and entered upon the slips as is now provided by Article 2141, of Title 42, Chapter 7 of the Revised Civil Statutes of 1925.

Sec. 10. If the challenges reduce the number of jurors to less than will constitute a legal jury, the Court shall order the Clerk of the Court to draw from the wheel such additional names as it deems necessary who shall be summoned by the Sheriff or his deputies, and their names written upon the lists instead of those set aside for cause.

Sec. 11. When by preemptory [peremptory] challenges the jury is left incomplete, the Court shall direct the Clerk of the Court to draw such additional names from the wheel as may be necessary to complete the jury, who shall be summoned by the Sheriff or his deputies and such other jurors shall be impanelled as in the first instance.

Sec. 12. If for any reason the wheel containing the names of jurors be lost or destroyed with the contents thereof, or if all the cards in said wheel be drawn out such wheel shall immediately be refurnished and cards bearing the names of jurors shall be placed therein immediately, in accordance with the provisions of Sections 1, 2 and 3 hereof.

Sec. 13. Whenever a special venire is ordered in any county embraced in the provisions of this Act [Art. 2116b; P. C. 418a] the Clerk of the District Court in which such venire is ordered or his deputy, in the presence and under the direction of the District Judge shall draw from the wheel containing the names of jurors the number of names required for such special venire, and shall prepare a list of such names in the order in which they are drawn from the wheel, and attach such lists to the writ and deliver the same to the Sheriff, and the cards containing such names shall be sealed up in an envelope and shall be retained by the Clerk for distribution, as herein provided, if from the names so drawn any of the men are impanelled on the jury and serve as many as four days, the cards containing the names of the men so serving shall be put by the Clerk, or his Deputy, in the box provided for that purpose, and the cards containing the names of the men not impanelled shall again be placed by the Clerk, or his deputy in the wheel containing the names of the eligible jurors.

Sec. 14. On failure from any cause to select a jury from those summoned upon the special venire, the Court shall order the Clerk to draw from the jury wheel containing the names of jurors any number of men that it may deem advisable, who shall be summoned by the Sheriff or his deputies for the formation of the jury. [Acts 1929, 41st Leg., 1st C. S., p. 176, ch. 67.]

Effective 20 days after May 21, 1929, date of adjournment. Sections 15, 16, 18 of Acts 1929, 41st Leg., 1st C. S., p. 176, ch. 67, being penal provisions are published as Pen.

Code, art. 418a. Section 17 repeals certain specified articles and all conflicting laws and parts of laws.

Art. 2118. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 176, ch. 67, § 17, as to counties of 16,775 and not more than 17,000 population]

Art. 2135. [5118] [3142] [3013] Jury service

2. All civil officers of this State or the United States other than first and second class postmasters. [As amended Acts 1931, 42nd Leg., p. 375, ch. 221, § 1.]

9. In cities and towns having a population of one thousand (1,000) or more inhabitants, according to the last preceding United States Census, the active members of organized fire companies, not to exceed twenty (20) to each one thousand (1,000) of such inhabitants, provided that in

any such city or town where there is employed one or more regularly paid firemen this exemption shall not apply to volunteer members, of such fire companies. [As amended Acts 1931, 42nd Leg., p. 375, ch. 221, § 2.]

Acts 1931 cited to the text effective 90 days after May 23, 1931, date of adjournment. Subd. 8 was repealed by said act 1931.

Art. 2141. [Repealed by Acts 1929, 41st Leg., p. 176, ch. 67, § 17, as to counties of 16,775 and not more than 17,000 population]

Art. 2146. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 176, ch. 67, § 17, as to counties of 16,775 and not more than 17,000 population]

Art. 2150. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 176, ch. 67, § 17, as to counties of 16,775 and not more than 17,000 population]

[Art. 2168a. Attendance on Legislature]

In all suits, either civil or criminal, or in matters of probate, pending in any court of this State at any time the Legislature is in session, it shall be sufficient ground for a continuance of such cause if it shall appear to the court, by affidavit, that any party applying for such continuance, or any attorney for any party to such cause, is a member of either branch of the Legislature, and is in actual attendance on a session of the same, and that the presence of party or attorney is necessary to a fair and proper trial [trial] of the cause. Where a party to any cause is a member of the Legislature his affidavit need not be corroborated but where a continuance is sought by reason of the fact that an attorney for any party is a member of the Legislature such affidavit shall be made by both the party and his said attorney. On the filing of such affidavit the court shall continue the cause until ten days after the adjournment of the Legislature and such affidavit shall be proof of the necessity for such continuance, and such continuance shall be deemed one of right and shall not be charged against the Defendant upon any subsequent application for continuance. [Acts 1929, 41st Leg., p. 17, ch. 7, § 1.]

[Art. 2172a. County in which case filed liable for juror's pay on change of venue; exceptions]

Sec. 1. In any Civil case which has been filed in one county and removed by change of venue to another county and tried therein by a Jury, the county in which such case was filed shall be liable for the pay of jurors incurred in the trial thereof.

Sec. 2. The County Commissioners of each county, at each regular meeting, shall ascertain whether, since the last regular meeting, any Civil case has been tried by jury upon change of venue from any other county. If they find such to be the case, they shall make out an account against the county in which said case was originally filed showing the number of days the jury in such case was employed in the trial thereof, and setting forth the amount paid for such jury service. Such account shall then be certified to as correct by the County Judge of such county, under his hand and seal, and be, by him, forwarded to the county in which said case was originally filed; and said account shall be paid from the Jury fund of said county made liable therefor by this Act.

Sec. 3. This Act shall not apply to any Civil case transferred by reason of the Order of any Court based upon a plea of privilege filed in said case. [Acts 1931, 42nd Leg., p. 131, ch. 88.]

Art. 2190. [1985] [1331] [1331] Submission of issues

When the Court submits a case upon special issues, he shall submit all the issues made by the pleading and evidence. Failure to submit an issue shall not be deemed a ground for reversal of the judgment, unless

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its submission has been requested in writing by the party complaining of the judgment. Upon appeal or Writ of Error, an issue not submitted and not requested is deemed as found by the Court in such manner as to support the judgment if there is evidence to sustain such finding. A claim that the evidence was insufficient to warrant the submission of an issue may be complained of for the first time after verdict, regardless of whether the submission of such issue was requested by the complaining party. [As amended Acts 1931, 42nd Leg., p. 120, ch. 78, § 1.]

Section 2 repeals all conflicting laws and parts of laws.

#### Art. 2211. [1994-5-7] Judgments

The judgments of the Court shall conform to the pleadings, the nature of the case proved and the verdict, if any, and shall be so framed as to give the party all the relief to which he may be entitled either in law or equity. Provided, that upon motion and reasonable notice the Court may render judgment non obstante veredicto if a directed verdict would have been proper, and provided further that the court may, upon like motion and notice, disregard any Special Issue Jury Finding that has no support in the evidence. Only one final judgment shall be rendered in any Cause except where it is otherwise specially provided by Law. Judgment may, in a proper case, be given for or against one or more of several plaintiffs, and for or against one or more of several defendants or interveners. [As amended Acts 1931, 42nd Leg., p. 119, ch. 77, § 1.]

Section 2 repeals all conflicting laws and parts of laws.

#### Art. 2237. [2058-67] When taken; rules

2a. All objections to the admission or exclusion of evidence and exceptions to the ruling of the court upon the admission or exclusion of evidence or other matters may be shown by the official stenographer's transcript of the evidence, known as a statement of facts in question and answer form, all as hereinafter provided in Article 2239, and no formal bill of exception to the admission or exclusion of evidence or to any of the court's rulings shall be required where the matters complained of, the objections, the court's ruling, and exceptions thereto clearly appear of record in said transcript of evidence, or statement of facts in question and answer form; provided, however, that in any case where such matters do not clearly appear of record the parties may, if they so desire, prepare and have approved and filed, as otherwise provided by law, a formal bill of exception. [As amended Acts 1931, 42nd Leg., 1st C. S., p. 75, ch. 34, § 1.]

An amendment of this article by Acts 1931, 42nd Leg., p. 228, ch. 135, was expressly repealed by Acts 1931, 42nd Leg., 1st C. S., p. 75, ch. 34, § 3a.

#### Art. 2238. [1924-2079] Transcript of evidence

When any party to any suit reported by any such reporter shall desire a transcript of the reporter's notes of the evidence in said suit, said party may apply for the same and such stenographer shall thereupon file an original and duplicate copy thereof in question and answer form among the papers in said cause, and it shall be made the duty of the court, if the transcript be found to be correct, to approve the same; provided, however, before approving same, notice of the filing shall be given to the interested parties, who may make objections thereto, and any objections, if found to be material and well-founded, shall be allowed. If said transcript is thus approved and signed by the judge, the same shall be filed among the papers of said cause and become a record therein, but not to be recorded. [As amended Acts 1931, 42nd Leg., 1st C. S., p. 75, ch. 34, § 2.]

An amendment of this article by Acts 1931, 42nd Leg., p. 228, ch. 135, was expressly repealed by Acts 1931, 42nd Leg., 1st C. S., p. 75, ch. 34, § 3a.

**Art. 2239. [2070] Statement in duplicate**

In case an appeal is taken from the judgment rendered in said cause, such original stenographer's transcript in question and answer form shall be sent up as the report of the testimony therein, the costs of such transcript paid by either party, to be taxed against the party losing such appeal; and (except as herein otherwise provided) no other record of said testimony shall be sent up on appeal; provided, any original documentary evidence, sketches, maps, plats or other matters introduced in evidence shall be transcribed by such stenographer into the said stenographer's report or if identified in the stenographer's report may, by written direction of the judge, be sent up in the original form if requested by either party to the suit, and may be returned to the trial court when the cause is disposed of by the Appellate Court; provided further that any pleading, motion or order, or portion thereof, which may appear of record in the transcript, may be embodied in said statement of facts by reference without the necessity of copying same therein.

Where such question and answer transcript is filed, such reporter shall receive as compensation therefor the sum of fifteen cents (15¢) per hundred words for the original. Provided, further, that the parties may, if they desire, prepare and have filed a statement of facts on appeal which shall be concisely written in narrative form, shall contain only the evidence of facts relating to questions of which review is sought, and shall omit repetitions by same witness, and all irrelevant parts of writing or written documents introduced in evidence; provided further, however, that such narrative statement may contain questions and answers and objections thereto when necessary or proper to elucidate or present any particular question for review, such questions, answers and objections to be taken and transcribed from the court reporter's notes or agreed upon by the parties, the objections to constitute a bill of exceptions as hereinafter provided. Documentary evidence and rulings upon the admission or exclusion of any evidence may be shown in said statement as is above provided for when a complete transcript of the reporter's notes is prepared and filed. Failure to comply substantially with the provisions of this act in the preparation of such statement of facts shall be sufficient ground in the Appellate Court for striking out and not considering such statement of facts. Provided further, however, that all objections to the admission or exclusion of testimony, if any, shown by said stenographic report or in said statement of facts, and the ruling of the court thereon and the exceptions thereto, whether said testimony be admitted or excluded by the court, shall be regarded and considered as separate bills of exceptions, and no formal bill of exception shall be necessary; provided further, however, that nothing herein shall be construed as prohibiting the parties from filing separate formal bills of exception as the law now provides in case such parties elect to do so, where the alleged error is not already clearly shown, and when such separate bills of exception are filed they shall be prepared and filed as otherwise provided by law, an election to present certain matters by separate formal bills of exception shall not be considered as a waiver of any other exceptions or objections shown by the record. [As amended Acts 1931, 42nd Leg., 1st C. S., p. 75, ch. 34, § 3.]

This article was amended by Acts 1931, 42nd Leg., p. 97, ch. 63, § 1, approved April 21st, 1931, which amendment, however, was not referred to by the subsequent amendment by Acts 1931, 42nd Leg. p. 228, ch. 135, § 3, effective May 18, 1931. The article was again amended by Acts 1931, 42nd Leg. 1st C. S., p. 75, ch. 34, § 3, as set out above.

The amendments of this article by Acts 1931, 42nd Leg., p. 97, ch. 63 and Acts 1931, 42nd Leg., p. 228, ch. 135, above referred to, are expressly repealed by Acts 1931, 42nd Leg., 1st C. S. p. 75, ch. 34, § 3a.



**Art. 2246. [2073] Time for filing**

When an appeal is taken from a judgment rendered in a Civil cause tried in either the District Court, County Court, or County Court at Law, the party appealing shall have fifty days after final judgment or order overruling motion for new trial, if such motion is filed, or perfection of writ of error, within which to prepare and file his statement of facts and bills of exception in the Trial Court.

Sec. 2. Upon application of the party appealing, the Judge of the Court may, in term time or vacation, for good cause shown, extend the time for filing such Statement of Facts and Bills of Exception; but the time shall not be extended in any case so as to delay the filing thereof beyond the time for filing the transcript in the Court of Civil Appeals. [As amended Acts 1931, 42nd Leg., p. 100, ch. 67.]

Effective 90 days after May 23, 1931, date of adjournment. Section 3 repeals all conflicting laws and parts of laws.

**Art. 2247. [2075] Time to file conclusions**

When demand is made therefor, the Judge of a District or County Court thirty days before the time for filing transcript in the cause shall prepare his findings of fact and conclusions of law in any case tried before the Court. If he shall fail so to prepare them, the party so demanding, in order to complain of the failure, shall, in writing, within five days after such period, call the omission to the attention of the Judge, whereupon the period for due preparation and filing shall be automatically extended for five days after such notification. [As amended Acts 1931, 42nd Leg., p. 118, ch. 76, § 1.]

Effective 90 days after May 23, 1931, date of adjournment. Section 2 of said acts 1931 is classified as article 2247a and section 3, repeals all conflicting laws and parts of laws.

**[Art. 2247a. Filing additional or amended findings]**

That after the Judge so files original findings of fact and conclusions of law either party may, within five days, request of him specified further, additional or amended findings; and the Judge shall, within five days after such request, and not later, prepare and file such further, other or amended findings and conclusions as may be proper, whereupon they shall be considered as filed in due time. [Act 1931, 42nd Leg., p. 118, ch. 76, § 2.]

**Art. 2266. [2098] [1401] [1401] Party unable to give cost bond**

Where the appellant or plaintiff in error is unable to pay the costs of appeal or give security therefor, he shall, nevertheless, be entitled to prosecute an appeal by making strict proof of such inability, which shall consist of his affidavit filed with the Clerk of Court stating that, he is unable to pay the costs of appeal, or any part thereof, or to give security therefor. Any Officer of Court or party to the suit, interested, may contest the affidavit, whereupon the Court trying the case, if in session, shall hear the contest; but if in vacation, the same shall be heard by either the Judge of the Court or the County Judge of the County where the suit is pending and on such hearing evidence may be introduced, the right of the party to appeal shall be determined, the finding certified to, and filed as a part of the record of the case. It will be presumed, prima facie, that the affidavit of appellant speaks the truth and unless contested within ten (10) days after being filed the presumption shall be deemed conclusive. The appeal will not be dismissed for defects or irregularities in procedure, either of form or substance, without allowing the party appealing a reasonable time, not exceeding ten (10) days after notice, to cause to be corrected or amended such defects or irregularities. [As amended Acts 1931, 42nd Leg., p. 226, ch. 134, § 1.]

**[Art. 2278a. Free statement of facts on appeal for paupers]**

In any civil case where the appellant or plaintiff in error has made the proof required to appeal his case without bond, such party shall make affidavit to such fact, and upon the making and filing of such affidavit the court shall order the official reporter to make a transcript in narrative form in duplicate, and to deliver the same to said party, but such court reporter shall receive no pay for same. [Acts 1930, 41st Leg., 4th C. S., p. 91, ch. 50, § 1.]

**Art. 2281. [2113] [1415] [1415] Transcript must contain**

The transcript shall in all cases contain a copy of the final judgment, notice of appeal, petition for writ of error and citation in error, with return of service thereon, bond on appeal or writ of error, or affidavit in lieu thereof, and a statement of the accrued costs. [As amended Acts 1931, 42nd Leg., p. 117, ch. 75, § 2.]

**[Art. 2326a. Expenses and manner of payment]**

All official shorthand reporters and deputy official shorthand reporters of the District Courts of the State of Texas composed of more than one county, when engaged in the discharge of their official duties in any county in this State other than the county of their residence shall, in addition to the compensation now provided by law for their services, be allowed their actual and necessary expenses while actually engaged in the discharge of such duties, not to exceed the sum of Four Dollars per day for hotel bills, and not to exceed four cent [cents] a mile when traveling by railroad or bus lines, and not to exceed ten cents a mile when traveling by private conveyance in going to and returning from the place where such duties are discharged, traveling the nearest practical route. Such expenses shall be paid after the completion of each term of Court by the respective counties of the Judicial District for which they are incurred, each county paying the expenses incidental to its own Regular or Special Term of Court, and said expenses shall be paid to the official or deputy official shorthand reporter by the Commissioners' Court of the county, out of the general fund of the county, upon the sworn statement of the reporter, approved by the Judge.

Provided there shall not be paid to any such official shorthand reporter, or his deputy, more than Six Hundred Dollars in any one year under the provisions of this Act; provided further, that in districts containing two counties only, the expenses herein allowed shall never exceed two Hundred Dollars per annum; in districts containing three counties only, the expenses herein allowed shall never exceed Three Hundred Dollars per annum; in districts containing four counties only, the expenses herein allowed shall never exceed Four Hundred Dollars per annum; in districts containing five or more counties the expenses herein allowed shall never exceed Six Hundred Dollars per annum.

The account for such services herein provided for shall be sworn to in duplicate by the reporter, and approved by the District Judge, and one copy of said account shall be filed by the reporter with the Clerk of the District Court of the county where the Judge of the District resides.

Whenever a special term of any District Court in this State is convened and the services of an additional official or deputy official shorthand reporter is required, then this Act shall also apply to said shorthand reporter so employed by the Judge of said special term, and all expenses as herein provided shall be allowed and paid said shorthand reporter so employed for said special term by the county wherein said special term is convened and held, and shall be in addition to the expenses herein provided for the official or deputy official shorthand reporter of the district.

Where the official or deputy official shorthand reporter does not reside in the Judicial District for which he or she is appointed, he or she shall

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only be entitled to traveling expenses from the time he or she reaches the County Line of any county in the Judicial District. Provided, however, that whenever any official or deputy official shorthand reporter is called upon to report the proceedings of any special term of Court, or on account of the sickness of any official shorthand reporter of any Judicial District, necessitating the employment of a shorthand reporter from some other county within the State, then the shorthand reporter so employed shall receive and be paid all actual and necessary expenses in going to and returning from the place where he or she may be called on to report the proceedings of any Regular or Special Terms of Court. [Acts 1929, 41st Leg., p. 112, ch. 56, § 1.]

[Art. 2326b. Reporters in judicial districts, salary]

The salary of the official shorthand reporter in each Judicial District in any county of this State which alone constitute [constitutes] two or more Judicial Districts, in addition to the compensation for transcript fees as provided by law shall be \$3,000.00 per annum, to be paid as the salary of other court reporters are paid, out of the general fund of the county. [Acts 1929, 41st Leg., p. 691, ch. 310, § 1.]

[Art. 2327a. Salary in certain counties]

In each judicial district of this state composed of one county only, and in which county there is only one district court, and also in each judicial district composed of two or more counties, and also in each judicial district composed of one county which county composes also a portion of another judicial district, the salary of the official court reporter shall be twenty-seven hundred dollars per annum, in addition to the compensation for transcript fees and allowances for expenses now provided by law; said salary to be paid monthly by the commissioners' court of the county or counties, out of the general fund of the county or counties; upon the certificate of the district judge; provided that in any judicial district composed of two or more counties said salary shall be paid by such counties of the district in proportion to the number of weeks provided by law for holding court in the respective counties in the district; and provided that in a district wherein in any county the term may continue until the business is disposed of, each county shall pay in proportion to the time court is actually held in such county.

Provided further that nothing in this Act shall be construed as in any way repealing Article 2323 of the Revised Civil Statutes of 1925, nor Chapter 56 of the General Laws of the Regular Session of the 41st Legislature, 1929, nor shall this Act in any way repeal or amend any local or special law passed at the Regular or First and Second Called Sessions of the 41st Legislature of 1929. [Acts 1929, 41st Leg., 2nd C. S., p. 97, ch. 59, § 1.]

## 5. ADVISORY JUDICIAL COUNCIL

[Art. 2328a. Advisory judicial council, membership, duties]

Sec. 1. There is hereby created an advisory judicial council for the continuous study of and report upon the organization, rules, procedure and practice of the civil judicial system of this State, the work accomplished and the results produced by that system and its various parts, and methods for its improvement.

Sec. 2. The Council shall be composed of two classes of members, one designated as ex-officio, and the other as appointive.

Sec. 3. The ex-officio members of the Council shall consist of the Chief Justice of the Supreme Court; two Justices of the Courts of Civil Appeals, to be designated by the Governor; two presiding judges of the judicial administrative districts, to be designated by the Governor; and the Chairman of the Senate and House Civil Judiciary Committees. The

Chief Justice of the Supreme Court may designate some other Justice of that court to act in his stead as member of the Council. It shall be optional with each official [official] member[s] of the Council whether he will serve as such member[s]. But where such official member accepts membership on the Council he shall be entitled to all the privileges of full membership thereon and be regarded and treated in every respect as a full member thereof so long as he continues a member thereof. The term of membership of an official member shall be for the term of office that qualified him for membership; and vacancies in the official membership however created shall be filled as in the first instance.

Sec. 4. The appointive members of the Council shall consist of seven lawyers, citizens of, and licensed to practice law under the laws of this State; and two laymen, citizens of this State, one of whom shall be by profession a journalist. Two of the lawyer members shall be appointed by the Governor from a list of eight qualified lawyers designated by the State Bar Association in such manner as such association may prescribe, and until otherwise prescribed by said Association, said list shall be selected by the governing board of said Association and certified to the Governor by the President and Secretary of the Association. The other appointive members of said Council shall be appointed by the Governor upon his own nomination. Three of said appointive members shall be appointed to serve until July 1, 1931; three until July 1, 1933; and three until July 1, 1935; and thereafter their successors shall be appointed for terms of six years. Vacancies in the appointive membership of said Council shall be filled [filled] as in the first instance for the unexpired term.

Five members of the Council shall constitute a quorum for the transaction of any business of the Council.

Sec. 5. It shall be the duty of the Council:

1. To make a continuous study of the organization of the civil courts; the rules and methods of procedure and the practice of the civil judicial system of the State; of the work accomplished, the results attained and the uniformity of the discretionary powers of the civil courts, to the end that procedure may be simplified, business expedited, and justice better administered.

2. To receive and consider suggestions from judges, public officers, members of the bar, and citizens, touching remedies for faults in the administration of civil justice.

3. To formulate methods for simplifying civil judicial procedure, expediting the transaction of civil judicial business, and correcting faults in the administration of civil justice.

4. To gather civil judicial statistics and other pertinent data from the several judges and other court officials of the State.

5. To make a complete detailed report, on or before December 1st of each year, to the Governor and to the Supreme Court, of all its proceedings, suggestions and recommendations, and such supplemental reports from time to time as the Council may deem advisable. All such reports shall be considered public reports and may be given to the press as soon as filed.

6. To make investigations and reports upon such matters, touching the administration of civil justice as may be referred to the Council by the Supreme Court or the Legislature.

7. To hold one meeting in each calendar year, and such other meetings as may be ordered by the Council or under its authority, and at such time and place as may be designated by it or under its authority; provided, that the first meeting of said Council shall be held prior to October 6, 1929, upon call of its president.

Sec. 6. The Council shall have power:

1. To hold public meetings, require the attendance of witnesses and the production of books and documents, require reports from the several civil courts of this State, including courts not of record, as may be deemed necessary, to administer oaths and take testimony.

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2. To elect from its membership a president and such other officers as it may deem advisable; provided the secretary need not be a member of the Council; and provided further that the Governor shall designate the first president whose duty it shall be to call the first meeting of the Council and appoint such committees as he may deem necessary for the proper organization of the Council, and serve until the Council elects his successor.

3. To make such rules and regulations as it may deem expedient for its government and that of its officers and committees; and to prescribe the duties of its officers and committees.

4. To appoint committees from its membership, and charge such committees with such of its duties and delegates to such committees such of its powers as it may deem proper.

Sec. 7. No member of the Council shall receive any compensation for his services as such member, but shall be paid his actual traveling and other necessary expenses incurred in the discharge of his duties as such member to be paid upon verified, itemized account approved by the President of the Council. The necessary clerical expenses of the Council and its officers and committee shall be paid in like manner.

Sec. 8. If any section or portion of any section of this Act shall for any reason be declared invalid, such invalidity shall not affect any other section or portion of section of this Act. [Acts 1929, 41st Leg., 1st C. S., p. 51, ch. 19.]

Acts 1929, 41st Leg., 1st C. S., p. 51, ch. 19, creating such advisory judicial council is in effect a re-enactment of Acts 1929, 41st Leg., p. 689, ch. 309, without reference thereto. Sections 1-4 of Acts 1929, 41st Leg., p. 689, ch. 309, designated the Chief Justice of the Supreme Court as president of the council and included in its member-

ship an associate justice of the Supreme Court and the chief justice of each of the Courts of Civil Appeals. Acts 1929, 41st Leg., 1st C. S., p. 51, ch. 19, changed the designation as to membership, leaving the remainder of the act practically the same as the former law.

## TITLE 44—COURTS—COMMISSIONERS

[Art. 2350d. Salary in certain counties]

In every county in this State, having a population of not less than seventeen thousand (17,000) and not more than seventeen thousand one hundred (17,100), according to the last available United States Census, the compensation of each County Commissioner, so long as the taxable values in said county shall exceed the sum of Nine Million (\$9,000,000.00) Dollars for the next preceding year, shall be Eighteen Hundred (\$1800.00) Dollars per year, to be paid in equal monthly installments out of the General County Fund. Provided that when such taxable values for the next preceding year shall fall below said sum the salary of each County Commissioner shall be as provided in Article 2350 of the Revised Statutes of 1925. [Acts 1929, 41st Leg., p. 685, ch. 306, § 1, as amended Acts 1931, 42nd Leg., Spec. L., p. 428, ch. 213, § 1.]

[Art. 2350e. Traveling expenses of county commissioners in certain counties]

In any county in this State having a population of not less than 13,300 and not more than 13,400 according to the last United States census, the Commissioners Court is hereby authorized to allow each commissioner the sum of \$55.00 per month for traveling expenses and depreciation on his automobile. Each such commissioner shall pay all expenses in the operation of such automobile and keep same in repair free of any other charge to the county. This Act shall terminate and shall have no force or effect on and after January 1, 1931. [Acts 1929, 41st Leg., p. 241, ch. 106, § 1.]

**[Art. 2350f. Compensation in certain counties]**

In any county having a tax valuation of Forty-Four Million (\$44,000,000.00) Dollars and less than Forty-Seven Million (\$47,000,000.00) Dollars, according to the approved tax rolls of 1928 on file in the office of the State Comptroller, the annual compensation to be paid the County Commissioners shall be Three Thousand (\$3,000.00) Dollars. [Acts 1929, 41st Leg., 1st C. S., p. 240, ch. 98, § 1.]

Section 2 of Acts 1929, 41st Leg., 1st C. S., p. 240, ch. 98, repeals all conflicting laws and parts of laws.

**[Art. 2350g. Salaries in certain counties]**

In each County of this State having a population of not less than 5300 and not more than 5375 according to the 1920 United States census, the salary of each County Commissioner shall be Fifty Dollars (\$50.00) per month payable monthly out of the General County Fund from and after the first day of January, 1930, and up to said time the salaries shall remain the same as are now paid under the Special Road Law of the Counties falling within the class described in this section. [Acts 1929, 41st Leg., 2nd C. S., p. 94, ch. 56, § 1.]

**[Art. 2350h. Funds for payment of salaries of county commissioners and county judges]**

The salary of each county commissioner and each county judge may be paid wholly out of the county general fund, or, at the option of the commissioners' court, may be paid out of the county general fund and the county road and bridge fund in the following proportions: For each commissioner, not to exceed seventy-five (75%) per cent. out of the road and bridge fund and the remainder out of the general fund; and for each county judge, not to exceed twenty-five per cent. (25%) out of the road and bridge fund and the remainder out of the general fund; provided, this Act shall not apply in counties where the limit of twenty-five (0.25c) cents ad valorem tax for general county purposes is not levied. [Acts 1930, 41st Leg., 4th C. S., p. 27, ch. 16, as amended Acts 1930, 41st Leg., 5th C. S., p. 199, ch. 56, § 1.]

**[Art. 2350i. Salaries in counties having population of 7395 and not more than 7410]**

That every county in the State of Texas having a population of not less than 7395, and not more than 7410, according to the 1920 United States Census, and having taxable value as shown by the approved tax roll of 1929 amounting to not less than \$8,145.00.00, [\$8,145,000.00] and not more than \$8,150,000.00, the compensation for each County Commissioner shall be \$1,800.00 per year, to be paid in equal monthly installments out of the General County Fund or out of the County Road and Bridge Fund as the Commissioner's Court may elect; provided, that this compensation shall only apply in counties that are expending funds derived from the sale of bonds issued for the purpose of building hard surface roads, or in aid thereof, and that such compensation shall cease when such roads shall have been completed or when the bond funds shall have been exhausted. [Acts 1930, 41st Leg., 4th C. S., p. 44, ch. 24, § 1.]

**[Art. 2350j. Salaries in counties having population of 11000 and not more than 11015]**

In every county in this State having a population of not less than 11,000, nor more than 11,015, according to the 1920 United States Census, and having a property valuation of not less than 8,252,800.00, and not more than \$8,252,900.00, as shown by the approved tax rolls of 1929, the compensation of each county commissioner shall be \$1,800.00 per year, to be

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paid in equal monthly installments out of the general county fund. [Acts 1930, 41st Leg., 4th C. S., p. 45, ch. 25, § 1.]

[Art. 2350k. Travelling expenses in counties having population of 21,900 and not more than 22,000]

In any county in this State having a population of not less than 21,900 and not more than 22,000, according to the United States Census of 1920, the Commissioners' Court is hereby authorized to allow each Commissioner the sum of Twenty-five (\$25.00) Dollars per month for traveling expenses while on official business. [Acts 1930, 41st Leg., 4th C. S., p. 86, ch. 44, § 1.]

[Art. 2350l. Salaries in counties having population of 8090 and not more than 8109]

In all counties whose population according to the United States Census of 1920 is not less than 8090 and not more than 8109, the County Commissioners shall receive \$5.00 per day for each day served as Commissioner and \$5.00 per day when acting as Road Superintendent in his precinct, not to exceed the total sum of \$500.00 in any one year. The compensation herein prescribed shall be in lieu of all other compensation now authorized by law for such Commissioners. [Acts 1930, 41st Leg., 5th C. S., p. 193, ch. 50, § 1.]

[Art. 2352a. County tax for advertising]

That in all counties in Texas having a population of at least 202,000 inhabitants and less than 210,000 inhabitants, as shown by the Census of 1920, a direct tax of not over five cents on the valuation of One Hundred Dollars may be authorized and levied by the Commissioners' Court of such county for the purpose of advertising said county and its county seat, provided that all such levy of taxes shall be submitted to the qualified tax-paying voters of the county and a majority vote shall be necessary to levy the taxes. [Acts 1930, 41st Leg., 5th C. S., p. 182, ch. 42, § 1.]

Art. 2368. [Repealed by Acts 1931, 42nd Leg., p. 269, ch. 163, § 10]

[Art. 2368a. Requirements governing advertising for bids by counties and cities]

Sec. 1. The word "city" as used in this Act shall include all cities and towns incorporated under General or Special Law, and all cities operating under charter adopted under the provisions of Article 11, Section 5, of the Constitution of Texas, unless especially excepted under the terms of this Act.

The term "governing body" as used in this Act shall include the governing body of every city, whether designated as "Board of Alderman," "City Council," "City Commission," or otherwise.

For the purposes of this Act the term "current funds," shall include money in the treasury, taxes in process of collection during such tax year, and all other revenues which may be anticipated with reasonable certainty during such tax year.

The term "bond funds" shall include money in the treasury already received from the sale of bonds, and the proceeds of bonds theretofore voted but not yet issued and delivered.

The term "time warrant" as used in this Act shall include any warrant issued by a city or county not payable out of current funds.

The short title of this Act shall be "Bond and Warrant Law of 1931."

Nothing in this Act shall be construed as to affect any bonds or warrants legally issued or authorized to be issued and for which a tax has been levied for the payment of interest and principal thereof, prior to the time when this Act shall become effective and under the laws existing at

that time, nor as affecting the matters covered by House Bill No. 981, Acts of the 42nd Legislature, Regular Session, provided that after June 1, 1932, the requirements of this Act with respect to notice, competitive bidding, and a referendum election shall also be complied with by all cities then acting under the provisions of said House Bill No. 981.

Sec. 2. No county acting through its Commissioners' Court, and no city in this State, shall hereafter make or enter into any contract or agreement for the construction of any public building, or the prosecution and completion of any public work requiring or authorizing any expenditure in excess of Two Thousand Dollars (\$2,000.00), creating or imposing an obligation or liability of any nature or character upon such county, or any subdivision of such county, or upon such city, without first submitting such proposed contract or agreement to competitive bids. Notice of the time and place when and where such contract shall be let shall be published in such county (if concerning a county contract, or contract for such subdivision of such county) and in such city (if concerning a city contract), once a week for two consecutive weeks prior to the time set for letting such contract, the date of the first publication to be at least fourteen days prior to the date set for letting said contract, and said contract shall be let to the lowest responsible bidder, on the respective type of construction selected. The Court and, or, governing body shall have the right to reject any and all bids, and said bidder shall be required to give good and sufficient bond in the full amount of the contract price, for the faithful performance of such contract, executed by some Surety Company authorized to do business in this State in accordance with the provisions of Article 5160, Revised Statutes of 1925, and amendments thereto. If there is no newspaper published in such county, the notice of the letting of such contract by such county shall be given by causing notice thereof to be posted at the County Courthouse door for fourteen (14) days prior to the time of letting such contract. If there is no newspaper published in such city, then the notice of the letting of such contract by such city shall be given by causing notice thereof to be posted at the City Hall for fourteen (14) days prior to the time of letting such contract. Provided, that in case of public calamity, where it becomes necessary to act at once to appropriate money to relieve the necessity of the citizens, or to preserve the property of such county or city, or when it is necessary to preserve or protect the public health of the citizens of such county or city, or in case of unforeseen damage to public property, machinery or equipment, this provision shall not apply; and provided further, that it shall not be applied to contracts for personal or for professional services, nor to work done by such county or city and paid for by the day, as such work progresses.

Provisions in reference to notice to bidders, advertisement thereof, the furnishing of surety bonds by contractors and the manner of letting of contracts, as contained in the Special Charter of a city, if in conflict with the provisions of this Section, shall be followed in such city notwithstanding any other provisions of this Act.

Any and all such contracts or agreements hereafter made by any county or city in this State, without complying with the terms of this Section, shall be void, and shall not be enforceable in any Court of this State, and the performance of same and the payment of any money thereunder may be enjoined by any property taxpaying citizen of such county or city.

Sec. 3. When it shall be the intention of the Commissioners' Court, or of the governing body, to issue time warrants for the payment of all or any part of the proposed contract, the notice to bidders required under Section 2 of this Act shall recite that fact, setting out the maximum amount of the proposed time warrant indebtedness, the rate of interest such time warrants are to bear, and the maximum maturity date thereof.

Sec. 4. If, by the time set for the letting of the contract, as many as



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ten per cent (10%) in number of the qualified voters of said county, or city, as the case may be, whose names appear on the last approved tax rolls as property taxpayers, petition the Commissioners' Court, or governing body, in writing to submit to a referendum vote the question as to the issuance of bonds for such purpose, then such Commissioners' Court, or governing body, shall not be authorized to make said expenditure, and shall not finally award said contract unless the proposition to issue bonds for such purpose is sustained by a majority of the votes cast at such election. The law in reference to elections for the issuance of city and county bonds as contained in Chapters 1 and 2 Title 22, Revised Statutes of 1925, shall govern in so far as consistent with the provisions of this Act. The law in reference to the issuance, approval, registration and sale of bonds as contained in Chapters 1 and 2, Title 22, Revised Statutes of 1925, shall govern insofar as consistent with the provisions of this Act. Provided, that all such bonds shall mature and be payable as provided herein for funding bonds.

If such petition is not so filed with the County Clerk, or the City Secretary or Clerk, then the Commissioners' Court or the governing body may proceed with the final award of the contract and with the issuance of said warrants, but in the absence of such petition, the Commissioners' Court or governing body may at its discretion also submit such question to a vote of the people.

Sec. 5. The notice required in Sections 2 and 3, and the right to referendum election defined in Section 4, shall not be applicable to expenditures payable out of current funds or bond funds, as above described, nor to additional expenditures by counties unless in excess of Five Hundred Dollars (\$500.00) for each One Million Dollars (\$1,000,000.00), or a part thereof, of taxable property in said county, according to the last approved tax rolls; provided, however, that in counties of a valuation of less than Six Million Dollars (\$6,000,000.00), said restriction of Five Hundred Dollars (\$500.00) for each One Million Dollars (\$1,000,000.00) shall not apply, but in lieu thereof the maximum authorized warrants shall be Three Thousand Dollars (\$3,000.00) annually; said Five Hundred Dollars (\$500.00) for every One Million Dollars (\$1,000,000.00) of property shall be the maximum amount of time warrants for all purposes to be issued by such county during the current calendar year, including the proposed expenditure, except in the counties of a valuation of less than Six Million Dollars (\$6,000,000.00) as above provided; and provided further that no such warrants shall ever be issued by a county in excess of One Hundred Thousand Dollars (\$100,000.00) for any one year, without the duty to give notice and the right to referendum provided in Section 3. If in excess of the maximum, the expenditure cannot be authorized until the expiration of the time for filing the petition for referendum vote has expired. The notice required and the right to referendum election defined in Sections 2, 3 and 4 shall not be applicable to expenditures payable out of the current funds or bond funds, as above described, nor to additional expenditures by cities unless in excess of Seven Thousand Five Hundred Dollars (\$7,500.00) for cities having a population of five thousand (5,000) people, or less, as shown by the Federal Census immediately preceding; in excess of Ten Thousand Dollars (\$10,000.00) for cities having a population of more than five thousand (5,000), and less than twenty-five thousand (25,000) as shown by the Federal Census immediately preceding; in excess of Twenty-five Thousand Dollars (\$25,000.00) for cities having a population of more than twenty-five thousand (25,000) and less than fifty thousand (50,000), as shown by the Federal Census immediately preceding, and in excess of One Hundred Thousand Dollars (\$100,000.00) for cities having a population of more than fifty thousand (50,000), as shown by the Federal Census immediately preceding. Said respective amounts above described shall be the maximum amounts of time warrants

for all purposes to be issued by such cities during the current calendar year, without the duty to give notice and the right to referendum, provided in Sections 2, 3, & 4; otherwise, the expenditure cannot be authorized until the expiration of time for the filing of petition for referendum vote, has expired, including the proposed expenditure.

Provided, that in case of public calamity caused by fire, flood, storm, or to protect the public health, or in case of unforeseen damage to public property, machinery or equipment, the Commissioners' Court or the governing body may issue such time warrants as are necessary to provide for the immediate repair, preservation or protection of public property and the lives and health of the citizens of such county or city, irrespective of the limitations contained in this Section and the restrictions imposed by Sections 2, 3 and 4 hereof.

Sec. 6. The provisions of Sections 2, 3 and 4 of this Act shall not apply to expenditures for, or relating to paving, drainage, street widening, and other public improvements, the cost of at least one-third of which is to be paid by or through special assessments levied on properties to be benefited thereby. The provisions of this Act shall not affect projects for public improvements theretofore lawfully authorized, or that may hereafter be lawfully authorized by a vote of the people, and where there may be a deficiency of funds to complete same in accordance with the plans and purposes authorized by the voters. The provisions of this Act shall not apply to bonds or warrants issued under Title 118, Revised Civil Statutes of 1925, pertaining to sea walls.

Sec. 7. The Commissioners' Court of any county or the governing body of any city in the State of Texas may pass all necessary orders and ordinances to provide for funding or refunding the whole or any part of any legal debt of, such county or city, by canceling evidences thereof and issuing to the holders or creditors, notes, bonds or treasury warrants, with or without coupons, bearing interest payable annually, or semiannually, at a rate not to exceed six per cent (6%) per annum. The exercise of such authority shall be regulated as follows:

(a) Such Commissioners' Court and such governing bodies shall have the right at all times to issue refunding bonds for the refunding of any outstanding bonds legally issued and outstanding matured interest on any legally issued outstanding bonds, subject to laws applicable to the issuance of refunding bonds and without the necessity of any notice or right to a referendum vote.

(b) Such Commissioners' Courts and governing bodies shall have the power to provide for funding the whole or any part of any legal debt of their respective counties or cities, existing at the time this Act becomes effective, except that which was created upon the condition that it should never become a charge upon the general revenues of such county or city, by canceling the evidences of such indebtedness and issuing to the holders or creditors, notes, bonds, or treasury warrants; provided that if funding bonds are delivered, the evidences of the original indebtedness shall be surrendered to the Comptroller of the State of Texas and cancelled by him prior to the registration of such funding bonds, and prior to their delivery to said holders or creditors.

(c) Such Commissioners' Courts and such governing bodies shall have the power to fund or refund any and all outstanding legal indebtedness, existing at the time this Act becomes effective, into notes or treasury warrants with or without coupons, in accordance with this Act and in accordance with the law as it exists at the time this Act becomes effective.

The funding bonds hereby authorized shall be payable serially not exceeding forty (40) years from the date thereof, unless the Commissioners' Court or governing body affirmatively adjudge that the financial condition of such county or city will not permit in such installment as will make the burden of taxation to support same, approximately uniform

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throughout the term of said bond issue. Such bonds shall be executed and issued in the same manner now provided by law for the execution and issuance of bonds to refund outstanding county or city bonds. Said bonds shall bear interest not exceeding six per cent (6%) per annum, and shall be approved by the Attorney General and registered by the State Comptroller in the same manner as other county or city refunding or funding bonds.

(d) After this Act becomes effective, no item of indebtedness thereafter issued, except bonds and matured coupons thereon, and except items of indebtedness to be issued under contracts made before this law becomes effective, shall be funded or refunded except in the manner hereinafter in this subsection prescribed, to-wit:

Notice of intention to issue such funding bonds, including a statement of the amount and purpose of such bonds, shall be published at least once a week for three (3) successive weeks in a newspaper of general circulation within such county, or within such city, as the case may be, at least thirty (30) days before the meeting of the Commissioners' Court or of the governing body, at which time it is proposed to issue such bonds. If no newspaper is published in such county or city, as the case may be, such notice may be posted at the Courthouse door of the county, or at the City Hall, as the case may be. At any time before the date fixed for the issuance of such bonds, not less than ten per cent (10%) of the qualified property taxpaying voters of the county, as shown by the records in the office of the County Tax Collector, or in the office of the City Tax Collector, as the case may be, may file a petition in the office of the County Clerk or City Secretary or Clerk, praying the Court or the governing body to order an election for the purpose of submitting the proposition to issue such bonds to a vote of the qualified property taxpaying voters of the county or city as the case may be. Upon the filing of such petition, such Court or governing body shall at the next meeting thereof, order an election to be held in such county or city to determine whether or not such funding bonds shall be issued as indicated in such petition.

The Commissioners' Court or governing body shall determine the time and the place or places of holding said election; and the manner of holding same shall be governed by the laws of the State regulating elections for the issuance of other county or city bonds under Chapters 1 and 2, Title 22, Revised Civil Statutes of 1925. If the proposition for the issuance of such bonds be sustained by a majority of the property taxpaying voters, voting at such election, then such bonds shall be authorized and shall be issued by such Commissioners' Court or governing body.

In the event no such petition is presented to the Commissioners' Court or governing body within the time hereinabove prescribed, no election on the proposition shall be required, and such Court or governing body shall then have the power to pass all necessary orders to provide for canceling or funding the indebtedness described in such published notice of intention to fund said debts, and may cancel the evidences thereof by issuing to the holders the necessary amount of funding bonds.

The funding bonds hereby authorized shall be payable serially not exceeding forty years from the date thereof, unless the Commissioners' Court or governing body affirmatively adjudge that the financial condition of such county or city will not permit, in such installments as will make the burden of taxation to support same, approximately uniform throughout the term of said bond issue. Such bonds shall be executed and issued in the same manner now provided by law for the execution and issuance of bonds to refund outstanding county or city bonds. Said bonds shall bear interest not exceeding six per cent (6%) per annum, and shall be approved by the Attorney General and registered by the State Comptroller in the same manner as other county or city refunding or funding bonds.

The Commissioners' Court of any county and the governing body of any city shall at all times have power without notice or the right to referendum to fund or refund any item of indebtedness created in accordance with the provisions of this Act to prevent or relieve a default or an impending default in the payment of principal or interest.

Sec. 8. It is hereby made the duty of all Commissioners' Courts and of all governing bodies, as the case may be, to levy, and have assessed and collected, taxes sufficient to pay the interest as it accrues and the principal as it matures on all bonds and time warrants issued in accordance with the provisions of this Act. The same duties in reference to the levying, assessment and collection of taxes, as are imposed by the provisions of Chapters 1 and 2, of Title 22, Revised Civil Statutes of 1925, to assure the payment of taxes on bonds therein authorized, are imposed on said Commissioners' Courts and said governing bodies in reference to all bonds and time warrants issued in accordance with this Act.

Sec. 8a. Provided any city or town which has theretofore issued bonds, warrants, certificates, or ther\* securities payable from revenues and income of any utility or utilities owned by such city or town may fund, refund, or extend such bonds, warrants, certificates or other securities, without the necessity of complying with the referendum provisions hereof, provided such refunding does not increase the amount of such indebtedness, taking into consideration interest adjustments; provided, however, that no such bonds, warrants, certificates, or other securities payable from revenues, or from the income of any utility, which may be funded, refunded or extended by a city or town, shall ever be made a charge upon moneys raised or to be raised by taxation.

Sec. 9. Any warrant bond, funding bond, refunding bond or other evidence of debt or obligation created, or attempted to be created, by the County Commissioners' Court of any county, or the governing body of any city in this State, in violation of or contrary to the provisions of this Act, shall be void, and the payment thereof may be enjoined by any taxpaying citizen of such county, or any taxpaying citizen of such city, in any court of competent jurisdiction in such county.

Provided, however, that notwithstanding anything contained in this Act, Articles 709 to 715, inclusive, of the Revised Statutes of Texas for 1925, shall apply with full force and effect to all bonds, funding bonds and refunding bonds issued under this Act.

Sec. 10. In all cities operating under Special Charter the provisions of this Act shall apply, providing for a referendum vote where the proposed expenditure is not payable out of current funds, or bond funds, and requires the issuance of time warrants in excess of the permitted amount. This Act shall not repeal provisions of Special Charters providing any additional rights to referendum elections. The rights, power and duties conferred on and imposed on all cities in reference to the issuance of funding or refunding bonds and warrants shall be applicable to all cities, irrespective of charter provisions to the contrary. All laws, General and Special, and parts of laws in conflict herewith are hereby expressly repealed. Article 2368, Revised Civil Statutes of 1925, is expressly repealed.

Sec. 11. Nothing herein shall be so construed as to preclude any city or town in this State, whether organized under General or Special Law or operating under Special Charter, from encumbering or mortgaging its light system, water system, sewer system or any other utility, either, both or all, and the franchise and the income thereof and everything pertaining thereto acquired or to be acquired, to secure the payment of funds to purchase same or to make or purchase extensions, additions, or improvements thereto, as contemplated in Articles 1111 to 1118, both inclusive, of the Revised Civil Statutes of Texas, 1925, with amendments there-

\*[other]

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to, or by valid provisions of the charter of such city or town, or by the provisions of Article 1175, Revised Civil Statutes of Texas, 1925, provided, that in making such contracts or agreements or encumbrances and in issuing revenue bonds, warrants or other obligation to be paid out of the property and income from such system or systems, the governing body of such city or town shall comply with the provisions of this Act in regard to notice and competitive bids and the right to a referendum of such question.

Provided, however, that no competitive bids shall be required in case the municipality proposes to acquire an existing utility plant, and in such cases the voters shall be entitled to a referendum, only on the question of whether or not the utility shall be purchased, in the manner and under the conditions set forth in this Act.

Provided, further, that notwithstanding any provisions of this Act, and notwithstanding any provision of its Special Charter, if such city or town is acting under authority of House Bill No. 981, passed by the Regular Session of the 42d Legislature, the requirements of this Act in reference to notice, competitive bids and the right to referendum shall not apply until after June 1, 1932. [Acts 1931, 42nd Leg., p. 269, ch. 163.]

Effective May 26, 1931. Section 12 pro- clared unconstitutional, such decision shall vides that if any section of the act is de- not affect the remaining sections.

Sec. 11a. Nothing contained in this Act shall be construed as requiring any city to give any notice as a condition precedent to issuing warrants payable out of current funds of said city and the issuance of any such warrants by any such city shall not be subject to the terms and provisions of this Act; provided, however, that at the time of the authorization of such warrants the Governing Body of the city, shall also pass an order setting aside such an amount of the current funds as will discharge the principal and interest of the warrants issued and based upon such current funds. And thereafter the so appropriated portion of such current funds shall not be used for any purpose other than to discharge said warrants. And no such warrants shall ever be refunded, but they must be discharged out of the designated funds. [Acts 1931, 42nd Leg., 1st C. S., p. 42, ch. 24, § 1.]

[Art. 2368b. Validating notes, bonds and warrant issues in certain cities]

Sec. 1. All funding and refunding notes, bonds, warrants, time warrants and treasury warrants heretofore issued or authorized to be issued and attempted to be issued by any and all cities in the State, whether or not incorporated under General or Special Laws, and any and all cities operating under charters adopted under the provisions of Article 11, Section 5, of the Constitution of Texas, having a population in excess of One Hundred Seventy Five Thousand (175,000) according to the last preceding United States census, and which were heretofore issued, authorized to be issued, or attempted to be issued under authority of H. B. No. 312 of the Forty-second Legislature, are in all respects validated.

Sec. 2. All orders of the governing bodies of such cities authorizing such issues of funding and refunding notes, bonds, warrants, time warrants and treasury warrants, or attempting to authorize the same, or any of the same, are in all respects validated.

Sec. 3. All orders of said governing bodies of said cities directing the levying and assessing of taxes to provide for the payment of interest and principal of such funding and refunding notes, bonds, warrants, time warrants and treasury warrants, as they respectively mature, are in all respects validated. [Acts 1931, 42nd Leg., 1st C. S., p. 85, ch. 40.]

**Art. 2372a. [Repealed by Acts 1931, 42nd Leg., Spec. L. p. 1, ch. 1, § 1]**

Effective Jan. 30, 1931. The article re- (effective Oct. 1, 1929.)  
pealed is Acts 1929, 41st Leg., p. 194, ch. 81

**[Art. 2372b. Employment of dairying specialists]**

The Commissioners' Court of Counties having not less than 72,900, and not more than 73,000 at the last regular Federal census in 1920, shall be empowered to employ dairying specialists at a total salary not to exceed \$7,000.00 annually, said money to be paid out of the funds of said county. [Acts 1929, 41st Leg., 1st C. S., p. 56, ch. 22, § 1.]

Effective May 22, 1929.

**[Art. 2372c. Conservation of agricultural soils; use of road machinery]**

Sec. 1. The widespread and rapid extension of soil erosion upon our agricultural and other lands, causing the irreparable waste of soil fertility, and loss of productive power, must be recognized as the gravest menace to the continuing usefulness of this greatest of our natural resources; and as vitally affecting conditions fundamental in the economic well-being of the people.

Sec. 2. The State must recognize its responsibility, as the representative of the people, for the conservation of resources essential in the production of necessary agricultural products, and the promotion of the public welfare; and must provide, by uniform policies, for the cooperation in the discharge of such responsibility, of all constitutional subdivisions of the State.

Sec. 3. The Counties of the State are hereby declared to have the authority to employ, or permit to be employed, any road construction or other machinery or road equipment in the service of soil conservation and prevention of soil waste through erosion, whenever in the judgment of the County Commissioners' Court, entered upon the Minutes of the Court, such machinery or equipment is not demanded for the service of building and the upkeep of the roads of the County; and shall provide for compensation to the County Road Fund, or the road funds of any defined district or authorized subdivision in the County, for such employment of road equipment.

Sec. 4. In the public service of conserving the soil fertility of the lands of the County, the Commissioners' Courts shall have the authority to co-operate with the land owners and taxpayers of the County in all judicious efforts for the preservation of the productiveness of the soil from avoidable waste, and loss of productiveness of agricultural crops necessary to the public welfare, through permission to use the machinery and equipment that may be made available by the County for such purposes under written contract, and the County shall receive from such landowners and taxpayers compensation, upon such uniform basis as may be deemed equitable, and proper, for the co-operation extended and services rendered, all such compensation or funds to the County to be paid into the Road and Bridge Fund of the County; and the County Commissioners' Court may provide for payments from landowners and taxpayers of the County at such stated intervals and in such amounts, as and when the County taxes are collected, as may be equitable, for the use of the equipment for the protection of lands against continuing immeasurable injury through soil erosion; provided that the Commissioners' Court or representative thereof shall not go upon the land of any owner to improve, terrace, protect, or ditch such land until requested to do so in writing by such owner; and provided further, that the Commissioners' Court or representative thereof shall not be required to do such improving, terracing, protecting, and ditching unless such Court shall determine that such work is of some public benefit and said Court elects to do the work. [Acts 1931, 42nd Leg., p. 81, ch. 53.]

**TITLE 45—COURTS—JUSTICE****Art. 2451. [2387] [1664] [1634] Dormant judgments**

If no execution is issued within ten (10) years after a judgment is rendered, the judgment shall become dormant, and no execution shall thereafter issue unless an execution shall have theretofore issued on such judgment within ten (10) years after a judgment is rendered. Where the first execution has issued within the ten (10) years after the rendition of a judgment, the judgment shall not become dormant unless ten (10) years shall have elapsed between the issuance of executions thereon, and execution may issue at any time within ten (10) years after the issuance of the preceding execution. [As amended Acts 1931, 42nd Leg., p. 394, ch. 240, § 1.]

**Art. 2457. [2394] [1671] Affidavit of inability**

Where appellant is unable to pay the costs of appeal, or give security therefor, he shall, nevertheless, be entitled to appeal by making strict proof of such inability within five (5) days after the judgment, which shall consist of his affidavit filed with the Justice of the Peace stating his inability to pay such costs, or any part thereof, or to give security, which may be contested within five (5) days by any Officer of Court or party to the suit, whereupon it shall be the duty of the Justice of the Precinct in which the suit is pending, to hear evidence and determine the right of the party to appeal, and shall enter his finding on the docket as a part of the record. It will be presumed prima facie that the affidavit speaks the truth and, unless contested within five (5) days after being filed, the presumption shall be deemed conclusive. The appeal shall not be dismissed for defects or irregularities in procedure, either of form or substance, without allowing appellant five (5) days after notice an opportunity to correct or amend same. If the Justice of the Peace denies the right of appeal, appellant may, within five (5) days thereafter, bring the matter before the County Judge of the County for final decision and, on request, the justice shall certify to the County Judge appellant's affidavit, the contest thereof, and all documents and papers pertaining thereto. The County Judge shall set a day for hearing, not later than ten (10) days, shall hear the contest de novo, and if the appeal is granted shall direct the Justice to transmit to the Clerk of the County Court the transcript, records and papers of the case, as provided in Art. 2459, R. S. 1925. [As amended Acts 1931, 42nd Leg., p. 226, ch. 134, § 2.]

**TITLE 46—CREDIT ORGANIZATIONS****Article 2461. Defined**

Amended by omitting "rural" before "credit unions", adding "and provident" after "productive" in the fourth line and substituting "five" for "twenty five" before "dollars" in the seventh line. [Acts 1929, 41st Leg., p. 46, ch. 17, § 1.]

**Art. 2462. Loans and investments**

Amended by omitting "rural" before "credit union", inserting "of as deposits" after "shares" in the third line, and substituting "ten" for "six" before "per cent. per annum", and by substituting "relative" for "relating" in the sixth line. [Acts 1929, 41st Leg., p. 46, ch. 17, § 1.]

**Art. 2463. May incorporate**

Ten or more citizens of this state may associate themselves together by articles of agreement and form a credit union and upon approval of the State Banking Board, may become a corporation upon complying with

such provisions of the law regulating state banks as may be applicable to the transaction of business as herein authorized to be done. The State Banking Board may permit the formation of such corporation when it is satisfied that the proposed field of operation is favorable to the success of a credit union, and that the standing of the proposed members is such as to give assurance that its affairs will be administered in accordance with the spirit of this law, and said Board may investigate or cause to be investigated such matters when deemed by it necessary to assist it in its determination of such duties, the actual expenses of such investigation to be paid upon itemized statement thereof by the applicants for charter under this law. If the charter is granted, the corporation shall reimburse said applicants for such payment. When permission for the formation of such corporation shall have been granted by the State Banking Board, the Banking Commissioner shall issue a charter to said credit union to do business in conformity with the provisions of this Title upon the payment of a charter fee of ten dollars. [As amended Acts 1929, 41st Leg., p. 46, ch. 17, § 1, Acts 1929, 41st Leg., 2nd C. S., p. 168, ch. 85, § 1.]

**Art. 2464. Right to use name**

Amended by omitting "rural" before "credit union", omitting "herein" before "expressly" in the last line and adding after the final word "formed" the words "under the provisions of this law." [Acts 1929, 41st Leg., p. 46, ch. 17, § 1.]

**Art. 2465. Supervision**

The Banking Commissioner shall require such credit union to keep such books as he may deem necessary for the proper conduct of their business and such Commissioner, his deputy or any state bank examiner shall have authority to examine the account books and papers of such credit unions herein authorized to be organized, and make report of the transaction of such credit unions' business and/or may require a sworn report in aid of or in lieu of such examination. The expense of each such examination shall be paid by the credit union so examined, but no charge shall be made for services except traveling, hotel and meal expenses and other actual expenses, and the said credit union shall be furnished with an itemized statement of such expenses. Said credit unions herein authorized to be organized shall be subject to the general supervision of the Banking Commissioner. Any credit union violating any provision of this Title shall be subject to the forfeiture of its charter and the Attorney General is authorized to bring suit therefor in the district court of Travis County, Texas. [As amended Acts 1929, 41st Leg., p. 46, ch. 17, § 1, Acts 1929, 41st Leg., 2nd C. S., p. 168, ch. 85, § 1.]

**Art. 2466. By-laws**

Amended by omitting "rural" before "credit unions." [Acts 1929, 41st Leg., p. 46, ch. 17, § 1.]

**Art. 2477. Conditions of loans**

No members of the board of directors or of the credit or supervisory committee shall receive any compensation for his services as a member of said board or committee, nor shall any member of the credit or supervisory committee, either directly or indirectly, borrow from or become surety for any loan or advance made by the association except upon the approval or [of] two-thirds of the members of the association. No loan shall be granted except for the productive or provident purposes or urgent needs, nor for a longer period than twelve months; nor shall any loan be renewed for a sum as large as the original amount. Loans to any one member shall not exceed one thousand dollars. [As amended Acts 1929, 41st Leg., p. 46, ch. 17, § 1.]



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Art. 2484. Report to Commissioner

Within two days after the last business day of December of each year every such association shall make to the Banking Commissioner a report in such form as he may prescribe, signed by the president, treasurer and a majority of the supervisory committee who shall certify and make oath that said report is correct according to their best knowledge and belief. Said credit union shall pay to the Banking Commissioner at the time of the filing of this report the sum of five dollars as a filing fee. Any such association that shall neglect to make the said report within the time herein prescribed, shall forfeit to the state five dollars for each day during which said neglect shall continue. [As amended Acts 1929, 41st Leg., 2nd C. S., p. 168, ch. 85, § 1.]

## TITLE 47—DEPOSITORIES

Art. 2529. [2423] Qualifications of Depositories

As soon as practicable after the board shall have passed upon all applications, the Treasurer shall notify all banks whose applications have been accepted of their designation as State depositories. The treasurer shall require each bank so designated to qualify as a State depository on or before the twenty-fifth day of November next by (a) depositing a depository bond signed by some surety company authorized to do business in Texas in an amount equal to not less than double the amount of the State funds allotted, such bond to be payable to the Treasurer and to be in such form as may be prescribed by the Board and subject to the approval of such Board; or (b) by pledging with the Treasurer any securities of the following kinds in an amount at par value one-fifth greater than the amount of State funds allotted; bonds and certificates of indebtedness of the United States, bonds of this State, obligations of the Board of Regents of the University of Texas issued under authority of Article 2529, Revised Civil Statutes of Texas, 1925, bonds issued by banks organized under the Federal Farm Loan Act located in Texas, bonds of counties, independent school districts and common school districts located in Texas, and bonds issued by municipal corporations in Texas. No state, county, independent school district, common school district, or municipal bonds, or obligations of the Board of Regents of the University of Texas issued under authority of Article 2529, Revised Civil Statutes of Texas 1925 shall be accepted as collateral security unless they shall be approved by the Attorney General. The Board shall have the power to reject, without assigning any reason therefor, any or all collateral or any surety bond tendered by a State depository, and its action in so doing shall be final and not subject to review.

When the collateral pledged by a state depository to secure a deposit of State funds shall be in excess of the amount required under the provisions of this Chapter, the Treasurer may, subject to the approval of the Board, permit the release of any such excess. In the event the balance to the credit of the Treasurer on the books of such bank shall be thereafter increased, adequate security as provided for in this chapter shall be deposited and maintained by such depository bank. [As amended Acts 1929, 41st Leg., p. 278, ch. 124, § 1.]

[Art. 2543a. Investment of funds by State Depository Board]

The State Depository Board is hereby authorized and empowered to invest the permanent funds of the Texas School for the Blind, Texas School for the Deaf, Austin State Hospital, State Orphans Home and any other permanent funds the investment of which is not otherwise provided for, whenever such permanent funds shall have as much as One Thousand Dollars (\$1,000.00) of funds on deposit with the State Treasurer which are not invested, and it is hereby made the duty of the State Depository Board

to invest such funds in the same class of bonds as are authorized for investment of the Permanent School Fund. [Acts 1931, 42nd Leg., p. 386, ch. 231, § 1.]

**Art. 2547. [2443] Bonds**

Within five (5) days after the selection of such depository it shall be the duty of the banking corporation, association or individual banker so selected, to qualify as county depository in one or more of the following ways, at the option of the Commissioners' Court.

(a) By executing and filing with the Commissioners' Court a bond or bonds, payable to the County judge and his successors in office, to be approved by both the Commissioners Court and the Comptroller, and immediately thereafter filed in the office of the County Clerk of said county, said bond to be signed by not less than five solvent sureties who shall own unencumbered real estate in this state not exempt from execution under the Constitution and laws of this State, of a value equal to or in excess of the amount of said bond, or of a value equal to or in excess of the amount of said bonds when there is more than one bond; and said bond or bonds shall in no event be for less than the total amount of the revenue of such county for the next preceding year for which said bond or bonds are made. The sureties shall file with the Commissioners' Court at the time of filing said bond or bonds a statement containing a description of the unencumbered and non-exempt lands owned by them sufficient to identify such lands on the ground, and such statement shall remain on file with the County Clerk and attached to such bond or bonds; and such statement shall contain a value of each tract of land so listed, together with the value of the improvements thereon.

(b) By having issued and executed by some solvent surety company or companies authorized to do business in the State of Texas, such bond or bonds as provided by law, to be in the amount and payable as provided in Subdivision A hereinabove, which said surety bond shall be approved by both the Commissioners' Court and the Comptroller, and filed in the office of the County Clerk of said county.

(c) By executing and filing with the Commissioners Court a bond or bonds in an amount and payable as provided in Subdivision A hereinabove, to be approved by both the Commissioners' Court and the Comptroller, and filed in the office of the County Clerk of said county, said bond or bonds to be signed by not less than five solvent sureties, who shall prepare and file with the Commissioners' Court at the time of the filing of said bond with said Commissioners' Court, an itemized and verified financial statement, which shall show the aggregate net worth of all, to be equal to or in excess of the amount of such bond or bonds as hereinabove provided for.

(d) In lieu of such personal bonds or surety bonds as above specified, said banking corporation, association or individual banker so selected as the county depository may pledge, and said depository bank is hereby authorized to pledge with the Commissioners' Court for the purpose of securing such county funds, securities of the following kind, in an amount equal to the amount of such county funds on deposit in said depository bank, to wit: United States Bonds, Certificates of Indebtedness of the United States, bonds of the State of Texas, or of any county, city, town, Independent School District, Common School District, or bonds issued under the Federal Farm Loan Act, or Road District bonds or obligations and pledges of the University of Texas; bank acceptances of banks having a capital stock of not less than five hundred thousand dollars, Water Improvement District, and Water Control and Improvement District Bonds, and the legally issued warrants of any of said municipalities so named and bonds issued by municipal corporations in Texas, bonds, pledges or other securities issued by the Board of Regents of the University of Texas; and said Commissioners' Court may accept said secu-

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rities in lieu of such personal or surety bonds; and such securities so pledged by such depository bank shall be deposited as the Commissioners' Court may direct.

When the securities pledged by a depository bank to secure county funds shall be in excess of the amount required under the provisions of this Article, the Commissioners' Court shall permit the release of such excess; and when the county funds deposited with said depository bank shall for any reason increase beyond the amount of securities pledged, said depository bank shall immediately pledge additional securities with the Commissioners' Court so that the securities pledged shall at no time be less than the total amount of county funds on deposit in said depository bank. The right of substitution of securities shall be granted to depositories, provided the securities substituted meet with the requirements of the law and are approved by the Commissioners' Court. Upon the request of such depository bank, the Commissioners' Court shall surrender interest coupons or other evidence of interest, when due, on securities deposited with said Commissioners' Court by such depository bank, provided said securities remaining pledged are ample to meet the requirements of said Commissioners' Court. Such depository may secure said funds by one or more of the ways herein provided, as it may desire.

The condition of the personal bond or bonds, or contract for securities pledged as hereinabove provided, shall be conditioned for the faithful performance of all the duties and obligations devolving by law upon such depository, and for the payment upon presentation of all checks drawn upon said depository by the County Treasurer of the county and that said county funds shall be faithfully kept by said depository and accounted for according to law. Any suits arising thereon shall be tried in the county for which such depository is selected.

It shall be the duty of the Commissioners' Court to investigate and inquire into the solvency of each and every surety on any personal bond or bonds so filed by such county depository and accepted by the Commissioners' Court and approved as required by law, at least twice during each and every year such bonds are effective and in force, and for that purpose shall have authority to require each surety to render an itemized and verified financial statement under oath showing his true financial condition. If any such statement or statements indicate that any of said sureties have become insolvent, or their net worth depreciated below the amount required by law as such sureties, or if any of the assets listed are shown to be, or are known to be depreciated, or their value in any way impaired, then and in any of such events the Commissioners' Court shall require a new bond meeting fully the requirements of this law; and in case of a bond or bonds the sureties on which are required to own unencumbered and non-exempt real estate as herein provided, such statement shall show each tract of land owned by each surety and the value thereof, and if the statements provided for herein shall indicate that any of such lands have been disposed of or encumbered and the value of the remaining unencumbered or non-exempt lands shall not be sufficient to meet the requirements of this law, then the said Commissioners' Court shall require a new bond meeting fully the requirements of this law. The Commissioners' Court shall at any time it may deem necessary for the protection of the county, investigate and inquire into the solvency of any surety company or companies issuing a bond or bonds for any depository, and to investigate the value of any of the securities that may be pledged by such depository in lieu of the personal bond; and such Commissioners' Court may request any such depository, if it deems advisable, to execute a new bond. If said new bond required by the Commissioners' Court for any reason as herein specified be not filed within five (5) days from the time of the service of a copy of said order upon said depository, the Commissioners' Court

may proceed to the selection of another depository in the same manner as provided for the selection of a depository at the regular time for such selection. Nothing in this law shall in any manner limit, restrict or prevent the Commissioners' Court from requiring any depository to execute a new bond at any time such Commissioners' Court may deem it necessary for the protection of the county. [As amended Acts 1929, 41st Leg., p. 33, ch. 11, § 1.]

Effective Feb. 9, 1929. Section 2 of said Acts 1929, 41st Leg., p. 33, ch. 11, repeals all conflicting laws and parts of laws, and expressly repeals Penal Code art. 425a.

[Art. 2558a. Depositories for trust funds in hands of county and district clerks]

Sec. 1. The Commissioners' Court of each County is authorized and required at the February term thereof next following each General Election to receive sealed proposals from any Banking Corporation, Association, or Individual Banker in such County as may desire to be selected as the Depository for Trust Funds in the possession of County and District Clerks. Said sealed proposals shall be filed with the County Clerk on or before ten o'clock A. M. on the first day of the term of Court at which bids are to be received. The proposals submitted shall state the rate of interest offered on average daily deposits of the trust funds of the County and District Clerks for the term between the date of the bid and the selection, designation, and qualification of another Depository. Said bill shall be accompanied by a certified check for not less than one-half of one per cent. of the average daily balances of the amount of trust funds in the possession of said Clerks during the preceding calendar year, which amount shall be determined by the County Clerk on or before ten days before the bids herein provided for are required to be filed, and a certified check accompanying the bid as herein provided for, in the amount so determined by the County Clerk, shall be a sufficient compliance with the provisions of this section with reference to accompanying the bid with a certified check, which certified check shall be a guarantee of the good faith on the part of the bidder, and that if his or its bid is accepted the bond hereinafter provided for will be entered into. Upon the failure of the banking corporation, association, or individual banker that may be selected as such Depository, to give the bond required by law, the amount of such certified check shall go to the County as liquidated damages, and the County shall select another Depository as hereinafter provided. In the event any bid is not accepted, the certified check accompanying the same shall be returned. The check of the bidder whose bid is accepted shall be returned when his bond is filed and approved by the Commissioners' Court and not until such bond is filed and approved. It shall not be necessary for the County to advertise or give notice that bids will be received as provided by this section.

Sec. 2. It shall be the duty of the Commissioners' Court at ten o'clock A. M. on the first day of each term at which bids are required to be received to open publicly such bids and cause each bid to be entered upon the minutes of the Court, and to select as the Depository of the Trust Funds in the possession of County and District Clerks the banking corporation, association, or individual banker offering to pay the largest rate of interest per annum for said funds. The Commissioners' Court may reject any and all bids. The interest upon such funds shall be computed upon daily balances to the credit of such individual owners of said trust funds, and shall be payable upon withdrawal to the legal owners of such funds, when said trust funds have been on deposit with said Clerks for a period in excess of three days.

Sec. 3. Within thirty days after the selection of such depository, it shall be the duty of the Banking Corporation, Association, or Individual Banker so selected to qualify as County Depository for Trust Funds in

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the same manner as now provided by law for qualification as County Depository.

Sec. 4. As soon as said Depository has qualified as provided by law and has been approved by the Commissioners' Court, said Court shall make and enter an order upon the minutes, designating such banking corporation, association, or individual banker as County Depository for trust funds until the designation and qualification of a successor, and thereupon it shall be the duty of the County and District Clerks of such County to deposit all trust funds in their possession with said depository in the manner hereinafter provided; provided, in the event a new Depository has not been selected and qualified by April 15th succeeding the term of Court at which a Depository is required to be selected as required by Section One and Two of this Act, then the term of such Depository shall end and all trust funds due or on deposit shall be paid to the Clerk in whose name the account is carried, and all interest due shall be paid to the County as provided by this Act. [Art. 2558a; P. C. art. 383a.]

Sec. 5. If for any reason there shall be submitted no proposals by any banking corporation, association, or individual banker in the county, or in case there shall be no bid for the entire amount of trust funds, or in the event all bids submitted have been rejected by the Commissioners' Court, or in the event a depository selected has failed to qualify, or in the event that the depository shall become insolvent, or in the event a new depository has been selected on account of the failure of the regular depository to execute a new bond as hereinafter provided, then, in either event, the Commissioners' Court shall advertise for proposals from any banking corporation, association, or individual banker within the State of Texas, and may select a depository, which depository shall qualify in the manner above provided. Notice of the selection of a depository as provided by this section shall be published once each week for two successive weeks in a newspaper of general circulation within the county, if there be such newspaper. If there is no newspaper published in the county, then the same shall be posted at the courthouse for said period. In the discretion of the Commissioners' Court said notice may also be published in any newspaper outside of the county for the same length of time.

Sec. 6. It shall be the duty of the depository to provide for the payment upon presentment at the county seat of the county of all checks drawn by the county or district clerk upon the funds deposited in the name of such clerk as long as such funds shall be in the possession of the depository subject to such checks. For every failure to pay any such check at such county seat upon presentment, said depository shall forfeit and pay to the holder of such check ten per cent of the amount thereof.

Sec. 7. If any depository selected by the Commissioners' Court be not located at the seat of such county, said depository shall file with the county clerk of such county a statement designating the place at said county seat where, and the person, firm or corporation by whom, all the deposits may be received from the clerks for such depository, and where and by whom in said county seat all checks drawn on such depository will be paid, and such depository shall cause every check to be paid upon presentation at the place so designated so long as the said depository has sufficient funds to the credit of such funds applicable to their payment.

Sec. 8. If the Commissioners' Court shall at any time deem it necessary for the protection of the trust funds, it may require any depository to execute a new bond. If said new bond is not filed within fifteen days from the time of the service of a copy of said order upon said depository, the Commissioners' Court may proceed to the selection of another depository in the manner provided for the selection of a depository as provided by Section 5 of this Act.

Sec. 9. The county and district clerks shall not be responsible for any loss of the trust funds through failure or negligence of any deposi-

tory, but nothing in this Act [Art. 2558a; P. C. art. 383a] shall release any county or district clerk for any loss resulting from any official misconduct or negligence on his part nor from any responsibility for such trust funds until a depository shall be selected and the funds deposited therein, nor for any misappropriation of such funds by him. Upon the deposit in the legally selected depository of the trust funds by any county or district clerk, such clerk shall thereafter be relieved of the safekeeping of said funds.

Sec. 10. In the event of the insolvency of any depository, or if for any reason, on account of the deposit of the trust funds with any depository, any part of said funds are lost, the county shall be liable to the person to whom any part of said trust funds is due for the full amount of said funds due such person.

Sec. 11. Any county or district clerk having the custody by law of any money that may have been deposited in court to abide the result of any legal proceeding, which amount is to be in his possession for a period longer than three days, shall deposit the same in the county depository for trust funds, if there be such a depository. The funds deposited by the clerk shall be carried as a trust fund account in the name of the clerk making the deposit, and same shall be subject to withdrawal by the clerk under the conditions set out in the succeeding section of this Act. [Art. 2558a; P. C. art. 383a.]

Sec. 12. Except upon an order of the judge of the court in which funds have been deposited, no check shall be drawn on said depository for any part of said funds by the clerk except for payment to the person or persons to whom the amount of said check is due. All checks drawn by the clerks shall show the style and number of the proceeding in which said money was deposited with the clerk.

Sec. 13. If at any time a new depository has been selected and qualified, it shall be the duty of the county and district clerks to transfer to the new depository all funds in said depository in the name of such clerk, and for this purpose a check may be drawn on such funds by such clerks.

Sec. 14. In the event there has been no selection of a county depository for trust funds, each county or district clerk having the custody by law of any money, evidence of debt, script, instrument of writing, or other article that may have been deposited in court to abide the result of any legal proceeding shall seal up in a secure package the identical money or other article received by him and deposit the same in some iron safe or bank vault. [Acts 1930, 41st Leg., 4th C. S., p. 21, ch. 14.]

Effective Feb. 10, 1931. Section 15 of Acts 1930, 41st Leg., 4th C. S., p. 21, ch. 14, being a penal provision is published as Pen. Code art. 383a.

#### Art. 2559. [2454] Council to take bids for depository

The governing body of every city, town, and village in the State of Texas incorporated under either General or Special Laws, including those operating under special charter or amendments of charter adopted pursuant to the "Home Rule" provisions of the Constitution, is authorized to receive sealed proposals for the custody of city funds, from any banking corporation or corporations, association or associations or individual banker or bankers doing business within the city, town, or village that may desire to be selected as a depository of the city, town, or village. The school funds, from whatever source derived, of incorporated cities, is part of the city funds and is subject to the provisions of this Chapter. Notice that such bids will be received shall be published by the City Secretary not less than one nor more than four (4) weeks before such meeting, in some newspaper published in the city. Any banking corporation or corporations, association or associations, or individual banker or bankers, doing business in the city, town, or village desiring to bid, shall deliver to the City Secretary, on or before the day of such meeting designated by said published notice, a sealed proposal, stating the rate per cent

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upon daily balances that such bidder offers to pay to the city, town, or village for the privilege of being made the depository of the funds of the city, town, or village. All such proposals shall be securely kept by the Secretary, and shall not be opened until the meeting of the council for the purpose of passing upon the same; nor shall any other proposals be received after they shall have been opened. [As amended Acts 1931, 42nd Leg., 1st C. S., p. 16, ch. 9, § 1.]

Art. 2560. [2455] Award and bond [; pledge of securities in lieu of bond]

Upon opening of sealed proposals submitted, the governing body shall select as the depository or depositories of such funds the banking corporation or corporations, association or associations or individual banker or bankers offering to pay to the city the largest amount for such privilege. The governing body of such city, town, or village shall have the right to reject any and all bids and readvertise for new proposals.

Within five (5) days after the selection of such depository or depositories, it shall be the duty of the banking corporation or corporations, association or associations, or individual banker or bankers so selected to qualify as city depository in one or more of the following ways at the option of the governing body of such city, town, or village.

(a) By executing and filing with the governing body of a bond or bonds, payable to the city, to be approved by the governing body, said bond to be signed by not less than five (5) solvent sureties who shall own unencumbered real estate in this State not exempt from execution under the Constitution and Laws of this State of a value equal to or in excess of the amount of said bond, or of a value equal to or in excess of the amount of said bonds when there is more than one bond; and said bond or bonds shall in no event be for less than the total amount of the revenue of such city for the next preceding year for which said bond or bonds are made. The sureties shall file with the city at the time of filing said bond or bonds a statement containing a description of the unencumbered and non-exempt lands owned by them sufficient to identify such lands on the ground, and such statement shall remain on file with the City Secretary attached to such bond or bonds, which statement shall contain a fair estimate of the value of each tract of land so listed, together with the value of the improvements thereon.

(b) By having issued and executed by some solvent surety company or companies authorized to do business in the State of Texas, such bond or bonds as provided by law, to be in the amount and payable as provided in subdivision (a) hereinabove, which said surety bond shall be approved by the governing body and filed with the City Secretary.

(c) By executing and filing with the governing body a bond or bonds in an amount and payable as provided in subdivision (a) hereinabove to be approved by the governing body and filed with the City Secretary of such city, said bond or bonds to be signed by not less than five (5) solvent sureties who shall prepare and file with the governing body, at the time of the filing of said bond, an itemized and verified financial statement, which shall show the aggregate net worth of all to be equal to or in excess of the amount of such bond or bonds as hereinabove provided for.

(d) In lieu of such personal bonds or surety bonds as above specified, said banking corporation or corporations, association or associations or individual banker or bankers so selected as the city depository may pledge, and said depository bank is hereby authorized to pledge with the governing body of such city for the purpose of securing such city funds, securities of the following kind in an amount equal to the amount of said city funds on deposit in said depository bank or banks, to-wit: United States Bonds, Certificates of Indebtedness of the United States, bonds of the State of Texas, or of any county, city, town, independent school dis-

district, common school district, or bonds issued under the Federal Farm Loan Act, or Road District bonds or obligations and pledges of the University of Texas; bank acceptances of banks having a capital stock of not less than Five Hundred Thousand Dollars, (\$500,000.00), Water Improvement District, and Water Control and Improvement District Bonds, and the legally issued warrants of any of said municipalities so named and bonds issued by municipal corporations in Texas, bonds, pledges, or other securities issued by the Board of Regents of the University of Texas; and said city may accept said securities in lieu of such personal or surety bonds, which securities so pledged shall be deposited as the governing body may direct. It is provided however, that such securities so pledged shall be approved as to kind and value by the governing body.

When the securities pledged by a depository bank to secure city funds shall be in excess of the amount required under the provisions of this Article, the governing body of such city shall permit the release of such excess; and when the city funds deposited with such depository bank shall for any reason increase beyond the amount of securities pledged, said depository bank shall immediately pledge additional securities with the governing body so that the securities pledged shall at no time be of a value of less than the total amount of city funds on deposit in said depository bank. Provided however, the determination of such value shall be in the discretion of the governing body whose decision shall be final and binding on such depository. The right of substitution of securities shall be granted to depositories, provided the securities substituted meet with the requirements of the law and are approved by the governing body. Upon the request of such depository bank, the governing body shall surrender interest coupons or other evidence of interest, when due, on securities deposited with said governing body by such depository bank, provided said securities remaining pledged are ample to meet the requirements of this Act and of such governing body.

The condition of the personal bond or bonds or surety company bond or contract for securities pledged as hereinabove provided, shall be conditioned for the faithful performance of all the duties and obligations devolving by law upon such depository, and for the payment upon presentation of all checks drawn upon said depository by the City Treasurer of the city and that said city funds shall be faithfully kept by said depository and accounted for according to law. Any suits arising thereon shall be tried in the county in which such city, town, or village is located.

It shall be the duty of the governing body to investigate and inquire into the solvency of each and every surety on any personal bond or bonds so filed by such city depository and accepted by the governing body and approved as required by law, at least twice during each and every year such bonds are effective and in force, and for that purpose shall have authority to require each surety to render an itemized and verified financial statement under oath showing his true financial condition. If any such statement or statements indicate that any of said sureties have become insolvent, or their net worth depreciated below the amount required by law as such sureties, or if any of the assets listed are shown to be, or are known to be depreciated, or their value in any way impaired, then and in any of such events the governing body shall require a new bond meeting fully the requirements of this law; and in case of a bond or bonds the sureties on which are required to own unencumbered and non-exempt real estate as herein provided, such statement shall show each tract of land owned by each surety and the value thereof, and if the statements provided for herein shall indicate that any of such lands have been disposed of or encumbered and the value of the remaining unencumbered or non-exempt lands shall not be sufficient to meet the requirements of this law, then the said governing body shall require a new bond meeting fully the requirements of this law. The governing body shall at any time it may deem necessary for the protection of the city, investi-



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gate and inquire into the solvency of any surety company or companies issuing a bond or bonds for any depository, and to investigate the value of any of the securities that may be pledged by such depository in lieu of the personal bond; and such governing body may require any such depository, if it deems advisable, to execute a new bond, or to deliver into pledge additional or other securities. If said new bond or securities required by the governing body for any reason, as herein specified, be not filed within five (5) days from the time of the service of a copy of said order upon said depository, the governing body may proceed to the selection of another depository in the same manner as provided for the selection of a depository at the regular time for such selection. Nothing in this law shall in any manner limit, restrict, or prevent the governing body from requiring any depository to execute a new bond at any time such governing body may deem it necessary for the protection of the city. [As amended Acts 1931, 42nd Leg., 1st C. S., p. 16, ch. 9, § 2.]

Section 3 of Acts 1931, 42nd Leg., 1st C. S., p. 16, Ch. 9, provides that in the event depositories have been selected at the time the act takes effect, such depositories may secure said funds by the deposit of approved securities as herein provided and upon the approval and deposit of such securities shall be entitled to the cancellation of the personal bond, bonds or surety bonds.

## TITLE 49—EDUCATION—PUBLIC

[Art. 2589a. Construction, equipment, and control of dormitories]

Sec. 1. That the Board of Regents of the University of Texas, are hereby authorized and empowered to acquire, without cost to the State of Texas, and accept title, subject to such conditions and limitations as may be prescribed and provided, seven boys dormitories, and a kitchen and dining hall building and grounds in connection therewith, within a radius of not more than one quarter of a mile from the present campus of said University, when the total cost, type of construction, and the capacity of said buildings, as well as the other plans and specifications, have been approved by them; that said Board of Regents are further authorized to make any contracts with reference to the collection and disposition of the revenues derived therefrom in the acquisition, management, and maintenance of said buildings, and upon acquisition thereof absolute control and management shall vest in said Board, subject to any conditions that may be provided in the grant; provided that the said seven dormitories and kitchen and dining hall shall be built of steel, concrete, brick, and/or rock, and fireproof, except the doors and windows, the buildings and land to cost not less than One Million Three Hundred Thousand (\$1,300,000.00) Dollars. And the buildings are to accommodate not less than One Thousand (1000) students.

Sec. 2. On the acquisition of said buildings by the University of Texas the Board of Regents are hereby expressly authorized and empowered to make requisition for all furniture, furnishings, equipment, and appointments that may be necessary for the proper use and enjoyment of said buildings, which in no event, however, shall become permanent fixtures.

Sec. 3. The Board of Control of the State of Texas is hereby authorized to purchase and pay for the furnishings and equipment authorized to be purchased in Section 2 only after the buildings are accepted and acquired by the Board of Regents.

Sec. 4. The Board of Regents of the University of Texas is hereby authorized and empowered to adopt such rules and regulations as they may deem advisable, requiring any class or classes of students to reside in such dormitories, or other buildings as they may deem advisable. [Acts 1929, 41st Leg., p. 258, ch. 113.]

Section 5 of said Acts 1929, 41st Leg., p. 258, ch. 113, declares that the invalidity of any part of the act shall not affect the remainder.

## [Art. 2591a. Investment of permanent funds of University]

Sec. 1. The Board of Regents of the University of Texas is authorized to invest the Permanent Fund of the University of Texas in:

1. Bonds of the State of Texas;
2. Bonds of the United States;
3. Bonds of counties of the State of Texas; school bonds of municipalities of the State of Texas; bonds of cities in the State of Texas;
4. Obligations and pledges issued by the Board of Regents of the University of Texas, or secured by such obligations and pledges for the construction of dormitories and other buildings for the University of Texas, in accordance with the terms hereinafter set forth in this Act.

Sec. 2. No investment may be made in obligations or pledges of the University of Texas or of the Agricultural and Mechanical College of Texas, except to the amount and under the conditions hereinafter named, and this authority having been exercised, no additional bonds or pledges shall at any time be issued.

Sec. 3. Whenever the Board of Regents shall have purchased bonds of any city, county or municipality, approved by the Attorney General of Texas, the certificate of the Attorney General attesting their validity, shall be admitted and received as prima facie evidence of the validity of such bonds; in all cases where the proceeds of the sale of any such bonds have been received by the proper officers of any such city, municipality or county, or by the party acting therefor in negotiating the sale thereof, such county, city or municipality shall thereafter be estopped from denying the validity of such bonds so issued and the same shall be held to be valid and binding obligations. Pending the construction of fire and burglary proof vaults in the Capitol building, the Board of Regents of the University of Texas and the State Treasurer shall rent for the safe-keeping of University securities a fire and burglary proof vault; no University securities shall be handled at the vault except in the presence of a representative of the Board of Regents designated by the Board and the Treasurer of the State or a representative designated by him.

Sec. 4. Bonds of the University Permanent Fund may, at the discretion of the Board of Regents, be sold and the proceeds reinvested for the Permanent Fund under the terms of this Act. If any bonds are sold at a premium the amount received in excess of par shall be credited to the Available University Fund to repay premiums on bonds heretofore purchased. In the case of any bonds bought under this Act, premium or discount shall be distributed over the life of the bonds.

Sec. 5. During the period from the taking effect of this Act to December 31, 1933, the Board of Regents of the University of Texas is authorized to borrow amounts aggregating a sum not exceeding Four Million (\$4,000,000.00) Dollars which, with such other sums as may be available therefor, shall be expended in improvements of the campuses at the Main University and at the Medical Branch, and the erection and equipment of buildings thereon, to include dormitories, a library, a dining hall, and needed additional class rooms and laboratories, and for extensions of the campus at the Main University in Austin, when authorized by act of the Legislature, which authority is hereby expressly given; the said campus extensions, to cost not to exceed Two Hundred Thousand (\$200,000.00) Dollars, no part of which shall be expended for or applied to the purchase price of the land known as the Cavanaugh tract; provided that of said Two Hundred Thousand (\$200,000.00) Dollars an amount not to exceed Sixty-Five Thousand (\$65,000.00) Dollars may be expended for that property belonging to the Episcopal Church, Diocese of Texas, extending from Twenty-sixth street north to the Grace Hall property line and between Whitis and University avenues; and an amount not to exceed One Hundred and Thirty-Five Thousand (\$135,000.00) Dollars may be expended for that property known as the Texas Wesleyan College property

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(Swedish Methodist College). The Permanent University Fund may be invested in obligations in the form of bonds which the Board of Regents is hereby authorized to issue to secure the funds necessary to carry out the purposes named. The amount hereby authorized to be invested in bonds issued by the Board of Regents of the University of Texas may be taken from the Permanent University Fund as it may accrue from oil royalties or from the proceeds of sales of United States bonds made in accordance with Section 4 hereof. The bonds issued shall be in amounts of Two Hundred and Fifty Thousand (\$250,000.00) Dollars, each, except the last, which may be in the amount, or in a lesser amount; they shall be executed by the Board of Regents, acting by its Chairman, whenever during the period named funds to the amount of Two Hundred and Fifty Thousand (\$250,000.00) Dollars have accrued, as indicated, from said Permanent Fund; and said bonds shall be of the date of said investment; they shall likewise be signed by the President of the University of Texas, and shall be registered by the Comptroller. The bonds may be paid before their maturity and shall have maturities as follows: No. 1 shall be payable on January 1, 1937; Nos. 3, 5, 7, 9, 11, 13, and 15, on January 1 of the years 1938 to 1944, respectively; No. 2 shall be payable July 1, 1937; and Nos. 4, 6, 8, 10, 12, 14, and 16, July 1 of the years 1938 to 1944, respectively. The bonds shall bear interest at the rate of 4 per cent per annum; the first payment of interest to be on January 1 of the year next succeeding the issue of the bond, and semi-annually thereafter on the first of July and the first of January of each year until paid. The bonds shall be and are hereby secured by the pledge of two-thirds of the Available University Fund accruing as interest on bonds held by the Permanent Fund during the period of six months next preceding the date of the maturity of the bond and by two-thirds of all Available University Funds thereafter so accruing, except so much thereof as may be apportioned to any particular bond of this series, and except that all bonds of this series shall equally be secured by such additional Available Fund.

The bonds may be in the following form:

The State of Texas  
The University of Texas

No. \_\_\_\_\_

The Board of Regents of the University of Texas will pay to the Permanent University Fund of said University, \_\_\_\_\_ 1, 19— from the Available University Fund thereof the sum of Two Hundred and Fifty Thousand (\$250,000.00) Dollars.

Two-thirds of the University Available Fund accruing as interest on bonds belonging to the Permanent University Fund during the six months next preceding the maturity of this bond is hereby pledged to secure payment of this bond; there is also pledged to secure payment hereof and all the other bonds of this series two-thirds of all Available University Funds thereafter accruing as interest on bonds of the Permanent University Fund not specifically pledged to secure a bond of this series.

The principal and interest of this bond are payable at the Treasury of the State of Texas.

Executed at Austin, Texas, this \_\_\_\_\_ day of \_\_\_\_\_, 193—.

Board of Regents of the University of Texas

By \_\_\_\_\_  
Chairman

\_\_\_\_\_  
President of the University of Texas

Registered \_\_\_\_\_ day of \_\_\_\_\_ 193—.

\_\_\_\_\_  
Comptroller of the University of Texas

Sec. 6. During the period from the taking effect of this Act to December 31, 1933, the Board of Directors of the Agricultural and Mechanical College of Texas is authorized to borrow amounts aggregating a sum not to exceed Two Million (\$2,000,000.00) Dollars which (with such other sums as may be available therefor) shall be expended in improvements of the campus of the College and the erection and equipment of permanent buildings thereon for College uses and for extensions to the campus, of the Agricultural and Mechanical College of Texas when authorized by act of the Legislature, which authority is hereby expressly given; said campus extensions to cost not exceeding One Hundred Thousand (\$100,000.00) Dollars. The Permanent University Fund may (and shall, at the request of the Board of Directors of the said Agricultural and Mechanical College) be invested in obligations in the form of bonds which the said Directors are hereby authorized to issue to secure the funds to carry out the purposes named. The amount hereby authorized to be invested in bonds issued by the Board of Directors of the Agricultural and Mechanical College may be taken from the Permanent University Fund as it may accrue from oil royalties or from the proceeds of sale of United States bonds made in accordance with Section 4 hereof. If with reference to any amount of Permanent University Fund on hand at any time accruing from said royalties or the proceeds of sales there should be insufficient to meet the requirements of the Board of Regents of the University of Texas, as indicated by Section 5 hereof, and the requirements of the Directors of the Agricultural and Mechanical College as here in this Section indicated, the available amount shall be apportioned two-thirds to the Board of Regents of the University of Texas and one-third to the Board of Directors of the Agricultural and Mechanical College. The bonds issued shall be in such amounts as shall be designated by the Board of Directors and shall be as of the date of the investment by the Board of Regents. They shall be executed by the said Board, acting by its Chairman. They shall likewise be signed by the President of the Agricultural and Mechanical College and shall be registered by the Accounting Officer of that Institution. The bonds may be paid before their maturity, and the maturities shall be fixed at the discretion of the Agricultural and Mechanical College, not, however, later than July 1, 1944. No bonds shall be issued unless at the time of the issuance thereof the one-third apportioned to the Agricultural and Mechanical College of the Available University Fund arising from interest on said Permanent Fund from bonds purchased from royalties shall be sufficient to pay the interest and discharge the principal of the bonds at maturity. The bonds shall bear interest at the rate of four per cent per annum, the first payment of interest to be on January first of the year next succeeding the issue of the bond and semi-annually thereafter on the first of July and January of each year until paid. The bonds shall be and are hereby secured by the pledge of the one-third apportioned to the Agricultural and Mechanical College of the Available University Fund accruing as interest on bonds held by the Permanent Fund during the period from the issuance of said bonds until their maturity and payment. This provision, however, shall not prevent the use by the Directors of the said Agricultural and Mechanical College of any Available University Fund apportioned to said College in making the permanent improvements hereinbefore provided for which may not be needed to discharge the principal and interest on these bonds. The bonds may be in the following form:

The State of Texas

The Agricultural and Mechanical College of Texas

No. \_\_\_\_\_

The Board of Directors of the Agricultural and Mechanical College of Texas will pay to the Permanent University Fund of the University of Texas on \_\_\_\_\_, \_\_\_\_\_, 19\_\_\_\_, from the Available University

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Fund apportioned to said Agricultural and Mechanical College the sum of \_\_\_\_\_ Dollars;

The one-third of the Available University Fund accruing as interest on bonds belonging to the Permanent University Fund apportioned to the Agricultural and Mechanical College is hereby pledged to secure payment of this bond.

The principal and interest of this bond is payable at the Treasury of the State of Texas.

Executed at \_\_\_\_\_ Texas, this \_\_\_\_\_ day of \_\_\_\_\_, 193—.

Board of Directors of the Agricultural and Mechanical College of Texas.

By \_\_\_\_\_

Chairman

\_\_\_\_\_  
President, Agricultural and Mechanical College of Texas

Registered \_\_\_\_\_ day of \_\_\_\_\_, 193—.

\_\_\_\_\_  
of Agricultural and  
Mechanical College of Texas.

[Acts 1931, 42nd Leg., p. 83, ch. 55.]

#### Art. 2592. [2643] Improvements

The Board of Regents of the University of Texas and the Board of Directors of the Agricultural and Mechanical College of Texas shall, with the approval of the Legislature, expend the Available University Fund for the construction of buildings on the campuses of their respective institutions and for the extension and improvement of their campuses and for the equipment of buildings thereon in the proportions and amounts hereinafter indicated; and to pay interest and principal sufficient to retire any obligation which may be incurred by virtue of any pledges made by the respective institutions as herein provided; and the Board of Regents of the University of Texas shall expend of such Available University Fund so much thereof as may be appropriated by the Legislature for the administration of the University Lands and of the University Permanent Fund, such expenses to be apportioned between the two institutions in proportion to their receipts of Available University Funds under the terms of this Act. For the years beginning September 1, 1931, September 1, 1932, September 1, 1933, the sum of Two Hundred Thousand (\$200,000.00) Dollars net shall accrue for each of said years of said Available University Fund to the Agricultural and Mechanical College of Texas and shall be expended by the Board of Directors of that institution for said Agricultural and Mechanical College purposes, and the Board of Regents of the University of Texas shall expend the balance of said Available Fund for said University of Texas purposes.

Beginning September 1, 1934, the Board of Directors of the Agricultural and Mechanical College of Texas shall so expend one-third of all the Available University Fund received from the Permanent University Fund arising from the 1,000,000 acres of land appropriated by the Constitution of 1876 and the land appropriated by the Act of 1883, except income from grazing leases on University lands (less its proportion of expenses of administration and excluding any expenses of administration from grazing leases), and the Board of Regents of the University of Texas shall so expend the balance of said Available Fund, including all the income from grazing leases on University lands (less its proportion of expenses of administration).

The Board of Directors of the Agricultural and Mechanical College of Texas shall have the right to pledge that part of the Available University Fund hereby placed at its command, and the Board of Regents of the Uni-

versity of Texas shall have the right to pledge that part of the Available University Fund placed at its command for not exceeding fifteen years to make the said funds immediately available. Any contract for expenditures of said interests and income for any purpose other than those named shall be void. No surface lease of said lands shall be made for a period of more than ten years. [As amended Acts 1931, 42nd Leg., p. 63, ch. 42, § 1.]

[Art. 2603a. Board for lease of oil and gas land, powers and duties]

Sec. 1. A Board is hereby created to consist of the Commissioner of the General Land office and two members of the Board of Regents of the University of Texas, neither of whom is employed either directly or indirectly by any oil or gas company, nor is an officer or attorney thereof, to be selected by said Board of Regents, who shall perform the duties hereinafter indicated; the Board shall be known as "Board for Lease of University Lands." The term "Board" wherever it appears hereafter in this Act shall mean "Board for Lease of University Lands." The Board shall keep a complete public record of all its proceedings.

Sec. 2. It is hereby made the duty of the Board to cause to be done such surveying or re-surveying of the blocks and subdivisions thereof of the University lands as may be necessary to enable the lines of the blocks and sections and fractional sections to be determined and identified and have such corners as may be necessary to that end permanently marked. When it is impracticable to establish such lines and corners as originally surveyed, or when such sections have not been actually surveyed on the ground, the blocks shall be surveyed or re-surveyed and divided into surveys of sections and fractional sections and as many corners thereof as may be necessary for the identification shall be permanently marked. The surveyors employed to do such surveying shall be approved by said Board. The field notes of such surveys shall be returned to the General Land Office, and when correct and in accordance with law, shall be approved by the Commissioner, filed in the General Land Office and become archives therein.

Sec. 3. The oil and gas in the University land shall be subject to sale on and after June 1, 1929, under the regulations, at the times and on the terms provided herein, together with such rules and regulations as may be authorized herein to be adopted by the Board, but not inconsistent with the provisions of this Act.

Sec. 4. Whenever there shall be such demand for the purchase of oil and gas in any University land as will reasonably insure that said oil and gas may be sold advantageously, the Board shall place said oil and gas in said lands on the market in separate tracts of such area and extent as the Board may determine most suitable for the profitable marketing thereof, but in no event shall any tract in which oil and gas is offered for sale as a unit exceed an area of six thousand acres. The sale of said oil and gas, within the discretion of the Board, may be made either at public auction or by the receipt of sealed bids. The Board shall cause to be advertised a brief description of the lands upon which the oil and gas is proposed to be sold, such description to carry the block and survey numbers, or parts of surveys to be combined in one tract or unit; the exploratory term of the lease proposed to be executed thereon and the method of the proposed sale, whether at public auction or by the receipt of sealed bids. If the sale is to be made at public auction, the sale shall be held at the General Land Office in Austin, Texas at any hour between ten o'clock A. M. and five o'clock P. M., and the advertisement shall state the place and time of the proposed sale. If the sale is to be made by the receipt of sealed bids, the advertisement shall state that sealed bids for the purchase of oil and gas by lease will be opened at a designated day, at ten o'clock A. M. on that day, and that sealed bids received up to that time will

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be considered. Under either method of sale said advertisement shall be made:

(a) By insertion in two or more papers of general circulation in this State.

(b) By mailing a copy thereof to the county clerk and county judge of every county in this State in which an advertised area may be situated.

(c) In addition to the two foregoing mandatory provisions, the Board may in its discretion cause said advertisement to be placed in oil and gas journals in and out of the State and to be mailed generally to such persons as they think might be interested. [Acts 1929, 41st Leg., p. 616, ch. 282, as amended Acts 1931, 42nd Leg., p. 293, ch. 174, § 1.]

Sec. 5. If the proposed sale is to be made by the receipt of sealed bids, all such bids shall be directed to the said Board in care of the General Land Office of the State of Texas, and shall be retained by the Commissioner of the General Land Office until the day designated for the opening of bids and upon that day the said Board, or a majority of its members, shall open said bids and shall list and file and register all bids and money received. Under either method of sale a separate bid shall be made for each separate tract offered for sale. No bid, either at a sale by public auction or by the receipt of sealed bids, shall be accepted which offers a royalty of less than one-eighth of the gross production of oil and gas in the land bid upon, and this minimum royalty may be increased at the discretion of the Board, before the promulgation of the advertisement. Every bid, regardless of the method of sale, shall carry the obligation to pay an annual rental of not less than ten cents per acre, such amount to be fixed by the Board in advance of the advertisement, and which shall be paid every year in advance during the exploratory term of the lease except during such years as the royalties received from such land during the preceding year shall equal or exceed the amount of the annual rental payment. [Acts 1929, 41st Leg., p. 616, ch. 282, as amended Acts 1931, 42nd Leg., p. 293, ch. 174, § 2.]

Sec. 6. Every bid, whether made in pursuance to a sale at public auction or by the receipt of sealed bids, shall be accompanied by a payment equal to the minimum price fixed on the land per acre as an annual rental which amount will constitute the first year rental payment if the bid is accepted. The bid shall further indicate the royalty the bidder is willing to pay, which royalty shall not be less than one-eighth of the gross production. The bid shall further name such amount as the bidder may be willing to pay in addition to the royalty and the annual payment herein provided for and shall be accompanied by cash or checks collectible in Austin to cover said amount. [Acts 1929, 41st Leg., p. 616, ch. 282, as amended Acts 1931, 42nd Leg., p. 293, ch. 174, § 3.]

Sec. 7. If any one of the bidders at the sale at public auction or by the receipt of sealed bids shall have offered a reasonable and proper price for any tract offered, not less than the price fixed by the Board, the land advertised may be leased for oil and gas purposes under the terms of this Act and such regulations as the Board may prescribe, not inconsistent with the provisions of this Act. All bids may be rejected by the Board. [Acts 1929, 41st Leg., p. 616, ch. 282, as amended Acts 1931, 42nd Leg., p. 293, ch. 174, § 4.]

Sec. 8. (a) If the Board shall determine that a satisfactory bid has been received for said oil and gas, it will make an award to the applicant offering the highest price therefor, and a lease shall be executed by the Commissioner of the General Land Office, a duplicate copy of such lease shall be filed in the General Land Office.

(b) The exploratory term of the lease as determined by the Board prior to the promulgation of the advertisement shall in no case exceed five (5) years, and each lease shall provide that the lease will terminate at the expiration of its exploratory term, unless by unanimous vote of

members of the Board such lease may be extended for a period of five (5) years, which lease may be extended where the Board finds that there is likelihood of oil being discovered thereon by lessees, and that such lessees have proceeded with diligence to protect the interest of the State; provided, however, that if oil and/or gas is being produced in paying quantities from the premises, said lease shall continue in force and effect as long as such oil and/or gas is being so produced. Provided, that no extension hereunder may be made by the Board until the last ten days of the original term of the lease. The lease shall include such additional provisions and regulations as the Board may prescribe to preserve the interests of the State and safeguard the interest of the University funds, but not inconsistent with the provisions of this Act.

(c) Whenever in the discretion of said Board it is for the interest of the University and its permanent fund to extend a lease issued by said Lease Board or Land Commissioner, said Board for Lease of University Lands is hereby granted and given full authority to extend said lease for a period not to exceed five (5) years, upon the condition that the lease shall continue to pay yearly rental as provided in the lease, and such additional terms as the Board for Lease may see fit to demand. Such Board is hereby given full authority to extend such leases and execute an extension therefor.

(d) Whenever in the discretion of the Board for Lease of University Lands it is for the best interest of the University Permanent Fund to prorate, reduce or discontinue production on any of the University oil and gas leases by agreement with lessees for a limited period, said Board shall have and is hereby given authority to execute the necessary contract to carry out the intention of this section. [Acts 1929, 41st Leg., p. 616, ch. 282, as amended Acts 1931, 42nd Leg., p. 293, ch. 174, § 5.]

Sec. 9. And in the event oil or gas is discovered in paying quantities on any tract covered by any such lease, then the lease as to such tract shall remain in force so long as oil and gas is produced in paying quantities from such tract, provided that the other provisions of this Act are complied with by the lessee. [Acts 1929, 41st Leg., p. 616, ch. 282, as amended Acts 1931, 42nd Leg., p. 293, ch. 174, § 6.]

Sec. 10. All rights purchased may be assigned in quantities of not less than forty acres, unless there be less than forty acres remaining out of the tract originally leased hereunder, in which case such lesser area may be assigned. All assignments shall be filed in the General Land Office within one hundred days after the date of the first acknowledgment thereof, accompanied by ten cents per acre for each acre assigned, and if not so filed and payment made the assignment shall be ineffective. All rights to any entire lease and to any assigned portion thereof may be relinquished to the State at any time by having an instrument of relinquishment recorded in the county or counties in which the area may be situated and filed in the Land Office accompanied by \$1.00 for each area assigned, but such assignment shall not release the owners of any past due obligations theretofore accrued thereon. [Acts 1929, 41st Leg., p. 616, ch. 282 as amended Acts 1931, 42nd Leg., p. 293, ch. 174, § 7.]

Sec. 11. Royalty as stipulated in the sale shall be paid to the General Land office at Austin, Texas, for the benefit of the University Permanent Fund on or before the 20th day of each succeeding month for the preceding month during the life of the rights purchased and it shall be accompanied by the sworn statement of the owner, manager or other authorized agent showing the gross amount of oil produced and saved since the last report and the amount of gas produced and sold off the premises and the market value of the oil and gas, together with a copy of all daily gauges of tanks, gas meter readings, pipe line receipts, gas line receipts, and other checks and memoranda of the amounts produced and put into pipe lines, tanks or pools and gas lines or gas storage. The books and



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accounts, receipt and discharges of all wells, tanks, pools, meters, pipe lines and all contracts and other records pertaining to the production, transportation, sale and marketing of the oil and gas shall at all times be subject to inspection and examination by the Commissioner of the General Land Office, the Attorney General, the Governor, or any member of the Board of Regents of the University of Texas, or the representative of either.

Sec. 12. In every case where the area in which the oil and gas sold shall be contiguous or adjacent to land not University land, the acceptance of the bid and the sale made thereby shall constitute an obligation on the owner thereof to adequately protect the land leased from drainage from adjacent lands. In cases where the area in which the oil and gas is sold is contiguous to other University lands leased or sold, at a lesser royalty, the owner shall likewise protect the State from drainage from the land so leased or sold for a lesser royalty. Upon failure to protect the land from drainage as herein provided the sale and all rights thereunder may be forfeited by the Board in the manner elsewhere provided herein for forfeitures.

Sec. 13. If the owner of the rights acquired under this Act shall fail or refuse to make the payment of any sum due thereon, either as rental or royalty on the production within thirty days after same shall become due, or if such owner or his authorized agent should make any false return or false report concerning production, royalty or drilling, or if such owner shall fail or refuse to drill any offset well or wells in good faith, as required by his lease, or if such owner or his agent should refuse the proper authority [to] access to the records and other data pertaining to the operations under this Act, or if such owner, or his authorized agent, should fail or refuse to give correct information to the proper authorities, or fail or refuse to furnish the log of any well within thirty days after production is found in paying quantities, or if any of the material terms of the lease should be violated, such lease shall be subject to forfeiture by the Board by an order entered upon the minutes of the Board reciting the facts constituting the default, and declaring the forfeiture. The Board may, if it so determines, have suit instituted for forfeiture through the Attorney General of the State. Upon proper showing by the forfeiting owner, within thirty days after the declaration of forfeiture, the lease may, at the discretion of the Board and upon such terms as it may prescribe, be reinstated. In case of violation by the owner of the lease contract, the remedy of the State by forfeiture shall not be the exclusive remedy, but suit for damages or specific performance, or both, may be instituted. The State shall have a first lien upon all oil and gas produced upon the leased area and upon all rigs, tanks, pipe line, telephone lines and machinery and appliances used in the production and handling of oil and gas produced thereon, to secure any amount due from the owner of said lease.

Sec. 14. All surveys, files, records, copies of sale and lease contracts and all other records pertaining to the sales and leases hereby authorized shall be filed in the General Land office and constitute archives thereof. Payment hereunder shall be made to the Commissioner of the General Land Office at Austin, Texas, who shall transmit to the State Treasurer all royalty for deposit to the credit of the Permanent University Fund and all rentals for delay in drilling and all other payments, including all filing assignments and relinquishment fees hereunder to the credit of the Available University Fund.

Sec. 15. The Board is authorized to employ a geologist and a mineralogist who shall keep informed with reference to the minerals in University lands and all activities under this and previous leases and sales and shall report to the Board all information gained with reference thereto. The Board is also authorized to employ other necessary employees.

The salaries of such employees shall be paid monthly, and no salary shall be paid in excess of Six Thousand (\$6,000.00) Dollars per annum.

Sec. 16. The expenses of executing the provisions of this Act shall be paid monthly by warrants drawn by the Comptroller on the State Treasurer, and for that purpose the sum of Twenty Thousand (\$20,000.00) dollars or as much thereof as may be necessary is hereby appropriated out of any money in the Treasury not otherwise appropriated until September 1, 1929.

Sec. 17. If any provision hereof should be held unconstitutional, the balance of the Act shall not be affected thereby. [Acts 1929, 41st Leg., p. 616, ch. 282.]

Sec. 18. The Board shall adopt proper forms, regulations, rules, and contracts such as will in its best judgment protect the income from lands leased hereunder. All Acts of the Board shall be by unanimous vote of the entire Board. The Board shall have the right to withdraw any lands advertised for lease prior to the hour fixed for receiving bids in the case of sales at public auction or prior to the opening of sealed bids where the sale is conducted by the receipt of sealed bids. Any and all, or parts of, laws in conflict with this Act are hereby repealed. [Acts 1929, 41st Leg., p. 616, ch. 282, as amended Acts 1931, 42nd Leg., p. 293, ch. 174, § 8.]

Effective May 21, 1931. Section 9 of said held invalid such decision shall not affect acts 1931 provides that if any provision is the remainder.

[Art. 2603b. Surveying and resurveying of University lands; employment of geologist and mineralogist authorized]

Sec. 1. It is hereby made the duty of the Board of Regents of the University of Texas to cause to be done such surveying or resurveying of the blocks and subdivisions thereof of the University lands as may be necessary to enable the lines of the blocks and sections and fractional sections to be determined and identified and have such corners as may be necessary to that end permanently marked. When it is impracticable to establish such lines and corners as originally surveyed, or when such sections have not been actually surveyed on the ground, the blocks shall be surveyed or resurveyed and divided into surveys of sections and fractional sections and as many corners thereof as may be necessary for the identification shall be permanently marked. The surveyors to do such surveying shall be employed by said Board. The field notes of such surveys shall be returned to the General Land Office, and when correct and in accordance with Law, shall be approved by the Commissioner of the General Land Office filed in the General Land Office and become archives therein.

Sec. 2. The Board of Regents is hereby authorized to employ a geologist and mineralogist, who shall keep informed with reference to the minerals in the University lands and all activities under leases and sales of the minerals therein, and shall report to the Board of Regents and to the Board for Lease of University Lands all information gained with reference thereto.

Sec. 3. The Board of Regents of the University of Texas shall have authority to employ and compensate such help as said Board may deem necessary in connection with the performance of any duties under Chapter 282 of the General and Special Laws of the Regular Session of the 41st Legislature or under this Act. The Board of Regents shall have all the powers and perform all the duties provided by Sections 2 and 15 of said Chapter, but the Board for Lease of University Lands as created by said chapter shall perform all the other duties provided therein. [Acts 1931, 42nd Leg., p. 130, ch. 87.]

Section 4 provides for an appropriation.

Art. 2613. [2664-2676] Powers and duties

11. Upon the recommendation of the Board of Directors, the Governor of this State is authorized to accept gifts of land to the State to be

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held, protected and administered by said Board as State forests, and to be used [so] as to demonstrate the practical utility of timber culture and water conservation and as game preserves. Such gifts may be upon such terms and conditions as shall be agreed upon between the grantors of the property and the Board of Directors of the Agricultural and Mechanical College of this State. The Board of Directors of the Agricultural and Mechanical College of Texas shall have the power to purchase lands in the name of the State, suitable chiefly for the production of timber as State forests, using for such purposes any special appropriation. All conveyances of any property either by gift or otherwise, shall be submitted to the Attorney General for approval as to form. [As amended Acts 1929, 41st Leg., p. 126, ch. 61, § 1.]

[Art. 2613a—1. Permanent improvements authorized]

Sec. 1. The Board of Directors of the Agricultural and Mechanical College of Texas is hereby authorized to contract with persons, firms or corporations for the purchase of, or the acquisition of, or the erection of permanent improvements on or conveniently located in reference to the campus of said College, and to purchase, sell or lease lands and other appurtenances for the construction of such permanent improvements provided that the State of Texas incurs no indebtedness under the contracts.

Sec. 2. Said Board of Directors is especially authorized to contract for the acquisition, purchase or erection of dormitories, athletic fields and stadiums, and in reference to the collection, control and disposition of the revenues derived from the operation or control of such dormitories, athletic fields and stadiums. The Board is authorized and directed to establish and maintain such schedule of rates, fees and charges for the use of the facilities afforded by its dormitories, and revenues from the athletic fields and stadiums, which rates, fees and charges shall be in an amount at least sufficient to pay the operating and maintenance charges thereof and to pay the principal and interest representing the indebtedness against said property and/or the revenues therefrom. The Board is authorized to pledge said revenues to the payment of revenue notes or revenue bonds and interest thereon, in the acquisition of such dormitory or dormitories and/or athletic fields or stadiums.

Sec. 3. The Board of Directors is especially authorized to make such contract or contracts in reference to the erection or acquisition of a stadium or improvements to or enlargement of the present stadium owned by the College, and in reference to the collection and disposition of the revenues received by the Department of Physical Education, and/or the Athletic Council of the College, including receipts from the sale of coupon books, gate receipts, and such other revenues as may accrue to such Athletic Council and/or Department of Physical Education. The Board of Directors shall be empowered and is hereby directed to see that rates, fees and charges are maintained by the Department of Physical Education and/or the Athletic Council of the College for coupon books, gate receipts and in all other revenues accruing to the Department of Physical Education and/or the Athletic Council of the College, which will be in an amount sufficient to pay the operating and maintenance charges of the Department of Physical Education and/or the Athletic Council, and to pay the principal [principal] and interest represented by the contract or contracts for the erection or acquisition of said permanent improvements thereto. The Board is authorized to pledge said revenues to the payment of revenue notes or revenue bonds, and interest thereon, represented by the contract for the erection or acquisition of said stadium or the erection of said permanent improvements thereto; provided, however, no indebtedness shall be incurred by or in behalf of the State of Texas, but only the revenues indicated in this section shall be pledged.

Sec. 4. Said Board of Directors is further authorized to sell, encumber or contract with reference to the divesting or encumbering of the title

to any part of the Campus or other property of said College as may be necessary in the construction or acquisition of dormitories except that no debt shall be created against said institution or the State of Texas.

Sec. 5. Said revenue notes or revenue bonds shall be examined and approved by the Attorney General of the State of Texas, and shall be registered in the office of the Comptroller of the State of Texas.

Sec. 6. On the acquisition of said dormitory or dormitories by the College, the Board of Directors is hereby expressly authorized and empowered to make requisition for all furniture, furnishings, equipment and appointments that may be necessary for the proper use and enjoyment of said building or buildings, which in no event, however, will become permanent fixtures. The Board of Control of the State of Texas is hereby authorized to purchase and pay for the furnishings and the equipment authorized to be purchased in this Section, but only after said building or buildings are accepted by the Board of Directors.

Sec. 7. The Board of Directors is hereby empowered to do any and all things necessary and/or convenient to carry out the purpose and intent of this law. [Acts 1929, 41st Leg., 2nd C. S., p. 162, ch. 82.]

Effective June 24, 1929. Section 8 of laws and provides if any part is declared Acts 1929, 41st Leg., 2nd C. S., p. 162, ch. invalid, the remainder shall be effective. S2, repeals all conflicting laws and parts of

[Art. 2615a. Firemen's Training School; creation of Advisory Board]

Sec. 1. That the Board of Directors or other managing officers of the A. & M. College of Texas be and they are hereby authorized and directed from and after the passage of this Act to create, conduct and maintain a Firemen's Training School in conjunction as a part of said College in such manner as to said Board may seem most expedient and advisable.

Sec. 2. There is hereby created what shall be known as the "Firemen's Training School Advisory Board" which shall be composed of three (3) members of the teaching staff of said school to be appointed by the Chairman of the Board of Directors of said College, and four (4) members or representatives of the Association known as the "State Firemen's Association of Texas" or its successor; said members to be appointed and designated by the President or other managing officer of said Association, and said Advisory Board shall confer and advise with the Board of Directors of said College with reference to the organization of said school, the purchasing of equipment, the curriculum and program and its conduct and management. The sum of Ten Thousand Dollars (\$10,000.00) is hereby appropriated for the fiscal year 1932, and the sum of Ten Thousand Dollars (\$10,000.00) for the fiscal year 1933 is hereby appropriated out of any sum not otherwise appropriated, out of the General Revenue Fund for the purpose of purchasing equipment and paying the expenses of such school for the next two (2) years, including the per diem and expenses of the Advisory Board, as well as other necessary expenses of such school, all of such expenditures of any and all character shall be made only upon order of the Board of Directors and no warrants on this Fund shall ever be paid unless same shall be also approved in writing by the President of the A. & M. College, who shall be advised with in all the matters and conduct of such school. [Acts 1931, 42nd Leg., p. 382, ch. 228.]

[Art. 2615b. Nautical School authorized; management by Board of Directors of Agricultural and Mechanical College]

Sec. 1. There shall be organized and established in one of the harbors of the State of Texas a Nautical School for the purpose of instructing boys in the practice of seamanship, ship construction, naval architecture, wireless telegraphy, engineering and the science of navigation.

Sec. 2. The said School shall be under the management and direction of the Board of Directors of the Texas Agricultural and Mechanical College. The Board of Directors of said Agricultural and Mechanical Col-

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lege shall have power to receive such funds or properties as shall be subscribed or loaned or bequeathed for the organization or maintenance of said Nautical School, and shall execute all necessary agreements for the faithful application of same and prescribe the standard of admission and admit all boys who meet the requirements. All of such boys, when received into said Nautical School, shall be subject to such regulations of conduct and discipline as the Board may prescribe. It shall be the duty of the Board to make provision for the proper instruction, for courses of study, and for the care, supervision and management of the school, and all power necessary to the proper discharge of these duties are conferred upon said Board of Directors of the Agricultural and Mechanical College.

Sec. 3. It shall be the duty of said Board of Directors of the Agricultural and Mechanical College to employ a Superintendent of said School, who shall also be Commander, to employ instructors and the necessary employees, determine their number, duties and compensation, fix the terms and conditions under which pupils shall be received and instructed in the school, and shall be graduated, they shall establish rules and regulations necessary for the proper management of the school and from time to time shall arrange for cruises from and to the harbors of Houston, Galveston, Beaumont, Port Arthur and Corpus Christi.

Sec. 4. The fact that provision for the establishment of this school is for the primary purpose of giving students practical and technical instruction in the arts and sciences relating to the foregoing subjects, and the further fact that training in these fields will lead to immediate and remunerative employment for those who have finished the prescribed courses, make it necessary that larger fees be charged those students who enter the Nautical School than is now paid by students enrolled in State supported institutions of higher learning. Therefore, the provisions of Senate Bill No. 202, Chapter 237 of the General and Special Laws of the 40th Legislature [Art. 2654a] shall not apply to those students enrolled in the Nautical School, the Board of Directors of the Texas Agricultural and Mechanical College are specifically charged with the duty of assessing such fees and charges against the students who enter this school as may be necessary to provide for the maintenance and support of the School.

Sec. 4A. It is hereby declared to be the intention of the Legislature only to allow interested citizens to support such school and that it is understood that the State shall never be called upon to appropriate any money for the support of this school at this or any future time. [Acts 1931, 42nd Leg., p. 423, ch. 255.]

[Art. 2623a. Eminent domain]

That the Board of Managers of the North Texas Junior Agricultural, Mechanical and Industrial College is hereby vested with the power of eminent domain to acquire for the use of said college such lands as may be necessary or proper for carrying out its purpose. [Acts 1929, 41st Leg., 1st C. S., p. 105, ch. 46, § 1.]

[Art. 2628a—1. Establishment of college at Kingsville]

There is hereby established in Texas, in the City of Kingsville, Kleberg County, a co-educational institution of learning for the white youth of this State, which shall be known as the Texas College of Arts and Industries, and the South Texas State Teachers College is hereby merged into said institution, the same to be conducted, operated and maintained under a new Board of Directors of Directors as herein provided. [Acts 1929, 41st Leg., p. 627, ch. 286, § 1.]

Articles 2628a—1 to 2628a—7 effective 90 days after March 14, 1929, date of adjournment. Section 8 of said Acts 1929, 41st Leg., p. 627, ch. 286, makes available to the board any unexpended balance of any appropriation for the South Texas Teachers College. Section 9 repeals all conflicting laws and parts of laws.

**[Art. 2628a—2. Organization, control and management]**

The organization, control and management of such College shall be vested in a Board of nine Directors who shall be appointed by the Governor of Texas and confirmed by the Senate. The term of office of each director shall be six years; provided that in making the first appointment the Governor shall appoint three members for two years, three members for four years and three members for six years. Any vacancy that occurs on the Board shall be filled for the unexpired term by the Governor. The members of said Board shall be removable by the Governor for inefficiency or in-attention to the duties of his office. Each member of the Board shall take the constitutional oath of office. The said board of directors shall meet for the first time after the passing [passage] of this act at the time and place designated by the Governor, as soon after their appointments as possible. They shall organize by electing a President of said board of directors, and such other officers as they may desire. They shall select a President for the College as soon as possible after the organization of the said Board of Directors. They shall fix his term of office, name his salary and define his duties. The President of the College shall be the executive officer for the board of directors and shall work under their directions. He shall recommend the plan organization, and the appointment of employees of said College and shall have the cooperation of said board of directors and shall be responsible to said board for the general management and success of said college. [Acts 1929, 41st Leg., p. 627, ch. 286, § 2.]

**[Art. 2628a—3. The Work of the College]**

The general purpose of the Texas College of Arts and Industries shall be to prepare people for better living, through the application of science to the every day affairs of life. The work of the said college, its materials, or subject matter, and courses of study shall be divided into four divisions, to-wit:

- (1) Liberal Arts
- (2) Industrial Arts, and Commerce
- (3) Education
- (4) Military Science

1. Liberal Arts. The liberal arts division shall embrace the fine arts, languages, literature, mathematics, the natural sciences, the social sciences including history, civics, and sociology. These shall be taught as such subjects are presented in the universities and the better class of senior colleges of the country, and as the board of directors may order.

2. Industrial Arts and Commerce. The College of Arts and Industries shall provide instruction of the best class in:

(a) Agriculture, and associated subjects, as agronomy, horticulture, fruit and grape culture, and farm management.

(b) Animal Husbandry and allied forms shall have intelligent and persistent attention, as stock breeding, feeding, "packing" and marketing. Dairying and its by-products shall be promoted by the work of the said college.

(c) Engineering in its appropriate and practical applications to the problems of industrial development shall be taught with efficiency in said Texas College of Arts and Industries, to wit: Civil, electrical, textile, mechanical, agricultural and architectural

(d) Instruction shall be given in geology in its relation to its mineral products, their mining, refining and uses to man. The mechanical arts in their lowest forms as they appear in blacksmith and carpenter shop, and in their higher forms of complicated machinery shall be taught well in the said Texas College of Arts and Industries, to the end that the college may lend itself to the development of the mechanical genius of the youth that may attend the college that they "better support themselves

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes and those dependent upon them" through improved skills in these every day arts by which men may earn a living.

(e) The Texas College of Arts and Industries shall provide courses and give instruction in domestic science and art that shall equip the young women students to become efficient home makers. This department shall offer courses in the chemistry of cooking, canning, preserving, and other forms of culinary arts. Ample courses shall be offered in the care of health, home nursing, the care of children, and other domestic duties that may devolve upon the housewife. Ample and abundant courses shall be offered in making cloth, clothing, planning and decorating homes, and such other forms of domestic service as are usually found in colleges of the first rank in this field in Texas and other sections of the country. Home economics and its subdivisions and allied subjects shall be provided for the young women who desire to become teachers, in such a way as to enable them to meet the standard requirements of the laws of the State and of the Federal Government for teachers of this subject.

3. Education. When the board of directors of the Texas College of Arts and Industries shall by law assume the duties of the Regents of the Teachers Colleges, they shall continue the Teachers College permanently, and for the first year shall continue it just as they find it, in no case shall they weaken the organization of the Teachers College, nor diminish its efficiency. But they shall control, manage and equip said Teachers College so that it may continue to grow and expand in every way to meet the needs of South Texas for a strong college to care for the training of the teachers of the public schools of this section, from the kindergarten to the high school including both, provided only that the name shall be changed, and the South Texas State Teachers College as at present constituted shall become a permanent and an important part of the greater Texas College of Arts and Industries.

4. Military Training. The art and science of military training shall be offered the male students of the Texas College of Arts and Industries as shall be provided by the board of directors of said college of Arts and Industries, and under such rules and regulations as the said board may prescribe, provided that all rules and regulations made to govern such military training shall comply with the laws of Texas and of the United States. [Acts 1929, 41st Leg., p. 627, ch. 286, § 3.]

[Art. 2628a—4. Courses and degrees]

Such courses of study shall be offered in the Texas College of Arts and Industries as are found in senior colleges of the first rank in similar fields in Texas, or elsewhere, as the board of directors may order, provided that any bachelor's degree shall be based on four years of college work, and any higher degree may be offered with appropriate courses, when in the judgment of the board of directors the educational welfare of the people served by the college demands such advanced courses and degrees, and provided that all work done and all credits, certificates and diplomas given to students shall conform to standard college requirements as proposed by the accrediting agencies of Texas, of the South, and of the other sections of the country. Short courses, long courses and special courses of intense practical value shall be given from time to time by the Texas College of Arts and Industries in the subjects of health, home economics, agriculture and industry, and such other subjects of practical value to the people as the board of directors shall order and direct. [Acts 1929, 41st Leg., p. 627, ch. 286, § 4.]

[Art. 2628a—5. Changing the management of the South Texas State Teachers College]

At the beginning of the school year, September first after the passage of this bill, the control and management of the South Texas State Teachers

College shall be divested out of the Board of Regents of the Texas State Teachers College and invested in the Board of Directors of the Texas College of Arts and Industries as provided in this Act, who shall administer the affairs of the college according to the laws of Texas and the provisions of the Act. The corporeal property of the South Texas State Teachers College at the time of the passage of this Act, the control of which shall pass into the hands of the Board of Directors of the Texas College of Arts and Industries, consists of the following items:

A College campus of Fifty (50) acres, Estimated value	\$12,500
A Farm and pasture, One Hundred Six (106) acres, barn, rent house equipment and live stock	10,000
Pasture land Two hundred twenty-five (225) acres	9,000
Main Building and Equipment	400,000
Boiler House and shop	1,000
Garage	950
President's Home	16,000
	<hr/>
Total Properties	\$449,450

Should the future development of the said Texas College of Arts and Industries ever require additional land for the accomplishment of its purposes as an industrial college, it shall have the right of eminent domain to acquire such land for its own use, and shall have the right to proceed under condemnation proceedings the same as is now enjoyed by Railroad Companies under the laws of Texas. [Acts 1929, 41st Leg., p. 627, ch. 286, § 5.]

[Art. 2628a—6. Additional Courses]

The specifications of courses of study written in this Act shall not prohibit the board of directors from adding other courses, subjects or groups of subjects necessary to enable the Texas College of Arts and Industries to perform its functions as college of arts and applied science in the most practical and efficient way. The Board of Directors are required and directed to build and control a State College of the first rank that shall compare favorably with the splendid colleges of Texas in the preparation of teachers for the schools, and artists and artisans for the varied interests and industries possible in the section in which the Texas College is located. This college shall be equipped adequately to do its work well, as the other State colleges perform their functions. To this end the President of the said college and the Directors of the same shall biennially place before the Legislature fully and frankly the growing needs of this college which is placed in the midst of a rapidly developing section of this State, to the end that it may stimulate and guide as well as possible the citizens and people generally into prosperity, moral righteousness, peace and happiness. [Acts 1929, 41st Leg., p. 627, ch. 286, § 6.]

[Art. 2628a—7. Board of directors, powers and duties]

All power, duties and functions of the Board of Regents of the State Teachers Colleges under the law shall vest in the Board of Directors herein created in connection with the State Teachers College work of the institution herein provided for except where in conflict with this Act. [Acts 1929, 41st Leg., p. 627, ch. 286, § 7.]

[Art. 2628a—8. Dormitories]

Sec. 1. The Board of Directors of The Texas College of Arts and Industries is hereby authorized to enter into contracts with persons, firms, or corporations for the erection of dormitories at The Texas College of Arts and Industries, and to purchase or lease lands and other appurtenances for the construction of such dormitories, provided that the State of Texas incurs no liability for the buildings or the sites.



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Sec. 2. The said Board of Directors is hereby authorized to make contracts with reference to the collection and disposition of the revenue derived therefrom in the acquisition, management, and maintenance of said buildings.

Sec. 3. The Board of Directors is hereby authorized and empowered to adopt such rules and regulations requiring any class or classes of students to reside in such dormitories, or other buildings, as they may deem advisable. Absolute management and control of dormitories constructed under the provisions of this Act are vested in said Board of Directors. [Acts 1929, 41st Leg., 2nd C. S., p. 11, ch. 9.]

[Art. 2628b. Dormitories for College of Industrial Arts at Denton]

Sec. 2. The Board of Regents of the College of Industrial Arts at Denton, Texas, is hereby authorized and empowered to erect and equip, and/or to contract with any person, firm or corporation, for the erection, completion and equipping [equipping] of such dormitories and/or other improvements as said Board of Regents may deem advisable, such improvements to be erected either on the campus or real estate then owned by said college, or on other real estate purchased or leased for the purpose, and the said Board of Regents is hereby expressly authorized to purchase, or lease, additional real estate for such purpose, or to exchange or sell real estate now or hereafter owned for such purpose.

Sec. 3. In payment for the erection, completion and equipping of such dormitories and/or other improvements, the Board of Regents of such college is further authorized and empowered to issue its obligations in such sum or sums and upon such terms and/or conditions as to said Board may seem advisable, and as security for the payment thereof to pledge the rents, revenues and income of and from the improvements to be erected hereunder, and/or the rents, revenues and income from such other dormitories erected and owned by said college at the time of the making of such contract, as well as all other revenues derived by said college from any and all other sources, save and except the revenues derived by means of appropriations made for any particular or specific purpose by the legislature of the State of Texas.

Sec. 4. Said Board of Regents is further authorized and empowered to sell and/or encumber any part of the campus or real estate owned by said college as may be deemed advisable by said Board of Regents [Regents], for the purpose of obtaining funds with which to erect and/or equip such improvements, or for the purpose of further securing the payment of its obligations issued to any person, firm or corporation, for the erection and/or equipping of such improvements; and said Board of Regents shall have and is hereby given full and complete power to adopt such rules and regulations as to said Board of Regents may be deemed reasonable, requiring any class or classes of students to reside in such dormitories, and/or other buildings, and absolute and sole management and control of such dormitories and other improvements is vested in said Board of Regents.

Sec. 5. On the completion, and acceptance by the Board of Regents, of any of such improvements, the Board of Regents is hereby authorized and empowered, if it so desires, to make requisition to the Board of Control of the State of Texas, for any and all furniture, furnishings, equipment and appointments that may be required for the proper use and enjoyment of such improvements; and the Board of Control of the State of Texas is hereby authorized upon requisition to purchase and pay for such furnishings, equipment and appointments.

Sec. 6. In the erection of such improvements, or in contracting therefor [e], the Board of Regents shall not in any manner nor to any extent incur any indebtedness against the College of Industrial Arts or the State of Texas, except as herein otherwise provided; that is to say, the obliga-

tion or obligations authorized by this act shall never be a personal obligation of the College of Industrial Arts or the State of Texas; but such obligation shall be discharged solely from the revenues and/or the property herein authorized to be pledged for that purpose.

Sec. 7. The Board of Regents is hereby empowered to do any and all things necessary and/or convenient to carry out the purpose and intent of this Law. [Acts 1929, 41st Leg., 1st C. S., p. 55, ch. 21, as amended Acts 1929, 41st Leg., 2nd C. S., p. 148, ch. 73, Acts 1930, 41st Leg., 5th C. S., p. 177, ch. 38.]

Section 1 of Acts 1930, 41st Leg., 5th C. S., p. 177, ch. 38, cites the acts of 1929, 41st Leg., 2nd C. S., p. 148, ch. 73, for amendment to read as above; section 8 repeals all

conflicting laws and parts of laws and section 9 provides that the invalidity of any section or provision shall not affect the remainder.

[Art. 2628c. Historical collection of North Texas State Teachers College]

Sec. 1. That the historical collection of the North Texas State Teachers College, located at Denton, Texas, consisting of books, documents, stamps, coins, fire arms, implements of warfare, relics, heirlooms and various and sundry other things and collections of historical importance, be and the same is hereby designated a State Historical Collection and shall hereafter be known as "The State Historical Collection of the North Texas State Teachers College."

Sec. 2. The Board of Regents of said College shall be authorized to accept and receive gifts, donations and collections of books, documents, stamps, coins, fire arms, implements of warfare, relics, heirlooms as well as collections of all kinds having a historical importance and value, to be used in teaching the youth of our state.

Sec. 3. The Board of Regents shall make such rules and regulations with respect to receiving and holding such gifts, donations and collections as in its judgment it may deem necessary and advisable. [Acts 1930, 41st Leg., 5th C. S., p. 189, ch. 46.]

[Art. 2632a. Dormitories]

Sec. 1. That the Board of Directors of the Texas Technological College are hereby authorized and empowered to acquire, without cost to the State of Texas, and accept title, subject to such conditions and limitations as may be prescribed and provided three boys dormitories and two girls dormitories and a kitchen and dining hall building and grounds in connection therewith, within a radius of not more than one quarter of a mile from the present campus of said College, when the total cost, type of construction, and the capacity of said buildings, as well as the other plans and specifications, have been approved by them; that said Board are further authorized to make any contracts with reference to the collection and disposition of the revenues derived therefrom in the acquisition, management, and maintenance of said buildings, and upon acquisition thereof absolute control and management shall vest in said Board, subject to any conditions that may be provided in the grant; provided that the said five dormitories and kitchen and dining hall shall be built of steel, concrete, brick, and/or rock, and fireproof, except the doors and windows, the buildings and land to cost not less than Two Hundred Thousand (\$200,000.00) Dollars. And the buildings are to accommodate not less than 150 students. Provided that land owned by the State may be used for said purposes, not exceeding a total of ten acres and not exceeding two acres for each dormitory, and not exceeding two acres for such kitchen and dining hall.

Sec. 2. On the acquisition of said building by said College the Board are hereby expressly authorized and empowered to make requisition for all furniture, furnishings, equipment, and appointments that may be necessary for the proper use and enjoyment of said buildings, which in no event, however, shall become permanent fixtures.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Sec. 3. The Board of Control of the State of Texas is hereby authorized to purchase and pay for the furnishings and equipment authorized to be purchased in Section 2 only after the buildings are accepted and acquired by the Board of Directors.

Sec. 4. The Board of Directors of said College are hereby authorized and empowered to adopt such rules and regulations as they may deem advisable, requiring any class or classes of students to reside in such dormitories, or other buildings as they may deem advisable. [Acts 1929, 41st Leg., 2nd C. S., p. 92, ch. 54.]

Effective June 24, 1929. Section 5 of Acts provides that the invalidity of any part of the 1929, 41st Leg., 2nd C. S., p. 92, ch. 54, pro- act shall not affect the remainder.

#### Art. 2647. Board of regents

Amended by substituting for the first two sentences ending with "as follows" "Hereafter the Board of Regents of the State Teachers Colleges of this State shall be composed of nine persons to be appointed by the Governor of the State of Texas. Immediately upon the taking effect of this Act the Governor shall appoint three new members, so that the term of one of said three new members shall expire simultaneously with the expiration of two of the present members of the Board, one to expire simultaneously with two other members of the Board and a third to expire simultaneously with the remaining two members of the Board, and the term of office of each shall be six years. The Board thus constituted shall be charged with the powers, duties and functions of the present Board of Regents of the State Teachers Colleges and all laws applicable to said Board of Regents and the members thereof shall be likewise applicable to the new board as herein constituted and the members thereof. [Acts 1929, 41st Leg., p. 295, ch. 135, § 1.]

#### [Art. 2647a. Dormitories and lands for teachers colleges]

Sec. 1. The Board of Regents of the Teachers Colleges of Texas is hereby authorized to enter into contracts with persons, firms, or corporations for the erection of dormitories at any Teachers College, and to purchase or lease lands and other appurtenances for the construction of such dormitories, provided that the State of Texas incurs no liability for the buildings or the sites.

Sec. 2. The said Board of Regents is hereby authorized to make contracts with reference to the collection and disposition of the revenue derived therefrom in the acquisition, management, and maintenance of said buildings.

Sec. 3. The Board of Regents is hereby authorized and empowered to adopt such rules and regulations requiring any class or classes of students to reside in such dormitories, or other buildings, as they may deem advisable. Absolute management and control of dormitories constructed under the provisions of this Act are vested in said Board of Regents. [Acts 1929, 41st Leg., p. 447, ch. 206.]

#### [Art. 2654b. Exemption of veterans from fees]

Every veteran soldier or other person who served in the Spanish-American War is hereby exempted from the payment of any fees or charges in State Institutions, Schools or Colleges of this State to the same extent as veterans or persons serving the World War are exempt from such fees or charges under State laws, and the provisions of the State laws exempting the latter shall apply to such veterans and other persons who served in said Spanish-American War. [Acts 1929, 41st Leg., 2nd C. S., p. 90, ch. 52, § 1.]

#### [Art. 2663a. Instruction in physical education]

Sec. 1. That instruction in physical education shall be established and made part of the course of instruction and training in the public elementary and secondary schools of the State by September 1, 1930.

Sec. 2. The State Superintendent of Public Instruction shall prepare courses of instruction for the public schools of the State for the purpose of carrying out this Act. [Acts 1929, 41st Leg., p. 466, ch. 216.]

Art. 2663b. [Repealed by Acts 1929, 41st Leg., 2nd C. S., p. 164, ch. 83, § 6]

The article repealed was Acts 1929, 41st Leg., 1st C. S., p. 85, ch. 38 § 1. Leg., p. 494, ch. 234, § 6, as amended Acts

[Art. 2663b—1. Teaching Constitution in schools]

Sec. 1. In all high schools within this State supported by public funds there shall be given a course of instruction in the Constitutions of the United States and of Texas, which shall be a combined course in both Constitutions, and which shall be given for at least one-half hour each week of the school year or at least one hour each week for one-half of the school year, or the equivalent thereof. No student shall be graduated from any high school mentioned herein who has not passed a satisfactory examination in such high school course of instruction. [Acts 1929, 41st Leg., 2nd C. S., p. 164, ch. 83.]

Sec. 2. There shall be given in all colleges and universities supported by public funds a course in American Government with special emphasis upon the Constitutions of the United States and of Texas, which course shall be given for at least three fifty-minute periods per week for not less than twelve consecutive weeks, or its equivalent if given in summer sessions. No student shall be graduated from any such college or university who has not passed a satisfactory examination in such college or university course in the college or university from which he is graduating or in some other college or university which he may have attended previously. [Acts 1929, 41st Leg., 2nd C. S., p. 164, ch. 83, § 2; as amended Acts 1930, 41st Leg., 4th C. S., p. 5, ch. 5, § 1.]

Sec. 3. The State Superintendent of Instruction shall prescribe the standard of the course to be taught in high schools, and if the Superintendent of Public Instruction shall have prescribed a standard of instruction that requires a textbook, then the Board or body that selects textbooks for high schools shall select and prescribe the proper textbooks for the course of instruction. [Acts 1929, 41st Leg., 2nd C. S., p. 164, ch. 83.]

Sec. 4. No person hereafter shall be certified to teach in the public schools of the State of Texas until he has secured credit for the course in both Federal and State Constitutions of the grade of instruction upon which he is applying for the certificate, that is either of the subcollege or of the college work; or in lieu thereof shall have passed an examination set by the State Superintendent of Public Instruction on the Constitution of the United States and of Texas. [Acts 1929, 41st Leg., 2nd C. S., p. 164, ch. 83.]

Sec. 5. The teaching courses of instruction in the Constitutions provided for in this Act shall begin with the terms of school beginning on or after September 1, 1930, and the provisions of this Act with reference to graduation from any school, college, or university, or with reference to certification to teach school, shall not apply to any student graduated before September 1, 1930, or receiving a certificate to teach school before that date. Provided, however, that the terms of this bill shall not be applied to, or affect, any student who commenced his studies leading to a degree, in any of the State Institutions with the required credits prior to the time this Bill was enacted into a law, to any student, who on or before September 1st, 1929, had credits for at least half the work required for a bachelor's degree. [Acts 1929, 41st Leg., 2nd C. S., p. 164, ch. 83, as amended Acts 1930, 41st Leg., 4th C. S., p. 5, ch. 5, § 2.]

Section 6 of Acts 1929, 41st Leg., 2nd C. S., p. 164, ch. 83, repealed Act 1929, 41st Leg., p. 494, ch. 234. Civ. St. art. 2663b.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

**Art. 2666. [2733] New districts created at Eleemosynary Institutions**

The State Board is authorized to create new school districts at such of the several Eleemosynary Institutions of this State, including the State Orphan Home, or at any and all orphan homes or like institutions that may be established by any Fraternal organization, or at any Institution for dependent or delinquent children maintained by any County in this State; provided, that the number of children within the scholastic age in each instance be sufficient to justify such action. The territorial limits in each case shall be co-extensive with the property lines of the institution. [As amended Acts 1931, 42nd Leg., p. 291, ch. 172, § 1.]

**Art. 2667. [2734] Trustees for such districts**

Upon the exercise of such power, the State Superintendent shall appoint a board of three trustees for each district so created; and such trustees need not be residents of such district, and the fact shall be duly certified to local authorities for information and observance; and upon the creation of such districts the trustees shall take and certify the census of the children within the scholastic age, and the funds shall thereafter be apportioned directly to such district; and the law pertaining to independent districts shall govern so far as applicable, though the State Board may make special regulations and orders for the government of such districts as they may deem expedient, (provided that the State Board of Control shall be ex-officio school trustees of all such districts created at State supported institutions and all such districts whose territory is limited to lands allotted to Indians. [As amended Acts 1931, 42nd Leg., p. 291, ch. 172, § 2.]

**Art. 2669. [2736] Investing school fund**

The State Board of Education is authorized and empowered to invest the permanent public free school funds of the State in bonds of the United States, the State of Texas, or any county thereof, and the independent or common school districts, road precincts, drainage, irrigation, navigation and levee districts in this State, and the bonds of incorporated cities and towns, and obligations and pledges of the University of Texas. [As amended Acts 1929, 41st Leg., p. 573, ch. 278, § 1.]

**Art. 2670. [2737] Purchase of bonds**

When any county bonds, or the bonds of any incorporated city, independent or common school district, road precinct, drainage, irrigation, navigation and levee districts, or obligations and pledges of the University of Texas are offered for sale, the party offering, or proposing to sell, such bonds, obligations, and pledges shall first submit them to the Attorney General, who shall carefully inspect and examine the same in connection with the law under which they were issued, and shall diligently inquire into the facts and circumstances so far as may be necessary to determine the validity thereof; and, upon being satisfied that such bonds, obligations and pledges were issued in conformity with law, and that they are valid and binding obligations, he shall thereupon certify to their validity, and his certificate to that effect, so procured by the party offering such bonds, obligations, and pledges as the case may be, shall be submitted to the Comptroller or State Board of Education with the bonds, obligations, and pledges so offered for sale, and shall be carefully preserved by the Comptroller. If the same be purchased from the county, city, precinct, or district issuing the same or from the University of Texas, or from any person authorized to act for it in the negotiation or sale of the same, they shall thereafter be held to be valid and binding obligations in every action or proceeding in which their validity is or may be called in question, unless fraudulently issued, or issued in violation of the constitutional limitation. In every such action, such certificate of the Attorney General shall be admitted and received as prima facie

evidence of the validity of such bonds, obligations, or pledges, and coupons thereto, which may have been so purchased. [As amended Acts 1929, 41st Leg., p. 573, ch. 278, § 1.]

**Art. 2671. [2738] Conditions of purchase**

The Comptroller or State Board shall carefully examine the bonds, obligations, or pledges so offered and investigate the facts tending to show the validity thereof; and such Board may decline to purchase same unless satisfied that they are a safe and proper investment for such fund. No bonds, obligations, or pledges shall be so purchased that bear less than three per cent interest. No bonds, obligations, or pledges except those of the United States, the State of Texas, and the University of Texas, shall be so purchased when the indebtedness of the county, city, precinct, or district issuing same, inclusive of those so offered, shall exceed seven per cent of the assessed value of the real estate therein. If default be made in the payment of interest due upon such bonds, obligations, or pledges, the State Board of Education may at any time prior to the payment of such overdue interest elect to treat the principal as also due, and the same shall thereupon, at the option of said Board become due and payable; and the payment of both such principal and interest shall in all such cases be enforced in the manner provided by law, and the right to enforce such collection shall never be barred by any law or limitation whatever. [As amended Acts 1929, 41st Leg., p. 573, ch. 278, § 1.]

**Art. 2672. [2739] Estoppel**

In all cases where the proceeds of the sale of any of the obligations described in the three preceding articles have been received by the proper officers of any such county, city, precinct, or district, or by the Board of Regents of the University of Texas, or by the party acting for it in negotiating the sale thereof, such county, city, precinct, district or the University of Texas shall thereafter be estopped from denying the validity of such obligations so issued, and the same shall be held to be valid and binding obligations for the amount thereof sued on and interest thereon, at the rate mentioned therein, deducting such amounts, if any, as have been previously paid thereon. [As amended Acts 1929, 41st Leg., p. 573, ch. 278, § 1.]

**Art. 2673. [2740] Option to purchase**

Whenever any county, city, independent or common school district, road precinct, drainage, irrigation, navigation or levee district of this State or the University of Texas issued any bonds, obligations, or pledges, and they have been approved by the Attorney General, as required by the preceding articles, the County judge, the mayor, the president of the board of trustees of the school district, the president of the board of regents, or the county judge or party authorized by law to sell such bonds, obligations, or pledges, shall notify the State Board of Education of all bids received for such bonds, obligations, or pledges, and shall give said Board an option of ten days in which to purchase same; provided, that said Board will pay the price offered therefor by the best bona fide bidder; and if the said Board fails to purchase said bonds, obligations, or pledges within said time, then such county judge, mayor, or president shall sell the same to the best bona fide bidder. If the State Board shall pay a premium out of the permanent school funds on any bonds, obligations, or pledges purchased as an investment for the permanent school fund, then the principal of such bonds, obligations, or pledges and an amount of the interest first accruing thereon equal to the premium so paid, shall be treated as the principal in such investment, and, when such first interest is collected, such sum of the same shall be returned to the permanent school fund, and, if they purchase said bonds, obligations, or pledges for less than par, the discount they receive in the purchase thereof shall be

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paid to the available school fund when the said bonds, obligations, or pledges are paid off and discharged. The price paid for bonds, obligations, and pledges shall be indorsed thereon at the time the same are purchased. If the said Board shall refuse to purchase bonds, obligations, and pledges from such county, city, precinct or district or the University of Texas, or the parties to whom the same were issued, then in no event shall said Board purchase them from any subsequent owner or holder of the same. [As amended Acts 1929, 41st Leg., p. 573, ch. 278, § 1.]

[Art. 2675—1. Acceptance of funds from Congress for vocational rehabilitation]

Sec. 1. The Legislature of Texas does hereby accept the provisions and benefits of an Act of Congress passed June 2, 1920, amended June 5, 1924, entitled: "An Act to provide for the promotion of Vocational Rehabilitation of persons disabled in industry or otherwise, and their return to civil employment."

Sec. 2. The Treasurer of Texas be, and he is hereby authorized and empowered to receive the funds appropriated under said Act of Congress, and is authorized to make disbursements therefrom upon the order of the State Board for Vocational Education. The State Board of Vocational Education is empowered and instructed to co-operate with the terms and conditions expressed in the Act of Congress aforesaid. [Acts 1929, 41st Leg., 1st C. S., p. 57, ch. 23.]

[Arts. 2675a—1 to 2675a—10. Superseded by Arts. 2675b—1 to 2675b—10]

See note to art. 2675b—1 post.

[Art. 2675b—1. State Board of Education, membership]

There is hereby created the State Board of Education. Said Board shall consist of nine members to be appointed by the Governor, with the advice and consent of the Senate. Of the first Board to be appointed the terms of three members shall expire on January 1, 1931; the term of the next three members shall expire on January 1, 1933; and, the terms of the remaining three members shall expire on January 1, 1935. After the first Board, the term of each member shall be for six years from the date of the respective appointments, and the appointments shall be made and the terms arranged in such manner that three of said members shall retire on the first day of January biennially, and the Governor shall biennially, on the first of January, fill such vacancies by the appointment of three members. Each member of said Board shall be a citizen at least thirty years of age and otherwise qualified to vote and no member shall at the time of his appointment, or during the term of his service, be engaged as a professional educator. [Acts 1929, 41st Leg., 2nd C. S., p. 12, ch. 10, § 1.]

Effective 90 days after July 2, 1929, date of adjournment. Section 11 of Act 1929, 41st Leg., 2nd C. S., p. 12, ch. 10, repeals all conflicting laws and parts of laws, and provides that if any section or provision of the act is held invalid, such holding shall not affect the remainder. This Act is in all respects similar to Act 1929, 41st Leg., 1st C.

S., p. 86, ch. 39, effective 90 days after May 21, 1929, except section 6 thereof which read as follows "The Superintendent of Public Instruction shall act as Secretary of the State Board of Education, but shall have no voice in its deliberations." Being a later act it is substituted for the former act.

[Art. 2675b—2. Eligibility of members]

No person who has acted as an agent for any author or textbook publishing house or as the attorney of any author or textbook publishing house, or who has been an author or associate author of any textbook published by any publishing house, or who owns stock in any textbook depository or any publishing house, or who has been directly or indirectly concerned in the authorship of any textbook or connected with any text-

book publishing house, shall be eligible to appointment on the State Board of Education; and each member of the said State Board of Education shall, in addition to taking the official oath prescribed herein, file with the secretary of the said Board an affidavit that he has not been so connected directly or indirectly with the authorship of any textbook or with any textbook publishing company as prescribed above, and that he will not become so connected or interested while he is a member of the said Board. [Acts 1929, 41st Leg., 2nd C. S., p. 12, ch. 10, § 2.]

See note to art. 2675b-1.

[Art. 2675b—3. Organization]

The State Board of Education shall organize by the election of one of its members as president, and the State Superintendent of Public Instruction shall be ex-officio secretary of the Board. [Acts 1929, 41st Leg., 2nd C. S., p. 12, ch. 10, § 3.]

See note to art. 2675b-1.

[Art. 2675b—4. Time and place of meeting and quorum]

The State Board of Education shall meet once in every three months at the Capitol in Austin, and at such other times as may be designated by the president, or it may meet upon call of any three members of the Board. Questions necessary for the decision of the Board shall be determined by a majority vote of the members of the Board present, and for the transaction of all business six shall constitute a quorum. Said Board of Education shall adopt rules necessary for the government of its proceedings. [Acts 1929, 41st Leg., 2nd C. S., p. 12, ch. 10, § 4.]

See note to art. 2675b-1.

[Art. 2675b—5. Powers and duties]

It is made the duty of the State Board of Education, created by this Act [arts. 2675b-1 to 2675b-10], to immediately take over and discharge all duties imposed by present laws upon the Board of Education in existence at the time this Act [arts. 2675b-1 to 2675b-10], takes effect. In addition thereto, it shall perform such other duties as may from time to time be prescribed by the Legislature. In addition to the duties now required by law of the Board of Education, existing prior to the taking effect of this Act [arts. 2675b-1 to 2675b-10], the State Board of Education hereby created shall perform the following duties:

(a) It shall fairly consider the financial needs of the public free school system of this State and biennially, in advance of each Session of the Legislature, prepare a report and present the same to the Governor to be transmitted to the Legislature upon convening.

(b) It shall fairly consider the financial needs of the State institutions of higher learning and make recommendations concerning same biennially. It shall submit these recommendations to the State Board of Control, which shall embody them in its budget, together with the original requests of the several institutions of higher learning, and its own recommendations, and transmit the same to the Governor and the Legislature.

(c) It shall make formal recommendations to the Governor, and through the Governor to the Legislature, concerning all proposals for the establishment of new Educational Institutions.

(d) It shall be the duty of the State Board of Education to make a careful study of the scope and purpose of the work of the State institutions of higher learning and to make such written and statistical reports as the Board of Education may desire. It shall be the further duty of the Board of Education to recommend such changes in the courses of study of the State institutions of higher learning as the needs of the State may warrant with especial reference to elimination of any needless waste or duplication of work; provided that, before such changes in the scope of the courses offered by any State supported institution of higher learning shall



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be recommended, the administrative officers of the institution involved shall have an opportunity to appear before the State Board of Education to defend or oppose such changes; provided that, if the recommendations of the State Board of Education shall not be adopted by the institution concerned, said Board shall report this fact together with these recommendations to the Governor of the State and to the Legislature; provided further that it shall be the duty of the executive authorities of the State institutions of higher learning to furnish or cause to be furnished, any and all information desired by the State Board of Education or by the State superintendent of Public Instruction.

(e) The State Textbook Commission shall no longer meet or function after the taking effect of this Act [arts. 2675b-1 to 2675b-10], and the duties heretofore devolving by law upon the State Textbook Commission shall be performed by the State Board of Education, created in this Act [arts. 2675b-1 to 2675b-10], and the State Board of Education, hereby created shall for the purpose of disposing of textbook matters meet at times and places that the State Textbook Commission is required to meet and act under existing law.

(f) Said Board of Education shall appoint a Textbook Committee to be composed of five members, each of whom shall be an experienced and active educator, engaged in teaching, in the public schools in Texas, and it shall be the duty of said Textbook Committee, to examine the books submitted for adoption and make their recommendations in writing to said State Board of Education relative to the teachable value of the books submitted respectively. The Textbook Committee, provided for herein, shall hold their meetings where and when the said State Board of Education shall determine and shall receive the same compensation as the members of the State Board of Education as provided for in Section 10 of this Act [art. 2675b-10]. The qualifications as prescribed for members of State Board of Education in Section 2 of this Act [art. 2675b-2] shall apply to the Textbook Committee provided for herein.

(g) It shall fairly consider the athletic necessities and activities of the public schools of Texas, and biennially, in advance of each Session of the Legislature, specifically report to the Governor of Texas, the proper and legal division of the time and money to be devoted to athletics, the proper and legal division of the time and money to be devoted to holidays, legal and otherwise, and a proper division of the time and money to be devoted to Educational purposes, and said report shall be transmitted to the Legislature next thereafter convening. [Acts 1929, 41st Leg., 2nd C. S., p. 12, ch. 10, § 5.]

See note to art. 2675b-1.

#### [Art. 2675b—6. Superintendent of Public Instruction]

No person shall be eligible to have his name placed either on the official primary ballot or official ballot at the general election as a candidate for Superintendent of Public Instruction or to hold the office of Superintendent of Public Instruction, who shall accept or receive contributions to his campaign expenses from any textbook publishing house or from any agent or representative of any publishing house, who at the time of such contributions was known to such candidate to be such agent or representative of any publishing house. [Acts 1929, 41st Leg., 2nd C. S., p. 12, ch. 10, § 6.]

See note to art. 2675b-1.

#### [Art. 2675b—7. Act not to affect government of state institutions]

Nothing in this Act [arts. 2675b-1 to 2675b-10] shall be construed to lessen the powers now held by the existing governing bodies of our State Teachers Colleges, the College of Industrial Arts, the University of Texas, the Technological College, and other State institutions of higher learning. [Acts 1929, 41st Leg., 2nd C. S., p. 12, ch. 10, § 7.]

See note to art. 2675b-1.

**[Art. 2675b—8. Examination of teachers and certificates]**

The State Board of Education created by this Act [arts. 2675b-1 to 2675b-10] shall prescribe rules and regulations for the certification of teachers and for the system of examining applicants for teachers' certificates and otherwise granting certificates for teaching in the public schools of this State, in accordance with the Laws of this State. [Acts 1929, 41st Leg., 2nd C. S., p. 12, ch. 10, § 8.]

See note to art. 2675b-1.

**[Art. 2675b—9. Investment of school funds]**

The State Superintendent of Public Instruction shall, subject to the approval of the Board of Education hereby created, invest the permanent school fund in the class of bonds which may be bought with said funds under existing law. And, when the State Superintendent of Public Instruction exercises the option given by law for the purchase of bonds, the same shall prevent the sale of said bonds to any other party until said Board of Education, at its next meeting, has had opportunity to either approve or disapprove such purchase. If the purchase is approved, said bonds shall be paid for out of the permanent school fund, as is now provided by law; and if disapproved, then said bonds shall be released as though the option given the permanent school fund to purchase said bonds had not been exercised. [Acts 1929, 41st Leg., 2nd C. S., p. 12, ch. 10, § 9.]

See note to art. 2675b-1.

**[Art. 2675b—10. Compensation of members]**

The members of the State Board of Education, created by this Act [arts. 2675b-1 to 2675b-10], shall be paid Ten Dollars per day when in actual attendance upon Board Meetings, and shall be entitled to actual traveling and other necessary expenses incurred in the discharge of their duties. Each member shall take the Constitutional oath of office. [Acts 1929, 41st Leg., 2nd C. S., p. 12, ch. 10, § 10.]

See note to art. 2675b-1.

**Art. 2678. [Repealed by Acts 1927, 40th Leg., p. 259, ch. 181, § 2; Acts 1929, 41st Leg., 1st C. S., p. 2, ch. 2, § 2]**

**[Art. 2678a. Classification of schools]**

The county board of school trustees, at the regular meeting in May of each year or as soon thereafter as practicable, shall classify the schools of the county, including those in independent school districts, in accordance with such regulations as the state superintendent may prescribe into elementary schools and high schools for the purpose of promoting the efficiency of the elementary schools and of establishing and promoting high schools at convenient and suitable places. In classifying the schools and in establishing high schools, said trustees shall give due regard to schools already located, to the distribution of population, and to the advancement of the students in their studies. In the event any school is so classified that a resident high school student within the free school age cannot receive instruction in his home district, his tuition for the number of months attended in any other high school recognized by either county or state shall be paid by warrants drawn by the local board of trustees on funds of said district and approved by the county superintendent. Provided, that if the said student, after having completed the course of study offered in his home district is not prepared to enter a high school recognized by either the county or the state, the superintendent of the school district which maintains the high school he desires to attend shall place said student in the proper grade, and said district shall be entitled to receive tuition for said student in the same manner as if said student should attend the high school of said district. If the high school attended

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receives the transfer of state and county funds for said student, credit shall be given for the amount of same. The rate of tuition charged said pupil shall be the actual cost of teaching service, based upon the average monthly enrollment in the high school attended, exclusive of all other current or fixed charges, not to exceed \$7.50 per month. Said tuition rate shall be agreed upon between the board of trustees of the district in which such high school is located and the county board of school trustees, or in the event of their disagreement shall be fixed by the State Superintendent of Public Instruction subject to appeal to the State Board of Education; and the principal of the high school or the superintendent of the schools of said district shall furnish a statement to the County Board of trustees supported by affidavit containing such information as may be necessary to carry out the provisions of this Act. On or before September first of each scholastic year, it shall be the duty of the board of trustees of each school district under the supervision of the county board of trustees and which does not offer high school training for all resident pupils within the free school age to prepare on forms and file with the county superintendent a budget prepared and furnished by the State Superintendent of Public Instruction of its proposed expenditures for the current year, which budget shall include the amount necessary for the payment of high school tuition charges as prescribed in this Act, and the amount of tuition payments so budgeted and approved by the county board of trustees shall not be expended for any other purpose in the maintenance of the current school term except with the approval of the county superintendent and county board of trustees.

For all school districts whose funds may not be sufficient to pay the tuition of resident students attending high school elsewhere, the county board of trustees shall, on or before the first of June of each scholastic year, apply to the State Board of Education for the funds with which to pay the tuition accounts of the said districts, or such part of them as the district is financially unable to pay; the said application to be approved by the county superintendent and supported by a sworn statement of the local district trustees as to such tuition charges. And on the approval of the said application by the State board of Education, the State Superintendent of Public Instruction shall transmit to the county school depository, by warrant drawn by the State Comptroller against any appropriation made by the Legislature for this purpose and payable to the County High School Tuition Fund, the funds with which to pay such tuition, and the county superintendent shall, with the approval of the county board of trustees, issue vouchers in payment of the outstanding tuition accounts of the said districts of his county and to reimburse such of them as have paid, in whole or in part, the tuition accounts of resident high school pupils as prescribed herein. Provided that the receiving district maintaining such a high school shall not be required to accept such a high school transfer as provided in this Act, unless and until such sending district shall have provided for the assessment and collection of a local tax not less than fifty cents on the one hundred dollars valuation of taxable property within such district. [As amended Acts 1929, 41st Leg., 1st C. S., p. 2, ch. 2, § 1.]

Section 2 of Acts 1929, 41st Leg., 1st C. 2678 and all conflicting laws and parts of S., p. 2, ch. 2, repeals Rev. St. 1925, art. laws.

#### [Art. 2687a. Transportation of pupils]

The trustees of any school district, common or independent, making provision for the transportation of pupils to and from school, shall for such purpose employ or contract with a responsible person or firm. No person shall be employed to transport pupils, who is not at least twenty-one years of age and a competent driver of motor vehicles and sound in body and mind. All motor vehicles operated by school districts, directly or by contract, in the transportation of pupils shall be covered and so

glassed or curtained at the sides and rear as to protect the pupils from the inclemencies of the weather, and shall at all times be equipped with efficient lights and brakes. The drivers of all school transportation vehicles shall be required to give bond for such amount as the Board of Trustees of the district may prescribe, not less than \$2,000.00, payable to the district, and conditioned upon the faithful and careful discharge of their duties for the protection of the pupils under their charge and faithful performance of the contract with [said] School Board; and they shall, before crossing any railroad or interurban railway tracks, bring their vehicles to a dead stop. Failure to stop before crossing such railway as provided herein shall forfeit the drivers contract and, in case of accident to pupils or vehicles the bond shall be forfeited and the amount and all right thereunder shall be determined by a court of competent jurisdiction. [Acts 1929, 41st Leg., 1st C. S., p. 96, ch. 42, § 1.]

#### Art. 2688. [2750] Office established

The Commissioners' Court of every county having three thousand (3,000) scholastic population or more as shown by the preceding scholastic census, shall at each General Election provide for the election of a county Superintendent to serve for a term of two (2) years, who shall be a person of educational attainments, good moral character, and executive ability, and who shall be provided by the Commissioners' Court with an office in the Courthouse, and with necessary office furniture and fixtures. He shall be the holder of a teacher's first grade certificate or teacher's permanent certificate. In every county that shall attain three thousand (3,000) scholastic population or more the Commissioners' Court shall appoint such Superintendent who shall perform the duties of such office until the election and qualification of his successor. In counties having less than three thousand (3,000) scholastic population whenever more than twenty-five per cent (25%) of the qualified voters of said county as shown by the vote for Governor at the preceding General Election shall petition the Commissioners' Court therefor, said Court shall order an election for said county to determine whether or not the office of County Superintendent shall be created in said county; and, if a majority of the qualified property taxpaying voters voting at said election shall vote for the creation of the office of County Superintendent in said county, the Commissioners' Court, at its next regular term after the holding of said election, shall create the office of County Superintendent, and name a County Superintendent who shall qualify under this Chapter and hold such office until the next General Election. Provided, that in all counties having a population in excess of three hundred and fifty thousand (350,000) inhabitants according to the last available Federal Census the County Superintendent shall be appointed by the County Board of Education and shall hold office for two (2) years, provided further, that this provision shall not operate so as to deprive any elected Superintendent of his office prior to the expiration of the term for which he has been elected. [As amended Acts 1931, 42nd Leg., p. 849, ch. 357, § 1.]

See, also, art. 2688a post.

#### [Art. 2688a. Terms of county superintendents]

In all counties in which the county superintendent of schools is chosen by popular election the term of office shall be four years. [Acts 1930, 41st Leg., 5th C. S., p. 207, ch. 61, § 1.]

Section 2 of the act makes it effective January 1, 1931.

#### [Art. 2691a. Rural school supervisors]

Sec. 1. That the County Board of School Trustees in counties having a population of twenty-nine thousand three hundred (29,300) to twenty-nine thousand five hundred (29,500), according to the last available Federal Census, may employ a rural school supervisor to plan, outline, and

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supervise the work of the primary and intermediate grades of the rural schools of the county, and shall meet with and advise with the County Board at all regular meetings.

Sec. 2. It shall be the duty of such supervisor to visit the schools of the county and help the teachers with their class work by teaching demonstration lessons for them; suggesting methods of presenting the work and aiding them in any other ways possible.

Sec. 3. The supervisor may call meetings of the teachers when deemed necessary, for the purpose of discussing their work with them, and it shall be the duty of the teachers to attend all such meetings called by the supervisor whenever possible.

Sec. 4. The salary of the rural school supervisor shall be determined by the County Board of School Trustees; provided that the total salary paid such supervisor for any one year shall not exceed One Thousand Eight Hundred Dollars (\$1,800.00). Said salary shall be paid out the available funds of the districts in proportion to the weekly salary, or salaries, of the teachers of the district. [As amended Acts 1929, 41st Leg., 1st C. S., p. 194, ch. 77; Acts 1930, 41st Leg., 4th C. S., p. 74, ch. 36, § 1; Acts 1931, 42nd Leg., Spec. L., p. 343, ch. 164.]

Sec. 5. The employment of a rural school supervisor under the terms of this Act shall exempt the county superintendent from holding a teachers' institute for rural teachers and teachers of independent districts with a scholastic population of less than five hundred (500) and exempt the teachers of such schools of the county from attendance upon a teachers' institute as provided for in Article 2691, Revised Statutes of 1925, and as amended by the 40th Legislature. [As amended Acts 1929, 41st Leg., 1st C. S., p. 194, ch. 77; Acts 1931, 42nd Leg., Spec. L., p. 343, ch. 164.]

[Art. 2691b. Rural school supervisors in Van Zandt and other counties]

Sec. 1. That the County Boards of School Trustees may employ rural school supervisors of Van Zandt, Panola, Nacogdoches, Jasper, Cass, Live Oak, Anderson, Scurry, Wood, Denton, Shelby, Morris, Parker, Nolan, Titus, and Wise Counties, to plan, outline, and supervise the work of the primary and intermediate grades of the rural schools of the counties.

Sec. 2. It shall be the duty of such supervisors to visit the schools of the counties and help the teachers with their class work by teaching demonstration lessons for them; suggesting methods of presenting the work and aiding them in any other ways possible.

Sec. 3. The supervisors may call meetings of the teachers when deemed necessary, either by the supervisors or the County Boards, for the purpose of discussing their work with them, and it shall be the duties of the teachers to attend all such meetings, whenever possible.

Sec. 4. The salaries of the rural school supervisors shall be determined by the County Boards of School Trustees; provided that the total salaries paid such supervisors for any one year shall not exceed Two Thousand Dollars (\$2,000.00). Said salaries shall be paid out of the local or available funds of the districts in proportion to the weekly salary, or salaries, of the teachers of the districts; provided said County Boards of School Trustees shall have the power to discontinue the office of rural school supervisors at any time, when it is clearly shown that such rural school supervisors are not a public necessity and their services are not commensurate with the salaries received.

Sec. 5. The employment of rural school supervisors, under the terms of this Act shall exempt the County Superintendent from holding a Teachers' Institute for rural teachers, including teachers of independent districts of fewer than five hundred (500) scholastics, and exempt the rural teachers of the County from attendance upon a Teachers' Institute as provided for in Article 2691, Revised Statutes of 1925, and as amended by the 40th Legislature.

It is hereby declared that if any clause, phrase, provision or section of this bill should be invalid or unconstitutional, that the Legislature would have nevertheless passed the remaining portions of said bill without including the phrase, clause, provision or section so declared invalid or unconstitutional. [Acts 1931, 42nd Leg., 1st C. S., p. 83, ch. 39.]

**Art. 2698. Emergency transfers**

In case of conditions resulting from public calamity in any section of the State such as serious floods, prolonged drouth, or extraordinary border disturbances, resulting after the scholastic census has been taken, in such sudden change of the scholastic population of any county as would work a hardship in the support of the public free schools of the said county, the State apportionment of any child of school age may, on approval of the State Board, be ordered by the State Superintendent to be transferred to any other county or Independent School District in any other county; provided, that the facts warranting such transfer shall be sent to the State Superintendent by the county or district board of trustees of schools to which transfer is to be made with a formal request for the said transfer before the first of August of the year in which such unusual conditions occur. No application for emergency transfers shall be granted unless the increase in scholastic population, as evidenced by a list of pupils within the scholastic age actually residing within the district not enumerated in said district, and filed in the State Department of Education is in excess of twenty per cent of the number of children assigned to said district; including regular transfers, as a result of the preceding census. The State Superintendent shall in such case notify the County Superintendent of both counties that final apportionment of school funds cannot be made under these circumstances before August 15. All arrangements for the said emergency transfers must be completed by the 15th of August following the unusual conditions causing the emergency. Children whose State funds are thus transferred to any county shall be included in the number of children for whom the county school apportionment of the said county is made. [As amended Acts 1931, 42nd Leg., 1st C. S., p. 80, ch. 37, § 1.]

**[Art. 2699a. Pupils attending public schools from adjoining states; provision as to payment by district of residence]**

Any child who would be entitled to attend the public school of any district that lies on the border of Louisiana, Arkansas, Oklahoma, or New Mexico, and who may find it more convenient to attend the public school in a district of a County of said State contiguous to said district in Texas may have the State and County per capita apportionment of the Available School Fund paid to said district in said State and may have additional tuition, if necessary, paid by the district of his residence on such terms as may be agreed upon between the trustees of the receiving district and the trustees of the district of residence of such child, subject to the approval of the County Superintendent and the County Board of Trustees of the Texas district and county; provided that the restrictions of the Texas Statutes shall apply to the amount paid for high school tuition. [Acts 1931, 42nd Leg., p. 192, ch. 113, § 1.]

Section 2 repeals all conflicting laws and parts of laws.

**[Art. 2700c. Superintendent's salary and office expenses in counties of 12,100 to 12,190 population]**

Sec. 1. That the salary of the County Superintendent of Public Instruction of each County in Texas having a population of not less than twelve thousand one hundred (12,100) and not more than twelve thousand one hundred and ninety (12,190), according to the last available Federal

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Census, shall from and after the passage of this Act be not less than the sum of twenty-one Hundred Dollars (\$2100.00) and not more than the sum of Three Thousand Dollars (\$3,000.00) per annum.

Sec. 2. In making the annual per capita apportionment to the schools of the counties having a population of not less than twelve thousand one hundred (12,100) and not more than twelve thousand one hundred and ninety (12,190), according to the last available Federal Census, the county school trustees shall also make an allowance out of the State and County Available Funds for the payment of the salary of the County Superintendent of Public Instruction, not less than Twenty-one Hundred Dollars (\$2100.00) nor more than Three Thousand Dollars (\$3,000.00), and an office expense not exceeding Three Hundred Dollars (\$300.00) per annum for stamps and stationery, and the Commissioners' Courts of the counties herein affected may expend out of the General Fund of such counties any sums not exceeding Three Hundred Dollars (\$300.00) per annum to defray the traveling expenses incurred by said County Superintendent, which said sum shall be paid by said Commissioners' Courts upon certificate of said Superintendent that the expenses have been incurred in the discharge of his duties as such Superintendent.

Sec. 3. The salary shall be paid monthly upon order of the county school trustees; providing that the month of September shall not be paid until the County Superintendent shall have presented a receipt or a certificate from the State Superintendent of Public Instruction, showing that he had made all reports required of him; the expenses herein authorized shall be paid monthly by the County Treasurer on the order of the Commissioners' Court. [Acts 1929, 41st Leg., p. 90, ch. 44, as amended Acts 1931, 42nd Leg., Spec. L., p. 433, ch. 219.]

Section 4 of said act 1931 repeals all conflicting laws and parts of laws.

Art. 2700d. Superintendent's salary and expenses in counties of 100,000 population]

Sec. 1. That the salary of the County Superintendent of Public Instruction of each County in Texas, having a population of not less than 100,000 nor more than 150,000 according to the last Federal Census, shall from and after passage of this Act be not less than the sum of \$2,800.00 per annum, or more than the sum of \$3,800.00 per annum.

Sec. 2. In making the annual per capita apportionment to the schools of the Counties having a population of not less than 100,000 and not more than 150,000 the County School Trustees shall also make an annual allowance out of the State and County Available Funds for the payment of the salary of the Superintendent of Public Instruction not less than \$2,800.00 nor more than \$3,800.00 and the Commissioner's Courts of the Counties having a population of not less than 100,000 nor more than 150,000 may expend out of the general fund of said counties any sums not exceeding the sum of \$1200 per annum, to defray the expenses incurred by said County Superintendent which said sum or any part thereof shall be paid by said Commissioners upon certificate of said Superintendent that the expenses have been incurred in the discharge of his duties as such superintendent.

Sec. 3. Said salary to be paid monthly upon the order of the county school trustees, provided that said salary to the Superintendent of public instruction for the month of September shall not be paid until the Superintendent shall have presented a receipt or certificate from the State Superintendent of Public Instruction showing that he has made all reports required of him; that the expenses provided for herein shall be paid monthly by the County Treasurer on the order of the Commissioner's Court. [Acts 1929, 41st Leg., p. 323, ch. 148.]

[Art. 2700d—1. Superintendent's salary and expenses to be paid out of school funds of districts]

Sec. 1. That from and after August 31, 1930, the salary and office expenses of the county superintendent of public instruction and such assistants as he may have shall be paid out of the school funds of the common and independent school districts of the county.

Sec. 2. That the County Board of Trustees shall annually on or before the first (1st) day of August hereafter order a scholastic per capita assessment against each school district within the County in sufficient amount to provide for the payment of the salary and office expenses of the County Superintendent and any office assistants he may have, as is now provided by law, or may hereafter be provided. And the said assessment when legally made and certified to the school districts of the County shall be paid by them for the purpose herein specified.

Sec. 3. The State Superintendent is hereby authorized and instructed to issue and transmit to County and District School Officials all instructions necessary for the proper observance and administration of this Act.

Sec. 4. All general laws in conflict herewith are hereby repealed, except such laws as provide for a part of the office expense to be paid from the general revenue of the county. [Acts 1930, 41st Leg., 4th C. S., p. 90, ch. 49.]

[Art. 2700d—2. Superintendent's salary in counties having a population of 4,660 and not more than 4,700]

Sec. 1. That the salary of the County Superintendent of Public Instruction of each county in Texas having a population of not less than 4,660 nor more than 4,700 according to the Federal Census of 1920, shall, from and after the passage of this Act be not less than the sum of \$2,400.00 per annum nor more than the sum of \$3,000.00 per annum.

Sec. 2. In making the annual per capita apportionment to the schools of the counties having a population of not less than 4,660 nor more than 4,700 according to the Federal Census of 1920, the County School Trustees shall also make an allowance out of the State and County Available Funds for the payment of the salary of the County Superintendent of Public Instruction not less than \$2,400.00 nor more than \$3,000.00 and office expenses not exceeding \$300.00 per annum for stamps and stationery; and the Commissioners' Courts of the counties having a population of not less than 4,660 nor more than 4,700 may expend out of the general funds of such counties any sums not exceeding the sum of \$300.00 per annum to defray the traveling expenses incurred by said County Superintendent, which said sum shall be paid by said Commissioners upon certificate of said Superintendent that the expenses have been incurred in the discharge of his duties as such Superintendent.

Sec. 3. The salary shall be paid monthly upon the order of the County School Trustees; provided, that the month of September shall not be paid until the Superintendent of Public Instruction shall have presented a receipt or a certificate from the State Superintendent of Public Instruction showing that he has made all the reports required by him; that the expenses provided for herein shall be paid monthly by the County Treasurer on the order of the Commissioners' Court. [Acts 1930, 41st Leg., 5th C. S., p. 255, ch. 83.]

Section 4 of Acts 1930, 41st Leg., 5th C. S., p. 255, ch. 83, repeals all conflicting laws and parts of laws.

[Art. 2700d—3. Superintendent's salary in certain other counties]

Counties having population of 13,388 to 13,393, \$2,500: Sp. Laws 1931, p. 345, ch. 166.	18,435, \$2,200: Sp. Laws 1931, p. 404, ch. 193.
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Counties having population of 18,425 to	Counties having population of 19,850 to 19,880, \$2,400: Sp. Laws 1931, p. 406, ch. 194.
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### 3. RURAL SCHOOL SUPERVISOR

[Art. 2701a. Rural supervisor, duties, salary, etc.]

Sec. 1. That the County Board of School Trustees in counties having a population of not less than 31,000 nor more than 31,789, according to the Federal Census of 1920, and a scholastic population of not less than 9,300 as shown by the scholastic report for the school year of 1928-29, may employ a Rural School Supervisor to plan, outline, and supervise the work of the primary and intermediate grades of the rural schools of the county.

Sec. 2. The Rural Supervisor provided for in this Act shall be the holder of a teacher's permanent certificate (not permanent primary) and shall have had four years successful experience as a teacher in the primary and intermediate grades and in addition shall have had practice teaching in said grades.

Sec. 3. It shall be the duty of such Supervisor to visit the schools of the county and help the teachers with their class work by teaching demonstration lessons for them; suggesting methods of presenting the work and aiding them in any other ways possible.

Sec. 4. The Supervisor may call meetings of the teachers when deemed necessary, either by the Supervisor or the County Board, for the purpose of discussing their work with them, and it shall be the duty of the teachers to attend all such meetings, whenever possible.

Sec. 5. The salary of the Rural School Supervisor shall be determined by the County Board of School Trustees; provided that the total salary paid such Supervisor for any one year shall not exceed \$2,000. Said salary shall be paid out of the local or available funds of the districts in proportion to the weekly salary, or salaries, of the teachers of the districts.

Sec. 6. The employment of a Rural School Supervisor under the terms of this Act shall exempt the County Superintendent from holding a Teachers' Institute for rural teachers, including teachers of independent districts of fewer than five hundred scholastics, and exempt the rural teachers of the county from attendance upon a Teachers' Institute as provided for in Article 2691, Revised Statutes of 1925, and as amended by the 40th Legislature. [Acts 1929, 41st Leg., p. 469, ch. 219.]

[Art. 2701b. Rural supervisor in certain counties]

Sec. 1. That the County Board of School Trustees in counties having a population of 30,000 to 30,500 and a population of 34,300 to 34,500 according to the Federal census of 1920, may employ a rural school supervisor or supervisors to plan, outline, and supervise the work of the primary and intermediate grades of the rural schools of the county.

Sec. 2. It shall be the duty of such supervisor to visit the schools of the county and help the teachers with their class work by teaching demonstration lessons for them; suggesting methods of prescribing the work and aiding them in any other ways possible.

Sec. 3. The supervisor may call meetings of the teachers when deemed necessary, for the purpose of discussing their work with them, and it shall be the duty of the teachers to attend all such meetings called by the supervisor, whenever possible.

Sec. 4. The salary of the rural school supervisor shall be determined by the County Board of School Trustees; provided that the total salary paid such supervisor for any one year shall not exceed \$1,800.00. Said salary shall be paid out of the local or available funds of the districts in proportion to the weekly salary, or salaries, of the teachers of the district or may be apportioned out of the State and County apportionment.

Sec. 5. The employment of a rural school supervisor under the terms

of this Act shall exempt the County Superintendent from holding a teachers' institute for rural teachers, and teachers of Independent districts of less than 10,000 population and exempt such teachers from attendance upon a teachers' institute as provided for in Article 2691, Revised Civil Statutes of 1925, and as amended by the 40th Legislature. [Acts 1929, 41st Leg., p. 526, ch. 251.]

[Art. 2701c. Rural school supervisor in lieu of teachers' institute]

Sec. 1. That the County Board of School Trustees in counties having a population of 37,000 to 37,800, according to the Federal census of 1920, and a scholastic population of at least 10,000 as shown by the scholastic report for the school year 1927-28, may employ a Rural School Supervisor to plan, outline, and supervise the work of the primary and intermediate grades of the rural schools of the county.

Sec. 2. It shall be the duty of such Supervisor to visit the schools of the county and help the teachers with their class work by teaching demonstration lessons for them, suggesting methods of presenting the work and aiding them in any other ways possible.

Sec. 3. The Supervisor may call meetings of the teachers when deemed necessary, for the purpose of discussing their work with them, and it shall be the duty of the teachers to attend all such meetings called by the Supervisor, whenever possible.

Sec. 4. The salary of the Rural School Supervisor shall be determined by the County Board of School Trustees; provided that the total salary paid such Supervisor for any one year shall not exceed \$1,800.00. Said salary shall be paid out of the available funds of the districts in proportion to the weekly salary, or salaries, of the teachers of the district.

Sec. 5. The employment of a Rural School Supervisor under the terms of this Act shall exempt the County Superintendent from holding a Teachers' Institute for rural teachers and exempt the rural teachers of the county from attendance upon a Teachers' Institute as provided for in Article 2691, Revised Statutes of 1925, and as amended by the 40th Legislature. [Acts 1929, 41st Leg., 1st C. S., p. 188, ch. 74.]

[Art. 2701d. Rural supervisor and salary in counties having population of 1,100 to 41,500]

Sec. 1. That the County Board of School Trustees in counties having a population of 1,100 to 41,500 according to the last Federal census, and a scholastic population of at least 9200 as shown by the scholastic report for the preceding school year may employ a rural school supervisor or supervisors to plan, outline and supervise the work of the primary and intermediate grades of the rural schools of the county. Such supervisor to have college degree or other appropriate evidence of proficiency in rural supervision.

Sec. 2. It shall be the duty of such supervisor to visit the schools of the county and help the teachers with their class work by teaching demonstration lessons for them; suggesting methods of presenting the work and aiding them in any other ways possible.

Sec. 3. The supervisor may call meetings of the teachers when deemed necessary, for the purpose of discussing their work with them, and it shall be the duty of the teachers to attend all such meetings called by the supervisor, whenever possible.

Sec. 4. The salary of the rural school supervisor shall be determined by the County Board of School Trustees; provided that the total salary paid such supervisor for any one year shall not exceed \$2,000.00. Said salary shall be paid out of the local or available funds of the districts in proportion to the weekly salary, or salaries, of the teachers of the district or may be apportioned out of the State and County apportionment.

Sec. 5. The employment of a rural school supervisor under the terms

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of this Act shall exempt the County Superintendent from holding a teacher's institute for rural teachers, and teachers of Independent districts of less than 10,000 population and exempt such teachers from attendance upon a teachers' institute as provided for in Article 2691, Revised Civil Statutes of 1925, and as amended by the 40th Legislature. [Acts 1929, 41st Leg., 3rd C. S., p. 242, ch. 9.]

[Art. 2701d—1. Rural supervisor and salary in counties having population of 30,000 to 30,500]

Sec. 1. That the County Board of School Trustees in counties having a population of 30,000 to 30,500 according to the Federal census of 1920 may employ a rural school supervisor or supervisors to plan, outline, and supervise the work of the primary and intermediate grades of the rural schools of the county.

Sec. 2. It shall be the duty of such supervisor to visit the schools of the county and help the teachers with their class work by teaching demonstration lessons for them; suggesting methods of prescribing the work and aiding them in other ways possible.

Sec. 3. The supervisor may call meetings of the teachers when deemed necessary, for the purpose of discussing their work with them, and it shall be the duty of the teachers to attend all such meetings called by the supervisor, whenever possible.

Sec. 4. The salary of the rural school supervisor shall be determined by the County Board of School Trustees; provided that the total salary paid such supervisor for any one year shall not exceed \$1,800. Said salary shall be paid out of the local or available funds of the districts in proportion to the weekly salary or salaries of the teachers of the districts, or may be apportioned out of the State and county apportionment. Provided, also, that any expense necessary in carrying on the work of said supervisors shall be paid by the County Board of School Trustees in the same manner and from the same funds as the salary of said supervisors.

Sec. 5. The employment of a rural school supervisor under the terms of this Act shall exempt the County Superintendent from holding a teachers' institute for rural teachers, and teachers of independent districts of less than 10,000 population and exempt such teachers from attendance upon a teachers' institute as provided for in Article 2691, Revised Civil Statutes of 1925 and as amended by the 40th Legislature. [Acts 1930, 41st Leg., 5th C. S., p. 166, ch. 32.]

[Art. 2701d—2. Supervisor and salary in counties having population of 28,000 to 28,327]

Sec. 1. That the County Board of School Trustees in counties having a population of 28,000 to 28,327 according to the last Federal census, and a scholastic population of at least 8,349, as shown by the scholastic report for the preceding school year may employ a rural school supervisor to plan, outline and supervise the work of the primary and intermediate grades of the rural schools of the county. Such supervisor to have college degree.

Sec. 2. It shall be the duty of such supervisor to visit the schools of the county and help the teachers with their class work by teaching demonstration lessons for them; suggesting methods of presenting the work and aiding them in any other ways possible.

Sec. 3. The supervisor may call meetings of the teachers when deemed necessary, for the purpose of discussing their work with them, and it shall be the duty of the teachers to attend all such meetings called by the supervisor, whenever possible.

Sec. 4. The salary of the rural school supervisor shall be determined by the County Board of School Trustees; provided that the total salary paid such supervisor for any one year shall not exceed \$2,000.00. Said

salary shall be paid out of the local or available funds of the districts in proportion to the weekly salary or salaries, of the teachers of the district or may be apportioned out of the State and County apportionment.

Sec. 5. The employment of a rural school supervisor under the terms of this Act shall exempt the County Superintendent from holding a teachers' institute for rural teachers and teachers of Independent districts of less than 10,000 population and exempt such teachers from attendance upon a teachers' institute as provided for in Article 2691, Revised Civil Statutes of 1925, and as amended by the 40th Legislature. [Acts 1930, 41st Leg., 5th C. S., p. 195, ch. 53.]

#### [Art. 2701d—3. Supervisor, salary and duties in other counties]

Counties having population of from 8,955 to 8,957: Special laws 1931, p. 21, ch. 9.

Counties having population of from 77,777 to 98,000: Special laws 1931, p. 88, ch. 28.

Counties having population of 34,640 to 34,650: Special Laws, 42d Leg. p. 105, ch. 39.

Counties having population of 24,000 to 24,150: Special laws, 42d Leg. p. 120, ch. 45.

Counties having population of from 39,497 to 39,597: Special Laws 1931, p. 226, ch. 115.

Counties having a population of from 24,150 to 22,290: Special Laws 1931, p. 230, ch. 118.

Counties having population of from 36,000 to 36,100: Sp. Laws 1931, p. 298, ch. 153.

Counties having population of from 53,900 to 54,000: Sp. Laws 1931, p. 309, ch. 157.

Counties having population of 17,000 to 17,500: Sp. Laws 1931, p. 312, ch. 160.

Counties having population of 8,955 to 8,975: Sp. Laws 1931, p. 376, ch. 138.

Counties having population of 10,015 to 10,090: Sp. Laws 1931, p. 411, ch. 198.

Counties having population of 30,200 to 30,500: Sp. Laws 1931, p. 420, ch. 205.

Counties having population of 30,000 to 30,250: Sp. Laws 1931, p. 431, ch. 217.

#### Art. 2702. Election

Upon the petition, duly signed and verified by the tax rolls of the county, of five hundred (500) qualified voters of any county having a population of one hundred thousand (100,000) or over, or upon the petition duly signed and verified by the tax rolls of the county of one hundred (100) qualified voters of any county having a population not less than three thousand, nine hundred sixty (3,960) and not more than four thousand (4,000), according to the preceding Federal Census, the County Judge shall call an election in said county within ninety (90) days thereafter to determine whether or not such county shall adopt what is commonly known as the County Unit System of Education, provided for under this Law; such election to be governed by the laws governing the holding of a primary election in and for a county, in which said election is called. Separate elections shall be held in each Commissioner's Precinct in the County, and it shall require a majority vote in each such Commissioner's Precinct, before the consolidation may be ordered by the Commissioners' Court. And the Commissioners' Court is hereby constituted the canvassing board for each of such precincts and the elections therein. Said election shall be held on the same day and in the same manner as provided for the holding of primary elections in this State. The County Judge shall prepare a proper form of ballot to be used in such election and furnish such explanations of the law as in his judgment may be necessary and transmit the same to the presiding officer of each election precinct. The results of said election shall be certified by the County Judge to the Secretary of State, and shall take effect as soon as the County Board of Education hereinafter provided for has been duly elected and qualified, and this law shall take the place of any existing General or Special Law affecting said county which may be in conflict with the provisions hereof. [As amended Acts 1931, 42nd Leg., p. 835, ch. 348, § 1.]

#### Art. 2703. County board of education

The general management, supervision, and control of the public schools and of the educational interests of each county adopting the provisions of this Law, shall be vested in the County Board of Education except as other-

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wise provided by law, and said Board shall perform such duties as are or may be required of it by law. Said Board shall be composed of five (5) members only one of whom shall be elected from any Independent School District as now composed and four (4) from the county outside of said Independent School District or Districts, and which Board shall hold office for a term of four (4) years. They shall be nominated at the regular primary election held for county officers and elected at the general election. At the first election five (5) members of said Board shall be elected, three (3) of whom shall be elected for a term of two (2) years and two (2) for a term of four (4) years and biennially thereafter. At the first meeting after such election, the members so elected shall determine by lot who shall hold under the four (4) year term and who under the two (2) year term. At subsequent elections, three (3) members and two (2) members shall be elected on alternate years. Such members shall be persons of good moral character, with at least a fair elementary education, and they need not hold teachers' certificates, and shall be of good standing in their respective communities, and known for their honesty and business ability, public spirit, and interest in the promotion of public education. Any vacancy in said office shall be filled by a majority of the remaining members and the appointee shall hold office until the next general election following the date of his appointment. If the vacancy is not so filled within thirty (30) days, the State Superintendent shall fill the vacancy. Each such member shall first qualify by taking the official oath, the certification of which shall be filed in the office of the Probate Judge of the county. The term 'Board' when hereafter used in this Chapter shall mean the County Board of Education and the term 'Superintendent' shall mean the County Superintendent of Education. Provided that in counties of a population of not less than three thousand, nine hundred sixty (3,960) and not more than four thousand (4,000) the County Board shall consist of five (5) members, one to be elected from each Commissioner's Precinct and one elected from the county at large. At the first election three (3) members shall be elected for a two (2) year term and two (2) members for a four (4) year term and biennially thereafter. At the first meeting after election the members shall determine by lot who shall hold under the two (2) year term and who under the four (4) year term. At subsequent elections three (3) members and two (2) members shall be elected on alternate years. [As amended Acts 1931, 42nd Leg., p. 835, ch. 348, § 1.]

#### Art. 2724. Local revenue and taxation

Said Board shall form a budget of the county funds to be used for the benefit of the public schools within said county during the year in which said funds are to be used, and which shall be composed of the State and County available school funds and of any other funds that may be received for any schools in said county from the State and also such local funds as may be derived by local taxes as hereinafter provided for. Immediately upon the adoption of this law and at such other times as they may deem necessary and to the best interest of the schools, said Board shall call an election of all qualified taxpaying voters of the county to determine whether or not the county will vote in favor of levying a tax for the maintenance of schools and bonds for the purchase of sites and the erection of school houses and teacherages. The aggregate amount of bonds issued for said purpose and the amount of maintenance tax shall never exceed One (\$1.00) Dollar on the One Hundred (\$100.00) Dollar valuation of taxable property and the specific rate of tax need not be determined in the election. Any district within the said county may continue to levy and collect any tax for maintenance and bonds heretofore provided, and any district within said county may hereafter provide by an election as provided in subdivision 4 of Chapter 13 for the levy and collection of an additional tax for maintenance and bonds, the proceeds of which tax are to be used for the benefit of the schools within said district. All property assessed for

school purposes by the county shall be assessed at such valuation as may be fixed by a County Board of Equalization, and assessed and collected by an assessor and collector of taxes, all of which shall be appointed by the County Board of Education. Provided that in counties having a population of not less than three thousand, nine hundred sixty (3,960) and not more than four thousand (4,000) the rate of taxation for all purposes including maintenance and bond purposes shall never exceed fifty (50) cents on the Hundred (\$100.00) Dollar valuation of taxable property, and, provided further, that in such counties the assessment and collection of taxes shall be in the same manner as State and County and common school district taxes are assessed and collected and all taxable property shall be assessed on the same values as are used for State and County purposes. It is specifically provided that the bond endorsements now owned by existing Independent School Districts in the counties affected herein shall never be distributed by election or otherwise over the remainder of the County, but shall constitute a lien solely and alone against said Independent School District or Districts as now constituted. [As amended Acts 1931, 42nd Leg., p. 835, ch. 348, § 1.]

[Art. 2740b. County board of education and superintendent in certain counties, powers and duties]

Sec. 1. The general management, supervision, and control of the public free schools of counties with an area of nine hundred and seventy-seven square miles and a population of not less than 15,000 nor more than 20,000 according to the last preceding Federal census, shall be vested in the County Board of Education composed of seven members elected by the qualified voters of the county and at least one member shall reside in each Commissioners' precinct, and shall be elected for a term of three years. At the first election on the first Saturday in April, 1930, two shall be elected for one year, two for two years, and three for three years and at the first meeting they shall determine by lot who shall serve for one year, two years and three years. All vacancies on said Board shall be filled by the remaining members. The County Board of Education shall be persons of progressive educational attainments, good moral character, and executive ability. They shall have the powers and duties as now provided by the General Laws of the State governing County Boards in addition to those provided by this Act. All candidates for County Boards of Education shall file an application with the County Judge requesting their names to be placed on said ballots for the election of County Boards of Education at least 15 days prior to said election. If no one makes application for name on the ballot, then ten (10) qualified voters of the county may petition the County Judge to place certain names on the ballots provided this is done at least ten (10) days prior to said election. The County Judge shall be required to furnish all election supplies as now provided under the General Law.

The first members of the County Board of Education after this Act shall become effective shall be as follows: B. G. Graham, J. F. Parnell, M. K. Withers, R. F. Smith, and J. W. Langley who compose the present Board. The County Board of Education as named in this Act, before organizing and entering upon their official duties as such, shall appoint two additional members who shall subscribe to the official oath provided by the General Statutes of the State of Texas. They shall continue in office until the first election provided for in this Act or until their successors are elected or appointed and qualified.

The members of the County Board of Education of the public schools of any county affected by this Act shall receive \$5.00 per day for their services not to exceed twelve days per year in complying with the duties imposed upon them by this Act, to be allowed by the Commissioners' Court and paid out of the General Fund of the county, and the expense of making maps and plats provided for by this Act and all other ex-

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penses incident to carrying out its provisions shall be similarly allowed and paid.

Sec. 2. It shall be the duty of the County Board of Education of the public schools in every county in this State affected by this Act as soon as may be after this Act shall take effect, to rearrange and re-subdivide all the territory of their respective counties into such number of convenient school districts as it shall deem advisable and designate them by number.

Such rearrangement and resubdivision shall be accomplished by constituting such existing Independent School Districts as the Board shall deem advisable, together with such territory adjacent to such Independent School Districts as it may deem advisable to add thereto, the new districts into which such county shall be subdivided; and such existing Independent School Districts, so enlarged shall continue to have and exercise all the powers and duties now provided by Law and shall continue to be governed by existing law and by this Act.

The words, "School District," as herein used, shall refer to Common School Districts or to Independent School Districts, however created.

The County Board of Education shall have the power, from time to time, to alter or amend the rearrangement and the resubdivision of school districts herein provided for, and in amending or altering same may increase or reduce the area of any school district; create additional school districts; consolidate two or more adjacent districts; revise or rearrange the boundaries of any school district; attach territory thereto or detach territory therefrom, if necessary for the best interest of the school children, provided that the territory of no Independent School District shall be changed without the consent of its Board of Trustees, and provided further that said Board shall not subtract from the territory of any school district in such way as to leave any portion thereof remaining in such district with insufficient taxable wealth to raise revenue sufficient to pay interest and create a sinking fund for outstanding bonds; and provided that no portion of the territory of the county shall be left in a school district, after such subdivision shall have been made, with insufficient taxable wealth within such district with proper and convenient school facilities, both in the elementary and high school grades.

Sec. 3. Before undertaking to create, revise or rearrange the boundaries or to change the territory in any school district, the County Board of Education shall cause a plan and a map to be made showing the boundaries of all districts affected and of the new districts, if any to be created, with the area, taxable wealth and scholastic population of such districts so affected or to be created, and before such action is taken, all interested persons shall be given an opportunity to be heard.

Sec. 4. When the boundaries of any school district having an outstanding bonded indebtedness have been changed or its territory divided or two or more such districts consolidated, it shall be the duty of the County Board of Education to make such an adjustment of such indebtedness and district properties between the districts affected and between the territory divided, detached or added, as may be just and equitable, taking into consideration the value of the school properties and the taxable wealth of the districts affected and the territory so divided, detached or added, as the case may be. And when said Board has arrived at a satisfactory basis of such an adjustment, it shall have the power to make such orders in relation thereto as shall be conclusive and binding upon the districts and the territory thereby affected.

Sec. 5. To carry into effect orders adjusting bonded indebtedness when changes are made in school districts, the County Board of Education shall have the power to order the trustees of the districts affected, to order an election for the issuing of such refunding bonds as may be necessary to carry out the purpose of such order; and, in such case it shall

be the duty of the district trustees to order such election, cause the same to be held, and if the proposition is carried, to issue the bonds voted. Such bonds shall be of the same denomination and carry the same interest rate and mature at the same time as the outstanding bonds owing by the district issuing them, and when so issued, shall, if possible be exchanged for the outstanding bonds for which the district issuing them shall still be liable, according to the order adjusting such indebtedness; and in cases where such an exchange can not be made, the new bonds of the district, to the amount of the old bonds for which it is still liable, and for which no exchange can be made, shall be deposited in the County Treasury to the account of such district. Thereafter taxes shall be levied and assessed only for the payment of the interest, sinking fund and principal of the new bonds so issued; and the funds arising from such taxation shall be used to discharge the principal and interest of such new bonds as have been issued and exchanged, and such old bonds as have not been exchanged and the proceeds applied to payment on old bonds not exchanged, the corresponding new bonds in the County Treasury shall be credited with such payment and retired as the old unexchanged bonds are retired.

Sec. 6. In cases where changes are made in districts having outstanding bonded indebtedness and where the necessary refunding bonds are voted down or where the County Board of Education is otherwise unable to arrange an adjustment or settlement of such bonded indebtedness, it shall be the duty of the trustee to certify the fact and the territories affected by such changes, to the Commissioners' Court and thereupon it shall become the duty of the Commissioners' Court to thereafter annually levy and cause to be assessed and collected from the taxpayers of such districts as existed before the changes were made, and tax necessary to pay the interest, the sinking fund and discharge the principal of such indebtedness as it matures. And it shall be the duty of each Independent School District so affected, to cause all funds in its hands, whether sinking funds or otherwise, which have been collected on account of such bonded indebtedness, to be transferred to the County Treasurer of the county in which such district is situated and such district shall thereafter cease to levy and collect any tax on account of such bonds; and it shall be the duty of the County Treasurer to keep the funds so transferred and those arising from taxation, in separate accounts and apply the same only to the discharge of such bonded indebtedness and the interest thereon, as the same matures.

Sec. 7. Nothing in the provisions of this Act shall prevent the County Board of Education from arranging any other method for the adjustment and settlement of outstanding bonded indebtedness of school districts in which changes are made, but they shall have full power and authority to make any legal and equitable adjustment and settlement in such cases that can be effected.

Sec. 8. Said County Board of Education shall have the power to condemn land for free school purposes and may institute, maintain and prosecute suits for that purpose following the procedure applicable to condemnation of lands by railways or any other method authorized by law.

Sec. 9. It shall be the duty of any school district into which the county shall be subdivided under this Act to provide adequate and convenient means of transportation to and from the schools of such school children in any district as it may be reasonably necessary to make such provisions for, and to establish such routes for that purpose as the Board of Trustees of such district may deem advisable and to alter and change the same from time to time and the expense of such transportation shall be paid by the district in which such children may reside.

Sec. 10. In all cases where changes have been made in the territory of existing school districts, any party aggrieved shall have the right to appeal to a District Court of the county in which such school district is



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located and the decision of such Court on such appeal shall be final; provided notice of such appeal is given to the County Board of Education within ten (10) days after the passage of any such order making such changes; and provided further that such appeal to the District Court shall be perfected within thirty (30) days from date of such order.

Sec. 11. The County Board of Education shall appoint during the month of May at a regular or a called meeting by a majority vote subject to the provisions of this Act, as its executive officer a County Superintendent of Education for a term of not less than three (3) years and not more than five (5) years and whose term shall begin July 1st after the enactment of this Law and shall serve until his successor is appointed and qualified. The County Board of Education shall not appoint any person except the present incumbent before the expiration of said incumbents' term of office as now elected under the General Laws of this State. They shall not appoint to the office of County Superintendent any person who has not at least completed two years' work of a College or University and who has not had at least four years teaching experience, or who does not hold a High School or permanent certificate and shall be a person of educational attainments and vision, good moral character, and executive ability.

The County Superintendent appointed under the provisions of this Act shall receive a salary of not less than \$2,000.00 nor more than \$2,400.00 per annum. The compensation herein provided for shall be paid in equal monthly payments upon the order of the County Board of Education; provided that the salary for the month of September shall not be paid until the County Superintendent presents a receipt showing that he has made all reports to the State Department of Education required of him; provided that whenever the General Laws of this State shall provide an annual salary for said County Superintendent in an amount greater than the salary as herein provided, then and only in that event, the General Law as to said salary will and shall control, otherwise the salary as herein fixed shall be in full force and effect.

The County Board of Education shall make provisions for the employment of a competent assistant for the County Superintendent, who shall, in addition to his other duties, act as attendance officer; and said Board is hereby authorized to fix the salary of such assistant and pay the same out of the same funds from which the salary of the County Superintendent is paid.

It shall be the duty of the County Board of Education during the month of June of each year to make an assessment of \$160.00 per annum from each Independent School District of said county and shall make an assessment of not less than eighty (80) cents nor more than one dollar and fifty cents (\$1.50) per scholastic from each Common School District for the salary of the County Superintendent, assistant County Superintendent and for making the consolidated census roll of the Common School Districts. It shall be the further duty of the County Board of Education to apportion the county available fund on a per capita basis as shown by the last scholastic census to all Common and Independent Districts of the county.

Sec. 12. It shall be the duty of the Commissioners' Court as soon as this Act shall become effective, on a written order of the County Board of Education, to pay from the general fund of the county to the County Superintendent not less than \$600.00 nor more than \$800.00 per annum in equal monthly payments for stamps, stationery, express, printing and all other expenses incidental and necessary in the administration of his office. The County Board of Education shall have the authority to fix the amount to be paid for the expenses of the County Superintendent as provided for in this Act and shall notify the Commissioners' Court of the amount to be paid not later than August 1st of each year.

Sec. 13. The County Board of Education shall call an annual joint meeting of the County Board of Education and the Common and Independent District School Trustees at the County Seat or some other convenient place during the month of May of each year, said meeting to be presided over by the chairman of the County Board of Education for the purpose of classifying the schools, and to discuss and make provisions for the location, conduct, maintenance and discipline of schools, and other matters of interest for a constructive school program. The County Superintendent, as secretary of the County Board of Education, shall be required to keep a complete record of all transactions of this meeting on the Minutes of said County Board of Education.

Sec. 14. The County Board of Education shall appoint, upon the written recommendation of the County Superintendent all principals and teachers in the county except those of independent districts, but this nomination shall be subject to the confirmation by the district trustees. The district trustees shall have the power to refuse to confirm the nomination of the County Superintendent, and when such confirmation is refused the County Superintendent shall nominate another teacher for such school, provided, however, that not more than two such teachers shall be nominated for any one place under provisions of this Section. If the two nominations are not accepted, then the nominations shall be made by joint action of the district trustees and the County Board of Education, in which case a majority vote shall prevail. All applications for principals and teachers must be filed with the County Superintendent as provided for in this Section.

Sec. 15. The County Superintendent shall make all purchases of equipment and supplies for the various Common School Districts where the consideration involves more than \$25.00. [Acts 1929, 41st Leg., p. 641, ch. 289.]

Section 16 of said Acts 1929, 41st Leg., p. 641, ch. 289, repeals all conflicting laws and parts of laws, general and special.

[Art. 2740c. Exemption of independent districts from county supervision]

That from and after the passage of this Act all Independent School Districts in this State located in counties having a population of not less than 8,955 and not more than 8,960, according to the United States Census of 1910, shall be exempt from county supervision and from all assessments for county administration and be subject only to the supervising authority of the State Department of Education and the State Board of Education as prescribed by General Law in the administration of public schools in this State. [Acts 1929, 41st Leg., p. 663, ch. 295, § 1.]

[Art. 2740d. County Board of Education in certain counties]

Sec. 1. The general management, supervision and control of the public free schools of counties with a population of not less than eighty thousand (80,000) and not more than one hundred thirty thousand (130,000) according to the latest Federal Census, shall be vested in a County Board of Education. The County Board of Education shall be composed of seven (7) members to be elected at the District School Trustee Election on the 1st Saturday in April, one of whom shall be elected by the qualified voters from each Commissioner's Precinct, and three (3) from the county at large, by the qualified voters of the county. All of said members shall serve for a term of three (3) years; provided that in those counties not now having seven (7) trustees, the present County Board shall appoint two (2) trustees at large to serve for a period of three (3) years. The two (2) members who were elected on the 1st Saturday in April, 1930, shall serve until April 30, 1933, or until their successors are elected and qualified. On the 1st Saturday in April, 1931, at the District School Trustee Election five (5) County School Trustees shall be elected, two (2) from the

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Commissioner's Precinct whose terms expire in 1931 to serve until April 30, 1932, or until their successors are elected and qualified, and three (3) from the county at large, to serve for a period of three (3) years. Annually hereafter on the 1st Saturday in April either two (2) trustees or three (3) trustees, shall be elected for a term of three (3) years. [Acts 1929, 41st Leg., 2nd C. S., p. 49, ch. 31, as amended Acts 1931, 42nd Leg., p. 798, ch. 324, § 1.]

**Sec. 2. Organization.** The County Board of Education of such counties shall, at their first meeting in May of each year organize by electing one member of the Board as president, and one as vice-president to preside in the absence of the president; and they shall hold such other meetings as are not provided by law and the rules and methods of procedure generally adopted by deliberative bodies for their government shall be observed. Five members present at any meeting shall constitute a quorum to do business.

**Sec. 3. Qualification.** The County Board of Trustees shall be composed of persons of good moral character, high ideals of citizenship, and who are interested in public education. No person connected with the public schools of any district in such county either as an official or as an employee shall be eligible to serve on said County Board of Trustees.

**Sec. 4. Vacancies.** All vacancies arising from death, resignation, or removal from the county shall be filled by the other members of the Board of Education, and such an appointee shall fill out the unexpired term.

**Sec. 5. Payment.** The members of the County Board of Education shall receive \$5.00 per day for the time spent in attending meetings, to be paid in the same manner and from the same funds as is now provided by law; provided that they may not be allowed pay for more than 20 days in any one year.

**Sec. 6. County Superintendent.** The County Superintendents of the counties now affected by this Bill shall serve the term for which they have been elected. Ninety days prior to the term of expiration of the County Superintendent, the County Board of Education shall, at a meeting, appoint his successor, who shall serve at the pleasure of said Board, provided no such appointment shall be made unless at an election to be held on the first Saturday in April, 1930, the qualified voters shall so empower and authorize the County Board to choose the County Superintendent; if otherwise, then the County Superintendent shall continue to be an elective officer as now provided by the General Laws of Texas. It shall be the duty of the County Judge to give public notice of the submission of the proposition of the employment of the County Superintendent; and provision shall be made for the submission of the proposition on the official ballot for county school trustees. The question shall be submitted on the ballot in the following form:

"For the employment of the County Superintendent of schools by the County Board of Trustees"; and

"Against the employment of the County Superintendent of schools by the County Board of Trustees."

The returns of the election on this question shall be made to the County Judge, to be canvassed by the Commissioners' Court, and such returns shall be duly canvassed and the results certified to the County Board of Trustees within thirty days after the date of said election. The County Superintendent shall be secretary of the County Board. The County Board of Education shall designate the salary of the County Superintendent of Education, subject to the provisions of this Act, provided the salary shall not be less than \$3,600.00 and not more than \$4,800.00. The County Board of Education shall appoint such assistants and clerical help for the County Superintendent as may be deemed necessary, subject to the provisions of this Act.

Sec. 7. [Supervision in lieu of teachers' institute.] The County Board of Education may, upon the recommendation of the County Superintendent, provide for the employment of such professional supervision as may be deemed necessary, this to be in lieu of the teachers' institute as now provided by law. The County Superintendent shall be exempt after the passage of this Act from such requirements as are now provided by law for the holding of teachers' institute; and shall be empowered to provide for such meetings of the teachers of the county as may be deemed necessary and to require the attendance of all teachers upon such meetings.

Sec. 8. [School apportionment.] In making the annual per capita apportionment to the schools, the County Board of Education shall also make an annual allowance out of the State and County Available Funds for the salary and expense of the County Superintendent and such assistants, supervisors and clerical help as he may have, and such expenses shall be pro rated to all of the schools of the county; provided that in making this allowance for county administration, the per capita assessment against the scholastics of the districts shall not exceed \$1.50, provided further that the salary of the County Superintendent for the month of September shall not be paid until he presents a receipt from the State Superintendent of Public Instruction showing that he has made all reports required of him. The County Superintendent shall nominate the principals and teachers for the various schools of the county under the supervision of the County Boards of Education, but this nomination shall be subject to confirmation by the district trustees. The district trustees shall have the power and right to refuse to confirm the nomination of the County Superintendent, and when such confirmation is refused, the County Superintendent shall nominate another teacher for such school, provided however, that not more than three nominations of teachers for any one teaching position be made under the provisions of this Section. In the event the district trustee should refuse to confirm the nomination of the County Superintendent as provided herein, the selection of the principal or teachers shall be by joint action of the district trustees and the County Superintendent in which case a majority vote shall prevail.

Sec. 9. [Contracts and purchases.] The district trustees shall make all purchases of equipment and supplies for the various school districts and shall contract for all buildings and improvements and repairs and all other expenditures, but where the consideration involved is more than \$100.00 such contracts and purchases shall be approved by the County Superintendent. The County Board of Education may, if so authorized in writing by the district trustees, purchase supplies and equipment for all the school districts in wholesale lots, upon requisitions made by the district trustees of the various schools.

Sec. 10. [Equalization fund.] The County Board of Education shall at its August meeting set aside such County Available School Funds as may have accrued from investments of the County Permanent School Funds and land notes and leases, and shall supplement this with an amount not exceeding 5% of the State Available School Funds apportioned to all the schools of the county, to be used as an equalization fund to be distributed by the County Board, under such rules and regulations as may be adopted by the County Board, provided that no district shall participate in this distribution that does not levy and collect a local tax for school purposes of at least seventy-five cents on each One Hundred Dollars property valuation of such district. [Acts 1929, 41st Leg., 2nd C. S., p. 49, ch. 31.]

Effective 20 days after July 2, 1929, date of adjournment. Section 11 of Acts 1929, 41st Leg., 2nd C. S., p. 49, ch. 31, repeals all conflicting laws and parts of laws.

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[Art. 2740e. Repealed by Acts 1931, 42nd Leg., Spec. L. p. 144, ch. 58, § 1]

Section 2 of said repealing act validates election of County Superintendent in counties affected by repealed act.

The article repealed was Acts 1929, 41st Leg., 2nd C. S., p. 137, ch. 70 (effective 20 days after July 2, 1929, date of adjournment).

[Art. 2742b. Method of increasing or diminishing area of districts and adjusting indebtedness]

Secs. 1-4.

Repealed by Acts 1929, 41st Leg., 1st C. S., p. 106, ch. 47, § 3. See art. 2742f.

[Art. 2742c. Rearranging and consolidating districts in certain counties]

Sec. 1. It shall be the duty of the County Board of Trustees of the public schools in every county in this State, having an area of not more than one thousand seventy five (1075) square miles and not less than nine hundred thirty (930) square miles and a population of not less than thirty-four thousand three hundred (34,300) and not more than thirty four thousand five hundred (34,500), according to the 1920 Federal Census, as soon as may be after this Act shall take effect, to re-arrange and re-subdivide all the territory of their respective counties into such number of convenient school districts as it shall deem advisable and designate them by number.

Such re-arrangement and re-subdivision shall be accomplished by constituting such existing Independent school districts as the Board shall deem advisable, together with such territory adjacent to such independent school district as it may deem advisable to add thereto, the new districts into which such county shall be subdivided; and such existing independent school districts, so enlarged shall continue to have and exercise all the powers and duties now provided by law and shall continue to be governed by existing law and by this Act. The districts thereby created shall be allowed to establish a central high school in each consolidated district under the general laws of the State of Texas, except that the location of the high school shall be determined by a majority vote of the qualified voters in the district which majority shall be ascertained by the County School Board under such regulations as they may prescribe.

The words, "School District," as herein used, shall refer to common districts or to independent school districts, however created.

The County Board of Trustees shall have the power, from time to time, to alter or amend the re-arrangement and the re-subdivision of school districts herein provided for, and making such original re-arrangement and re-subdivision, and in amending or altering same may increase or reduce the area of any school district; create additional school districts; consolidate two or more adjacent districts; revise or re-arrange the boundaries of any school district; attach territory thereto or detach territory therefrom, if necessary for the best interest of the school children, provided that the territory of no Independent school district having more than five hundred (500) scholastics shall be changed without the consent of its Board of Trustees and provided further that said Board shall not subtract from the territory of any school district in such a way as to leave any portion thereof remaining in such district with insufficient taxable wealth to raise revenue sufficient to pay interest and create a sinking fund for outstanding bonds; and provided that no portion of the territory of the county shall be left in a school district, after such subdivision shall have been made, with insufficient taxable wealth to raise revenue sufficient to provide all the scholastics, residing within such district with proper and convenient school facilities, both in the elementary and high school grades.

It shall be the further duty of the county board of School Trustees at their first meeting after the State apportionment of available school funds has been made or as soon thereafter as practicable to apportion the avail-

able school funds of the county to the respective school districts within their jurisdiction on a per capita basis as shown by the last scholastic census, provided that the County Board of School Trustees shall be first required to set aside the entire available funds arising for the county permanent school funds, and to set aside not less than five per cent or not more than ten per cent of all other available school funds of the county derived from all other sources including the state per capita apportionment, except that the State per capita apportionment of Independent School Districts having more than two thousand scholastics, shall not be set aside for the equalization fund but shall remain in their respective districts, the said sums so set aside to constitute a county equalization fund that shall not be apportioned on a per capita basis, but shall be expended by the said county Board of School Trustees as a fund for equalizing as far as possible educational opportunities in the county and giving special aid to small and weak schools and to extend the school privileges of such children as have no other adequate provision for schooling in the districts in which they live, and to defray the costs of the county school administration. Provided that no part of such county equalization fund shall be expended in any school district in which there is not levied and collected taxes for school purposes amounting to one dollar (\$1.00) on the one hundred (\$100.00) dollars of taxable property.

Sec. 2. Before undertaking to create, revise or re-arrange the boundaries or to change the territory in any school district, the County Board of Trustees shall cause a plan and a map to be made showing the boundaries of all districts affected and of the new district, if any to be created, with the area, taxable wealth and scholastic population of such district so affected or to be created; and notice shall be given for ten days by posting advertisements thereof in three public places within the territory embraced in such new district, before such action is taken. All interested persons shall be given full opportunity to be heard.

Sec. 3. When the boundaries of any school district having an outstanding bonded indebtedness have been changed or its territory divided or two or more such districts consolidated, it shall be the duty of the County Board of Trustees to make such an adjustment of such indebtedness and district properties between the districts affected and between the territory divided, detached or added, as may be just and equitable, taking into consideration the value of the school properties and the taxable wealth of the districts affected and the territory so divided, detached or added, as the case may be. And when said Board has arrived at a satisfactory basis of such an adjustment, it shall have the power to make such orders in relation thereto as shall be conclusive and binding upon the districts and the territory thereby affected.

Sec. 4. To carry into effect orders adjusting bonded indebtedness when changes are made in school districts, the County Board of Trustees shall have the power to order the trustees of the districts affected, to order an election for the issuing of such refunding bonds as may be necessary to carry out the purpose of such order; and, in such case, it shall be the duty of the district trustees to order such election, cause the same to be held, and if the proposition is carried, to issue the bonds voted. Such bonds shall be of the same.

Sec. 5. In cases where changes are made in districts having outstanding bonded indebtedness and where the necessary refunding bonds are voted down or where the County Board of Trustees are otherwise unable to arrange an adjustment or settlement of such bonded indebtedness, it shall be the duty of the trustees to certify the fact and the territories affected by such changes, to the Commissioners' Court and thereupon it shall become the duty of the Commissioners' Court to thereafter annually levy and cause to be assessed and collected from the tax payers of such districts as they existed before the changes were made, the tax necessary to pay the interest, the sinking fund and discharge the principal of such

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indebtedness as it matures. And it shall be the duty of each independent school district so affected, to cause all funds in its hands, whether sinking funds or otherwise, which have been collected on account of such bonded indebtedness, to be transferred to the County treasurer of the county in which such district is situated and such district shall thereafter cease to levy and collect any tax on account of such bonds; and it shall be the duty of the County Treasurer to keep the funds so transferred and those arising from taxation, in separate accounts and apply the same only to the discharge of such bonded indebtedness and the interest thereon, as the same matures.

Sec. 6. Nothing in the provisions of this Act shall prevent the County Board of Trustees from arranging any other method for the adjustment and settlement of outstanding bonded indebtedness of school districts in which changes are made, but they shall have full power and authority to make any legal and equitable adjustment and settlement in such cases that can be effected.

Sec. 7. Said trustees shall have the power to condemn land for free school purposes and may institute, maintain and prosecute suits for that purpose following the procedure applicable to condemnation of lands by railroads or any other method authorized by law.

Sec. 8. It shall be the duty of any school district into which the county shall be subdivided under this Act to provide adequate and convenient means of transportation to and from the schools of such school children in any district as it may be reasonably necessary to make such provision for, and to establish such routes for that purpose as the Board of Trustees of such district may deem advisable and to alter and change the same from time to time and the expense of such transportation shall be paid by the district in which such children may reside.

Sec. 9. In all cases where changes have been made in the territory of existing school districts, any party aggrieved shall have the right to appeal to a district court of the county in which such school district is located and the decision of such court on such appeal shall be final; provided notice of such appeal is given to the County Board of Trustees within ten (10) days after the passage of any such order making such changes; and provided further that such appeal to the district court shall be perfected within thirty (30) days from the date of such order.

Sec. 10. For each county subject to the provisions of this Act the Board of County School Trustees shall consist of seven members, three of whom shall be elected from the county at large by the qualified voters of the county, and one from each commissioner's precinct by the qualified voters in such precinct, all of whom shall be elected on the first Saturday in April after this Act shall take effect and every two years thereafter for a term of two years. All vacancies on such Board shall be filled by the remaining Trustees. Such Board of County School Trustees shall have the powers and duties and possess the qualifications provided by law with respect to County School Trustees generally in this State, in addition to those provided by this Act.

The members of the County Board of Trustees of the Public Schools of any County affected by this Act shall receive five (\$5.00) dollars per day for their services in complying with the duties imposed upon them by this Act, to be allowed by the Commissioners' Court and paid out of the General Fund of the County upon accounts to be approved by the Chairman of said County Board of Trustees; and the expense of making maps and plats provided for by this Act and all other expenses incident to carrying out its provisions shall be similarly allowed and paid. [Acts 1929, 41st Leg., p. 290, ch. 134.]

Section 11 of said Acts 1929, 41st Leg., p. 290, ch. 134, declares that if any section of the Act is held invalid such decision shall not affect the remainder. Section 12 provides that the Act shall not be construed

as depriving any district or part thereof from receiving state aid and bonuses as though consolidation had not been effected. Section 13 repeals all conflicting laws and parts of laws.

[Art. 2742d. School districts and bonds validated]

Sec. 1. That all school districts heretofore created pursuant to and in conformity with the provisions of Chapter 84 of the Acts of the First Called Session of the 40th Legislature of the State of Texas in 1927, are hereby in all things validated.

Sec. 2. That all acts of the County Judge, Boards of Trustees of Common School Districts, Boards of Trustees of Independent School Districts, County Boards of Trustees, Boards of Trustees of Common County Line School Districts and Boards of Trustees of County Line Independent School Districts, and of petitioners and all other persons performed pursuant to the provisions of Chapter 84 of the Acts of the First Called Session of the 40th Legislature of the State of Texas, are hereby in all things ratified, confirmed and validated.

Sec. 3. That all petitions to County Boards of Trustees, to form Independent School Districts, all acts of County Boards of Trustees granting petitions and creating and incorporating Independent School Districts; ordering elections for school trustees in Independent School Districts; all elections for Boards of Trustees held pursuant to the order of the County Board of Trustees, all orders canvassing and declaring results of election of Trustees of Independent School Districts, and all Independent School Districts created pursuant to the provisions of section 5 of Chapter 84 of the Acts of the First Called Session of the 40th Legislature are hereby in all things ratified confirmed and validated.

Sec. 4. All bonds issued or authorized to be issued that were authorized by a majority of the property tax paying voters at an election held for that purpose by any school district created pursuant to the provisions of Chapter 84 of the Acts of the First Called Session of the 40th Legislature are hereby validated.

Sec. 5. That all bonds heretofore issued or authorized to be issued that were authorized by a majority vote of the property tax paying voters at an election held for that purpose in which the petition for an election, order of election and notice of election did not include the maturity dates of the bonds and elections held pursuant to such petition, order and notice of election are hereby in all things ratified, confirmed and validated. [Acts 1929, 41st Leg., p. 105, ch. 50.]

Acts 1929, 41st Leg., 2nd C. S., p. 136, ch. 68, § 1, validates annexation proceedings in independent school districts having a scholastic population of not less than 300 and not more than 400.

[Art. 2742e. Trustees authorized to change boundaries in school districts and acts validated]

Sec. 1. That all acts of the County Board of School Trustees in counties having a population of not less than 9,000 and not more than 9,010 according to the United States Federal census of 1920, in changing boundary lines of Common School Districts under the jurisdiction of said County Board, shall be and are hereby validated, and that all Common School Districts in said counties, whether created by General or Special Law in this State or by order of the County Board of Trustees, heretofore laid out and attempted to be established or changed by the County Board of Trustees or other proper officers of any such counties and recognized by either State or County authorities as school districts and the orders of said County Board in making certain changes in Common School District boundary lines are hereby validated in all respects as though they had been duly and legally established in the first instance.

Sec. 2. That on and after the passage of this Act the County Board of School Trustees in any county in this State shall have authority and full power to create Common School Districts, to subdivide districts, and to change boundary lines of any or all Common School Districts legally coming under the jurisdiction of the County Board of School Trustees, subject to the supervision of the District Court having jurisdiction over



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the county where the County Board is appointed or elected; provided that before any changes may be made in boundary lines of school districts the trustees of the Common School Districts affected shall be notified to appear before the County Board for a hearing, and after said hearing, or the date set for said hearing, the County Board of Trustees may pass such order or orders as will carry out the provisions of this Act; provided, further, that the trustees of the districts affected may appeal from the decision of the County Board to the District Court. [Acts 1929, 41st Leg., 1st C. S., p. 259, ch. 109.]

Section 3 of Acts 1929, 41st Leg., 1st C. S., p. 259, ch. 109, provides that if any provision is held invalid, such decision shall not affect the validity of the remainder.

[Art. 2742f. Detaching territory from one school district and attaching to another]

Sec. 1. In each county of this State the County Board of Trustees shall have the authority, when duly petitioned as herein provided, to detach from and annex to any school district territory contiguous to the common boundary line of the two districts; provided the Board of Trustees of the district to which the annexation is to be made approves, by majority vote, the proposed transfer of territory and provided, further, that where the territory to be detached exceeds ten per cent (10%) of the entire district the petition must be signed by a majority of the trustees of said district in addition to a majority of the qualified voters of the territory to be detached. The petition shall give the metes and bounds of the territory to be detached from the one and added to the other district and must be signed by a majority of the qualified voters residing in the said territory so detached. Upon receipt of the said petition, duly signed, and upon notice of the approval of the proposed annexation by the Board of Trustees of the district to which the territory is to be added, the County Board of Trustees shall pass an order transferring the said territory and redefining the boundaries of the districts affected by said transfer, the said order to be recorded in the Minutes of the County Board of Trustees. Provided that no school district shall be reduced to an area of less than nine square miles.

Sec. 1-a. The County Board of Trustees, upon receipt of the petition herein prescribed and when the educational needs of the county necessitate such action, may detach from any district, common or independent, or any such contiguous districts, whether created by General or Special Law, territory to be incorporated into a new common school or independent school district; provided that before the County Board may pass an order detaching the said territory and incorporating the said district, notice of such proposed action must be given in writing to the officers of the Board of Trustees of each district whose area would be affected by the said transfer of territory, and an opportunity to be heard on the proposed change be afforded the officers of such district; and provided further that no district shall be reduced below an area of nine (9) square miles, or any district created with an area of less than nine (9) square miles and sufficient taxable valuations to support an efficient school system. In the event the territory to be detached from any district exceeds ten per cent (10%) of the total area of the said district, the County Board of Trustees must have, in addition to the petition prescribed herein, the written approval of the proposed detachment of territory by a majority of the Board of Trustees of said district. Any school district created under the provisions of this Act shall be governed by the General Laws relating to common and independent school districts as they now exist or may hereafter be enacted, and it shall be the duty of the County Board of Trustees, at the time the order for the establishment of the district is made, to appoint a Board of Trustees for the said common or independent school district, as the case may be, to serve until the next regular election of trustees

as prescribed by the General Law, when a Board of Trustees shall be elected whose terms of office shall be in accordance with the provisions of the General Law governing common and independent school districts, respectively; and the said district, when so established, shall have all the rights and privileges of an independent or common school district as prescribed by General Law.

Any bonded indebtedness affected by the proposed transfer of territory and the establishment of a new district shall be adjusted by the County Board of Trustees as prescribed by the General Law; provided, however, that before any tax may be levied over the territory of the new district for the liquidation of its proportionate part of the outstanding bonded indebtedness of any district from which the territory of the new district is taken, the said new district shall vote to assume the said indebtedness and authorize the levy of the necessary tax. The said election shall be held in accordance with the provisions of the General Law governing bond tax elections in a common or independent school district as the case may be.

The petition shall give the metes and bounds of the proposed district and be signed by a majority of the qualified voters residing in each territory to be detached; provided that when the proposed new district will embrace territory lying in two or more counties, all orders affecting its establishment shall be concurred in by the County Board of Trustees of each county concerned, but the petition for the establishment of a County Line District as provided for herein shall be addressed to the County Board of Trustees of the county in which the principal school of the new district is to be located, and administrative jurisdiction of the said district shall be vested in the County Board of said county. [As amended Acts 1931, 42nd Leg., p. 235, ch. 140, § 1.]

Acts 1931, 42nd Leg., 2nd C. S., p. 57, ch. 35 (effective 90 days after Oct. 3, 1931, date of adjournment), amends section 2 of acts 1931, 42nd Leg., p. 235, ch. 140, to read as follows: "Sec. 2. The provisions of this Act shall be cumulative of the present law governing Common and Independent School Districts; and shall not apply to, nor affect any county in this State which is subject to the provisions of Chapter 82 of the General and Special Laws of the Regular Session of the 40th Legislature, being Senate Bill No. 375 at said Session, published on Page 124 of the General and Special Laws of said Regular Session; but all such counties shall continue to be governed by the provisions of said Chapter 82; and all consolidations of

School Districts, and other acts of the County Board of School Trustees, heretofore consummated or performed subject to the provisions of said Chapter 82, are fully validated and ratified, and shall have the same force and effect as if said Chapter 47 of the Acts of the 1st Called Session of the 41st Legislature or said Chapter 140 of the Acts of the Regular Session of the 42d Legislature had not been passed. Provided that nothing in this Act shall have the effect of validating any act not consummated or performed in compliance with said Chapter 82 herein referred to.

The provisions of this Act shall not apply to any school district involved in litigation on September 28, 1931."

Sec. 2. Any outstanding indebtedness affected by changes in the boundaries of school districts shall be adjusted by the County Board of Trustees as provided in Sections 10, 11 and 12, of Chapter 84, Acts of the 40th Legislature, First Called Session. [Acts 1929, 41st Leg., 1st C. S., p. 106, ch. 47.]

Section 3 of Acts 1929, 41st Leg., 1st C. S., p. 106, ch. 47, repeals all conflicting general and special laws and expressly repeals sections 1, 2, 3, and 4 of art. 2742b

Rev. St. and art. 2765 Rev. St. 1925. Effective 90 days after May 21, 1929, date of adjournment.

[Art. 2742g. Conferring authority upon and validating rural high school districts in counties having 23,200 and not more than 23,300 population]

Sec. 1. This act shall apply to any rural high school district composed of territory in two counties which counties have a combined population according to the latest United States Census of not less than 23,200 and not more than 23,300 according to the 1920 United States Census and which rural high school district was formed from three common school districts and one independent school district.

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Sec. 2. Any rural high school district mentioned in Section 1 of this Act is hereby vested with all the rights, powers, privileges and duties of a town or village incorporated under the general laws of the State for school purposes only, and the Board of trustees of said district shall have and exercise and is hereby vested with all the rights, powers, privileges and duties conferred and imposed by the general laws of this State now in force or hereafter enacted upon the trustees of independent school districts of 250 or more scholastic population, including the right to levy and collect taxes and to issue bonds of said district to the extent, for the purposes and subject to all the provisions, limitations and conditions under which said powers may be exercised under the general laws of this State, and all the laws of this state applicable to towns and villages incorporated for free school purposes only are hereby declared to be applicable in any rural high school district mentioned in Section 1 of this Act.

Sec. 3. The acts of the county school trustees in creating any rural high school district mentioned in Section 1 of this act are in all things ratified, confirmed and validated. All of the acts and proceedings heretofore performed and done in organizing any such rural high school district, together with all tax levies, bond issues, contracts and obligations, heretofore made, issued, authorized, done or incurred, and also all acts and proceedings relating to the extension and enlargement of the boundaries of any such district heretofore performed or had are in all things ratified, confirmed and validated. [Acts 1929, 41st Leg., 3rd C. S., p. 249, ch. 12.]

[Art. 2742h. Validating school district boundaries in counties having population of 1010 and not more than 1025]

Sec. 1. That all acts of the County Board of School Trustees in counties having a population of not less than 1010 and not more than 1025 according to the United States Federal Census of 1920, in changing boundary lines of Common School Districts under the jurisdiction of said County Board, shall be and are hereby validated, and that all Common School Districts in said counties, whether created by General or Special Law in this State or by order of the County Board of Trustees, heretofore laid out and attempted to be established, combined, abolished, or changed by the County Board of Trustees or other proper officers of any such counties and recognized by either State or County authorities as School Districts and the orders of said County Board in making certain changes in Common School Districts and Common School district boundary lines are hereby validated in all respects as though they had been duly and legally established in the first instance.

Sec. 2. That on and after the passage of this Act the County Board of School Trustees in said Counties shall have authority and full power to create Common School Districts, to subdivide, combine, or abolish districts, and change boundary lines of any or all Common School Districts legally coming under the jurisdiction of the County Board of School Trustees.

Sec. 3. The County Board of School Trustees of said counties shall have full power and authority to form and establish one or more Rural High School Districts having an area of more than one-hundred square miles and composed of two or more elementary school districts. [Acts 1930, 41st Leg., 4th C. S., p. 77, ch. 39.]

Section 4 of Acts 1930, 41st Leg., 4th C. S., provides that if any provision is held invalid, such decision shall not affect the remaining portion.

[Art. 2742i. Validating school districts]

All School Districts, including Common School Districts, Independent School Districts, Consolidated Common School Districts, Consolidated Independent School Districts, County Line School Districts, Consolidated County Line School Districts, and Rural High School Districts, whether created by General or Special Law in this State and heretofore laid out and

established or attempted to be established by the proper officers of any County or by the Legislature of the State of Texas and heretofore recognized by either State or County authorities as School Districts, are hereby validated in all respects as though they had been duly and legally established in the first instance; all acts of the Board or Boards of Trustees in such Districts ordering elections, declaring the result of such elections, and levying taxes therefor, and all bonds issued and now outstanding, are hereby in all things validated. The fact that by inadvertence or oversight any act of the officers of any county in the creation of any District was omitted shall in nowise invalidate such District, and the fact that by inadvertence or oversight any act was omitted by any Board of Trustees of any such District in ordering an election or elections, or in declaring the result thereof, or in levying the taxes for such District, or in the issuance of the bonds of any such District shall in nowise invalidate any of such proceedings or any bonds so issued by such District. All acts of the County Boards of Trustees of any and all counties in rearranging, changing or subdividing such School Districts; or increasing or decreasing the area thereof, in any School District of any kind, or in creating new districts out of parts of existing districts or otherwise, are hereby in all things validated. This Law shall not apply to any district, the organization or creation of which is now involved in litigation. [Acts 1930, 41st Leg., 4th C. S., p. 79, ch. 40, § 1.]

[Art. 2742j. Incorporation of school districts]

Sec. 1. Whenever a majority of the legally qualified property tax paying voters, together with a majority of the trustees residing in a common school district, petition the county board of trustees to incorporate the said common school district into an independent school district for school purposes only and furnish the said county board of trustees with sufficient evidence that the said district, when so incorporated, will be financially able to carry on high school work at a reasonable cost per capita, the county board of trustees may pass an order incorporating the said district and shall appoint a board of trustees of seven members to serve until the next regular election of school district trustees, as prescribed by general law. At the next regular election of school trustees, the said incorporated district shall elect a board of seven trustees, as prescribed by general law, who shall serve for such term as is now provided by the general school law or as may be hereafter provided. An independent school district incorporated under the provisions of this Act shall have all the rights and privileges of independent school districts incorporated by general law.

Sec. 2. All school districts, including common school districts, independent school districts, consolidated common school districts, consolidated independent school districts, county line school districts, consolidated county line school districts, and rural high school districts, whether created by general or special law in this State, heretofore laid out and established or attempted to be established by the proper officers of any county, or by the Legislature of the State of Texas, including such districts as have been created under the provisions of Section 5, Chapter 84, of the Acts of the First Called Session of the 40th Legislature of the State of Texas, 1927, created or attempted to be created by any county board of trustees as therein provided, are hereby in all respects validated as though they had been duly and legally established in the first instance. All acts of the Board or Boards of Trustees in such districts ordering elections, declaring the result of such elections, and levying the tax therefor, and all bonds issued and now outstanding, are hereby in all things validated. The fact that by inadvertence or oversight any act of the officers of any county in the creation of any district was omitted shall in no wise invalidate such district, and the fact that by inadvertence or oversight any act was omitted by any Board of Trustees of a county in creating such dis-

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trict, or in any Board of Trustees of such District in ordering an election or elections, or in declaring the result thereof, or in levying the taxes for such district, or in the issuance of the bonds of any such district was omitted shall in no wise invalidate such proceedings or the bonds so issued by any such district. [Acts 1930, 41st Leg., 5th C. S., p. 117, ch. 5.]

[Art. 2742k. Validation of districts]

All School Districts, including Common School Districts, Independent School Districts, Consolidated Common School Districts, Consolidated Independent School Districts, County Line School Districts, Consolidated County Line School Districts, and Rural High School Districts, whether created by General or Special Law in this State, and heretofore laid out and established or attempted to be established by the proper officers of any County or by the Legislature of the State of Texas and heretofore recognized by either State or County Authorities as School Districts, are hereby validated in all respects as though they had been duly and legally established in the first instance; all acts of the Board or Boards of Trustees in such Districts ordering an election or elections, declaring the result of such elections, and levying taxes therefor, and all bonds issued and now outstanding, and all bonds heretofore voted but not yet issued, are hereby in all things validated. The fact that by inadvertence or oversight any act of the officers of any county in the creation of any District was omitted shall in nowise invalidate such District and the fact that by inadvertence or oversight any act was omitted by any Board of Trustees of any such District in ordering an election or elections, or in declaring the result thereof, or in levying the taxes for such District, or in the issuance of the bonds of any such District shall in nowise invalidate any of such proceedings or any bonds so issued by such District. All acts of the County Boards of Trustees of any and all counties in rearranging, changing or subdividing such School Districts or increasing or decreasing the area thereof, in any School District of any kind, or in creating new Districts out of parts of existing Districts or otherwise, are hereby in all things validated. This Law shall not apply to any District, the organization or creation of which is now involved in litigation. Provided further that this Act shall not apply to any District which may have been established or consolidated and which has later returned to its original status and has been so recognized by the proper authorities. [Acts 1931, 42nd Leg., p. 426, ch. 257, § 1.]

[Art. 2742l. Validating annexation of school districts]

Sec. 1. That in each and every instance where one Independent School District in this State has been annexed to another Independent School District in this State pursuant to elections held in each of such Districts on the same day, and wherein the respective Boards of Trustees of such Independent School Districts have caused any such annexation to be effected and any such annexation has been approved by the County Board of Trustees of the county wherein any such District is located, such annexation is hereby in all things ratified, confirmed and validated.

Sec. 2. That all acts of the Board of Trustees of any Independent School District in levying and assessing the same rate of taxation in effect in such District against all taxable property situated in any such Independent School District annexed to it in the manner referred to in Section 1 of this Act are hereby in all things ratified, confirmed and validated, and all such Taxes so levied and assessed against the taxable property in any such Independent School District so annexed to such other Independent School District are likewise in all things ratified, confirmed and validated.

Sec. 3. All acts of the County Board of Trustees in any County approving the annexation of One Independent School District to another Independent School District after elections have been called and held on the same day in such respective Districts and at which a majority of the tax paying voters in one of such Districts voting at such election voted for

the annexation of such Independent School District to such other School District and to subject the taxable property in such Independent School District to the same rate of taxation in effect in such other Independent School District and in which election so held in such other District to which such annexation was to be made a majority of the tax paying voters voting at such election voted for such annexation and for the assumption of the bonded indebtedness of such other District, are hereby in all things ratified, confirmed and validated, and the Independent School District, as created by any such annexation, is hereby in all things ratified, confirmed and validated. [Acts 1931, 42nd Leg., p. 805, ch. 329.]

Section 4 of said act provides that if any section is held invalid, such decision shall not affect the remainder.

[Art. 2744b. Creation of school district embracing entire county]

Sec. 1. Whenever a majority of the legally qualified taxpaying voters residing in any organized county of this State, having a scholastic population of more than four hundred and less than six hundred, as shown by the last scholastic census on file in the Department of Education of the State of Texas, and which does not embrace the whole or any part of an independent school district, and in which there is no outstanding indebtedness against any Common School District in such County, and which has an assessed valuation of more than four million and less than six million dollars, desire to have such county created into and to constitute a Common School District, the County Judge, when petitioned by fifty or a majority of the legally qualified property taxpaying voters of such county, shall order an election to be held throughout such county for the purpose of determining whether a majority of the legally qualified property taxpaying voters residing in said county shall favor the creation of a Common School District embracing the entire county.

The petition and order for the election shall state that the purpose is to create a Common School District embracing the entire county. The order for the election must be issued and public notice thereof given, as in other school elections, for not less than three weeks prior to the date of said election, and said election shall be held at the usual voting place in each election precinct in said county and shall be conducted under the General Election Laws of this State.

The Commissioners' Court shall either at a regular or special session canvass the returns of said election, and if it is found that a majority of the legally qualified property taxpaying voters, voting at said election, are in favor of the creation of a common School District embracing the entire county, they shall so declare same as a result of the election and shall immediately enter an order creating a Common School District embracing the entire county and abolishing all Common School Districts existing prior thereto, but it shall not be necessary to give the metes and bounds of the county, either in the petition, order for the election, or in the order creating the district.

Sec. 2. When any Common School District has been created embracing the entire county, as above provided, the County Judge shall immediately order an election for the election of three trustees for such school district, which shall be held at the usual voting place in each voting precinct in the county, and which shall be conducted, the returns made and canvassed and results declared, as in other common school districts. The County Judge shall appoint a presiding officer for each precinct in said election and shall cause public notice of said election to be given by the posting of notices thereof at each voting place in the county not less than twenty (20) days before the date of said election; such presiding officer shall appoint two clerks to assist in the conduct of said election.

Any person desiring to have his name placed upon the ballot for trustee of such district at said election, shall make written application to the

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County Judge to have his name placed on the ballot not less than ten (10) days before the date of said election and the County Judge shall cause the necessary number of ballots to be prepared containing the name of each person applying to have his name placed upon the ballot as a candidate for trustee of such district.

The officers holding said election shall make returns thereof to the County Judge within five days after said election, which returns shall be canvassed by the Commissioners' Court at its next regular or special session, and the results thereof declared.

Sec. 3. Except as above provided, a Common School District created under this Act shall be governed as other Common School Districts in this State, and shall have all the rights and privileges of other Common School Districts heretofore created or which may be hereafter created under the General Laws of this State. [Acts 1929, 41st Leg., 1st C. S., p. 30, ch. 10.]

[Art. 2744c. Ratifying formation of certain school districts]

All acts and proceedings of the County Board of School Trustees in any counties in this State in consolidating territory to any Independent School District having a scholastic population of not less than 140 and not more than 250 according to the last scholastic census, and all acts and proceedings of such board in any way relating to such consolidation, are hereby ratified, validated and approved. Any such acts or proceedings are hereby ratified, validated and approved even though one or more members of said Board were teachers at the time of performing such acts or proceedings. [Acts 1929, 41st Leg., 2nd C. S., p. 31, ch. 18, § 1.]

Art. 2745. [2818] Election of trustees

On the first Saturday in April of each year, the qualified voters of each Common School District, at a school district election for that purpose, shall elect three trustees for said district, who shall enter upon the discharge of their duties on the first day of May next following. No person shall be trustee who cannot read and write the English language intelligibly, and who has not been a resident of such district for six months prior to his election. Providing no person shall be qualified as trustee unless he is a property taxpayer in the district to which he is elected and otherwise a qualifies [qualified] voter in said district. They shall immediately organize by electing one of their number president and one secretary. The term of office of said trustees shall be divided into three classes, and they shall draw for the different classes; and one drawing number one shall serve for one year, and the one drawing number two shall serve for two years, and the one drawing number three shall serve for three years. On the first Saturday in April of each year thereafter, one trustee shall be elected who shall serve for a term of three years. Said trustees shall first take the official oath and shall, as soon as practicable, file same with the County Superintendent or County Judge. All vacancies shall be filled by the County Board of Trustees for the remainder of the term in which the vacancy occurs. The polls at said election shall open at 8 A. M. and close at 7 P. M.

Sec. 2. The first election under the provisions of this Act [Art. 2745] shall be held on the first Saturday in April, 1930. In all Common School Districts in which the terms of two trustees expire in 1930 their successors shall draw for terms; the one drawing number one shall serve for three years and the one drawing number two shall serve for two years. In all Common School Districts in which the terms of two trustees expire in 1931 their successors shall draw for terms; the one drawing number one shall serve for one year and the one drawing number two shall serve for three years and annually thereafter one trustee shall be elected to serve

for a term of three years. [As amended Acts 1929, 41st Leg., 2nd C. S., p. 3, ch. 2.]

Effective 90 days after July 2, 1929, date of adjournment. Section 3 of Acts 1929, 41st Leg., 2nd C. S., p. 3, ch. 2, repeals all conflicting laws and parts of laws, and specially repeals conflicting parts of art. 2747.

[Art. 2753a. Sale by district in certain counties]

In every county in this State having a population according to the latest United States census of not less than 8,000 and not more than 8,100 each Independent School District shall be authorized to sell and dispose of any real property owned by such district when in the opinion of a majority of the Board of Trustees such property is not needed for school purposes. [Acts 1929, 41st Leg., 2nd C. S., p. 133, ch. 64, § 1.]

Art. 2765. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 106, ch. 47, § 3]

[Art. 2774a. Appointment or election and terms of school trustees in certain districts]

Sec. 1. Towns and cities which have heretofore chosen their trustees by appointment of the city council or board of aldermen, shall be authorized to continue to choose their trustees in this manner; that is, by the appointment by the board of aldermen of said city or town; provided, that seven trustees shall be appointed, three of whom shall serve for one year, and two for two years and two for three years, and each year thereafter, three trustees or two trustees shall be appointed for a term of three years; and further provided, that on a petition of twenty-five per cent of the voters of any such city or town, to be ascertained by the ballots cast at the regular city election in said city or town, the mayor of such city or town shall order an election to determine whether or not the school affairs of such city or town shall be directed by a school board elected in accordance with the provisions of this chapter; and, in case of any affirmative vote, an election shall at once be ordered by the said mayor, for the purpose of choosing a school board consisting of seven trustees, as provided in the succeeding article.

Sec. 2. In all such towns and cities having fewer than seventy-five thousand population as shown by the Federal Census of 1920, the board of trustees shall be composed of seven members and the seven candidates receiving the largest number of votes at the first election, and the three or two candidates receiving the largest number of votes at all subsequent elections shall be entitled to serve as trustees hereunder. Those elected at the first election shall determine by lot the term for which they are to serve. The three members drawing numbers one, two and three shall serve for one year, the two members drawing four and five shall serve for two years and the two members drawing numbers six and seven shall serve for three years, or until their successors are elected and qualified; and regularly thereafter on the first Saturday in April of each year, three trustees or two trustees shall be elected for a term of three years to succeed the trustees whose term shall at that time expire. The members of the board remaining after a vacancy shall fill the same for the unexpired term.

Sec. 3. The board of county school trustees at its next meeting after the consolidation of school districts is declared shall appoint a board of seven trustees for the consolidated district. No person shall be trustee who cannot read and write the English language understandingly, and who has not been a resident of this State one year, and of the district six months, prior to his appointment or election. Those elected at the first election shall determine by lot the term for which they are to serve. The three members drawing numbers one, two and three shall serve for one year, the two members drawing numbers four and five shall serve for two



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years and the two members drawing numbers six and seven shall serve for three years, or and until their successors are elected and qualified; and regularly thereafter on the first Saturday in April of each year three trustees or two trustees shall be elected for a term of three years to succeed the trustees whose term shall at that time expire. The members of the board remaining after a vacancy shall fill the same for the unexpired term. District trustees shall qualify by taking the official oath which shall be filed with the county superintendent of the county wherein the district is situated. The board of trustees after being qualified shall immediately organize by electing one of their number president and another secretary, a report of which organization shall be filed with the county superintendent. The board of trustees of the district shall appoint three qualified voters of the district to hold said election and make returns thereof in like manner as provided by law for holding elections for trustees in common school districts, except that the persons holding said election shall each receive from the general fund of the county two dollars a day for such services.

Sec. 4. The control and management of the schools of a rural high school district, established under the provisions of this Act, shall be vested in a board of seven trustees, elected by the qualified voters of the said district at large, who shall be elected and serve in accordance with the provisions of general law relative to common school districts except as may be otherwise provided herein; and provided that each of the original districts included in such rural high school district must be the residence of at least one member of said board. Provided, that for a rural high school district formed with more than one hundred square miles of territory, or embracing more than seven districts, the board of trustees, as herein provided for, shall be elected from the district at large. Should any rural high school district fail to elect a trustee or trustees as provided for in this Act, the county board of trustees shall appoint said trustee or trustees. Those elected at the first election shall determine by lot the term for which they are to serve. The three members drawing numbers one, two and three shall serve for one year, the two members drawing numbers four and five shall serve for two years and the two members drawing numbers six and seven shall serve for three years, or until their successors are elected and qualified; and regularly thereafter on the first Saturday in April of each year three trustees or two trustees shall be elected for a term of three years to succeed the trustees whose term shall at that time expire. The members of the board remaining after a vacancy shall fill the same for the unexpired term.

Sec. 5. The first election under the provision of this Act shall be held on the first Saturday in April, 1931. In all independent districts not having included within their boundaries a city or town whose population exceeded seventy-five thousand as shown by the Federal census of 1920 and in all consolidated and rural high school districts in which the term of office of three elective trustees expire in 1931, their successors shall be elected for a term of three years. (That in all Counties of the State having a city with a population of not less than 44,000 and not more than 45,000, according to the 1920 Federal Census, the people residing in the School Districts referred to in this Section shall have and retain the right of referendum, so as to determine whether or not said district or districts shall come within or be affected by the provisions of this law; said referendum to be initiated by petition of 25% of the voters residing in the district or districts affected.) In all such districts in which the term of office of four elective trustees expire in 1932, after their successors are elected, they shall determine by lot which two members shall serve for one year and which two members shall serve for three years. Those members drawing numbers one and two shall serve for one year; those members drawing numbers three and four shall serve for three years, and annually

thereafter either three trustees or two trustees, as the case may be, shall be elected to serve for a term of three years.

In all such independent, consolidated and rural high school districts in which the terms of office of four elective trustees expire in 1931 their successors shall determine by lot which two shall serve for two years and which two shall serve for three years. Those members drawing numbers one and two shall serve for two years and those members drawing the numbers three and four shall serve for three years, and annually thereafter either three trustees or two trustees shall be elected to serve for a term of three years.

Sec. 6. In all independent school districts in which the trustees are appointed under the provisions of Article 2774, R. S. 1925, the terms of office of those appointed to fill the terms expiring in 1931 and 1932 shall be adjusted by the appointing power into short and long terms as in the case of elective members as provided in Section 2 of this Act and annually thereafter three trustees or two trustees shall be appointed to serve for a term of three years. [Acts 1930, 41st Leg., 5th C. S., p. 212, ch. 66.]

Section 7 of Acts 1930, 41st Leg., 5th C. S.,  
p. 212, ch. 66, repeals all conflicting laws  
and parts of laws.

[Art. 2777a. Election of trustees and terms of office]

Sec. 1. In all Independent Districts, including cities of a population of more than 200,000 according to the last preceding Federal Census, and in all Independent School Districts comprising such cities, the term of office of the Board of School Trustees shall be six years.

Sec. 2. In any such city or town constituting an Independent School District, which has heretofore been authorized by Statute to regularly elect the entire Board of Trustees at one election, there shall hereafter be elected a Board of Trustees for a term of six years. The first of such elections shall be held on the first Tuesday in April, 1932, and at such election there shall be elected seven trustees who shall draw for terms; those drawing numbers one, two and three shall serve for six years; those drawing numbers four and five shall serve for four years; and those drawing numbers six and seven shall serve for two years; and biennially thereafter there shall be elected three trustees, or two trustees respectively, to serve for a term of six years.

Sec. 3. In all such Districts in which the term of office of three elective trustees expire in 1931, their successors shall be elected for a term of two years. In all such Districts in which the term of office of four elective trustees expire in 1932, after their successors are elected they shall determine by lot which two members shall serve for three years and which two members shall serve for five years. Those members drawing numbers one and two shall serve for three years; those members drawing numbers three and four shall serve for five years; and thereafter on the first Saturday of April of each odd numbered Calendar year, either three or two trustees shall be elected to serve for a term of six years. In all such Independent School Districts in which the term of office of four elective trustees expire in 1931, their successors shall determine by lot which two shall serve for three years and which two shall serve for five years. Those members drawing numbers one and two shall serve for three years, and those members drawing the numbers three and four shall serve for five years. In all such Independent Districts in which the term of office of three elective trustees expire in 1932 their successors shall be elected for a term of six years, and thereafter on the first Saturday in April of each even numbered Calendar year either three trustees or two trustees shall be elected to serve for a term of six years. The members of the Board remaining after a vacancy shall fill the same for the unexpired term.

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Sec. 4. Notice of all elections for trustees in Independent School Districts theretofore created by special Act of the Legislature and having included within their boundaries a city whose population was in excess of 200,000 as shown by the last preceding Federal Census shall be given in the manner and for the time required by such special Acts and such elections in any such Districts shall be held in the manner and in conformity with such special Acts so creating such School Districts. [Acts 1931, 42nd Leg., p. 789, ch. 317.]

Effective April 16, 1931. Section 5 of said act repeals all conflicting laws and parts of laws.

#### Art. 2781. [2895] Teachers' contracts

The Board of Trustees of any city or town or any independent school district may employ a superintendent, principal, teacher, or other executive officers in the schools therein for a term not to exceed three years, provided that the Board of Trustees of an independent school district which had a scholastic population of 5,000 or more in the last preceding scholastic year may employ a superintendent, principal, teacher, or other executive officers in the schools therein for a term not to exceed five years. All twelve-month contracts made by trustees of independent school districts with employees herein mentioned shall begin on July first and end on June 30th of the year terminating the contract. [As amended Acts 1930, 41st Leg., 5th C. S., p. 123, ch. 8, § 1.]

Section 2 of Acts 1930, 41st Leg., 5th C. S., p. 123, ch. 8, repeals all conflicting laws and parts of laws.

#### [Art. 2783a. Independent control of schools in certain cities, Board of Education, authority and duties]

Sec. 1. That the board of education or board of trustees in each and every incorporated city or town having a population of 100,000 or less according to the United States census of 1920 which has, when this Act becomes effective, control of the public free schools therein, regardless of whether such control was acquired by authority of Articles 2768 or 2769 of the Revised Civil Statutes of 1925, or any local, general or special law, or the provision of any charter, or by any other authority, shall hereafter have and exercise authority to control and manage the public schools of such city or town; and in the exercise of such authority the said board of education or board of trustees shall be independent of the municipal government of said city or town; and the Municipal authorities of such city or town shall have no further control, jurisdiction or authority over the public schools thereof under the provisions of any law, general, special, or local, or the provisions of any charter of such city or town.

Sec. 2. All authority existing in any such city or town having any relation to, [or] connection with, the public free school therein, and all the duties imposed by law upon such city or town concerning the support, control or management of such schools, shall hereafter be exercised by such city or town through the board of education or board of trustees therein; and each city or town having heretofore had the control and management of the public schools thereof shall hereafter constitute an independent school district, governed and controlled by the board of education or board of trustees thereof, as provided by general law for the control and management of independent school districts.

Sec. 3. The board of education or board of trustees of such an independent district, as is provided for in Section 2 of this Act, shall consist of seven members elected at the time, in the manner, and for such term as is now, or may hereafter be provided by general law relating to the control, management and organization of independent school districts; provided, however, that nothing in this Act shall be construed as to pre-

vent any member of the board of education or board of trustees of any city or town referred to in Section 1 from serving the remainder of the term for which he was elected or appointed prior to the passage of this act. And the said independent school district is hereby vested with all the rights, powers and duties of an independent school district incorporated for free school purposes, including the right to levy taxes and issue bonds for school purposes, as provided by General Law.

Sec. 4. The title to all property owned and used by any city or town referred to in Section 1 of this Act, which has heretofore been acquired and used for school purposes, shall hereafter vest in the independent district provided for in Section 2, and shall be managed and controlled by the board of trustees thereof, as is now, or may hereafter be, provided by general law. And in the event any city or town has outstanding bonds issued for school purposes, the independent school district may by a majority vote of the qualified tax-paying voters thereof assume said bonds and authorize the levy of a tax to pay the interest thereon and to pay the principal at maturity; the election for this purpose to be governed by the general law relating to independent school districts.

Sec. 5. Before this Act shall take effect in any city which has assumed control of the public schools within its limits, a petition signed by qualified voters of said city to the number of more than twenty-five per cent of those voting in the last regular election for city officials shall be filed with the mayor, requesting the submission of the proposition as to whether or not the public schools shall be divorced from municipal control. Within thirty days after filing said petition the mayor shall order an election to be held within not less than twenty days and not more than thirty days to determine the question submitted. The ballots for said election shall have written or printed thereon the words: "For the separation of the public schools from municipal control." "Against the separation of the public schools from municipal control." The election shall be held and the returns shall be made and canvassed and the results declared in the same manner as is required in other city elections. [Acts 1929, 41st Leg., p. 674, ch. 302.]

Section 6 of said Acts 1929, 41st Leg., p. 674, ch. 302, repeals all conflicting laws and parts of laws.

[Art. 2784a. Tax rate in school districts in counties having population of 720 and not more than 750]

In all counties in this State which according to the Federal Census of 1920, had a population of not fewer than Seven Hundred Twenty (720) and not more than Seven Hundred Fifty (750), the maximum rate of tax which may be levied in each common or independent school district of the said counties for the maintenance of the public schools and issuance of bonds may be One Hundred Fifty Cents (\$1.50) on the One Hundred (\$100.00) Dollars valuation of taxable property, said tax to be authorized, assessed, levied and collected under the provisions of the general laws. The amount of bond tax herein authorized shall never exceed fifty cents (.50c) on the One Hundred (\$100.00) Dollars valuation of taxable property. [Acts 1930, 41st Leg., 4th C. S., p. 53, ch. 30, § 1.]

Section 2 of Acts 1930, 41st Leg., 4th C. S., p. 53, ch. 30, repeals all conflicting laws and parts of laws.

[Art. 2784b. Tax on state lands in Cherokee county for school purposes]

Sec. 1. That from and after the passage of this Act, all land in Cherokee County, Texas, owned by the State of Texas and Prison Commission of Texas, except the land heretofore set aside for the Rusk State Hospital, but including the land heretofore set aside to the Agricultural & Mechanical College for re-forestration purposes, shall be subject to tax-

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ation for school purposes where any such land is embraced within the metes and bounds of any independent or common school district.

Sec. 2. Where any such land is embraced within the metes and bounds of any independent or common school district, the Trustees of the Independent School District, of the Commissioners' Court for a Common School District, are hereby authorized to levy and cause to be assessed and collected taxes for school purposes for the amount and in the manner prescribed by the General Laws for the levy of school taxes.

Sec. 3. The taxes herein provided for shall be assessed and collected in the manner now prescribed by General Laws for the assessment and collection of school taxes. [Acts 1930, 41st Leg., 5th C. S., p. 179, ch. 39.]

#### Art. 2786. Bonds

Whenever the proposition to issue bonds is to be voted on in any common or independent school district hereunder, the petition, election order and notice of election must distinctly specify the amount of the bonds, the rate of interest, their maturity dates, and the purpose for which the bonds are to be used. The ballots for such election shall have written or printed thereon the words "For the issuance of bonds and the levying of the tax in payment thereof," and "Against the issuance of bonds and the levying of the tax in payment thereof. Such bonds shall bear not more than five per cent interest per annum and shall mature in serial annual installments over a period of not exceeding forty years from their date; provided, that when the houses are to be built of wood, said bonds shall mature in not more than twenty years from their date. Such bonds shall be examined by the Attorney General and if approved registered by the Comptroller. All bonds shall be sold to the highest bidder for not less than their par value and accrued interest, and the proceeds of such sale shall be deposited in the county depository for the common school districts, and in the district depository for the independent school districts, to the credit of such districts, and shall be disbursed only for the purpose for which the said bonds were issued, on warrants issued by the district trustees and approved by the county superintendent for common school districts, and by the president of the board of trustees and countersigned by the secretary of the said board for independent districts." [As amended Acts 1929, 41st Leg., 1st C. S., p. 97, ch. 43, § 1.]

Effective 90 days after May 21, 1929, date of adjournment. Section 2 of Acts 1929, 41st Leg., 1st C. S., p. 97, ch. 43, repeals all conflicting general or special laws, or parts of laws.

#### [Art. 2790a. Tax levies validated]

All levies for Ad Valorem taxes heretofore made by the governing body of any Independent School District in this State, and which are void and unenforceable because such levies were made and adopted by resolution, motion, or other informal action, instead of having been made by order, as required by the Statutes of this State, and which levies are otherwise legally enforceable, are hereby validated, and the same are hereby declared enforceable the same as though they had been made and adopted originally by an order duly passed by the respective governing bodies of such Independent School Districts. [Acts 1929, 41st Leg., p. 446, ch. 205, § 1.]

#### [Art. 2796a. General law to govern bonds and taxes in certain school districts]

That all school districts, whether common or independent, or created by general or special law, whose scholastic population is not less than 680 nor more than 690 as shown by the 1928-1929 scholastic census roll, shall hereafter be governed in the levy and collection of school taxes, and in the issuance of bonds, by the provisions of the general laws as they now exist or may hereafter be enacted; provided that the authority here-

tofore conferred upon any school district by special legislation to levy and collect a local tax in excess of the present statutory limitation shall not be affected by the provisions of this act. [Acts 1929, 41st Leg., 1st C. S., p. 44, ch. 13, § 1.]

Section 2 of Acts 1929, 41st Leg., 1st C. S., p. 44, ch. 13, repeals all conflicting general or special laws.

[Art. 2802a. Independent districts and bonds validated]

Sec. 1. That in all cases where, with the intention of organizing an Independent School District, the Legislature of this State enacted a law prior to January 20, 1927, describing and designating a contiguous area of territory as an Independent School District and a Board of Trustees, chosen by the inhabitants of said territory has managed and governed the school affairs of such territory, conducted schools therein, levied taxes and called and held an election for voting upon the issuance of bonds for school purposes, and a majority of the qualified tax paying voters have voted in favor of such bonds and the bonds have been sold and the proceeds received by said District, then each such contiguous area of territory is hereby recognized and declared to be a validly organized Independent School District of this State for the purpose of establishing and maintaining public schools. The Board of Trustees acting for each such district is hereby declared to be the duly constituted governing body thereof and shall have the powers conferred by the laws of this State applicable to such Districts, and all proceedings and acts thereof heretofore taken and had as authorized by the school laws of this State are validated and all bonds so authorized and sold and now outstanding are hereby declared to be the valid obligations of each such school District.

Sec. 2. All common school districts, consolidated districts, rural high school districts and independent school districts, whether created by general or special law in this State, heretofore laid out and attempted to be established by the proper officers of any county or by the Legislature of the State of Texas, and heretofore recognized by either State or county authorities as school districts are hereby validated in all respects as though they had been duly and legally established in the first instance. [Acts 1929, 41st Leg., p. 666, ch. 298.]

[Art. 2802b. Maximum tax rate in independent district including large city]

In any independent school district including within its limits a city which had a population of more[,] than one hundred thousand and fewer than one hundred sixty thousand, according to the Federal census of 1920, the school district trustees of the independent district or the city council or commission of any such city which has heretofore assumed control of its public schools shall have the power to levy and cause to be collected the annual taxes and to issue the bonds herein authorized subject to the following provisions:

(1) For the maintenance of the public schools therein an ad valorem tax not to exceed \$1.25 on the one hundred dollars valuation of taxable property of the district or the city;

(2) For the purchase, construction, repair or equipment of public free school buildings within the limits of such districts and the purchase of the necessary sites therefor, a tax not to exceed fifty cents on the one hundred dollars valuation, such tax to be for the payment of the current interest on and provide a sinking fund sufficient to pay the principal of bonds which said districts are empowered to issue for such purposes.

(3) The amount of maintenance tax, together with the amount of bond tax of any district, shall never exceed one dollar and twenty-five cents on the one hundred dollars valuation of taxable property; and if the rate of bond tax, together with the rate of maintenance tax voted in the dis-

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trict, shall at any time exceed one dollar and twenty-five cents on the one hundred dollars valuation, such bond tax shall operate to reduce the maintenance tax to the difference between the rate of the bond tax and one dollar and twenty-five cents.

(4) No tax shall be levied, collected, abrogated, diminished or increased, and no bond shall be issued hereunder until such action has been authorized by a majority of the votes cast at an election held in the district for such purpose, at which none but property tax paying qualified voters of such district shall be entitled to vote. [Acts 1929, 41st Leg., p. 489, ch. 232, § 1.]

Section 2 of said Acts 1929, 41st Leg., p. 489, ch. 232, repeals all conflicting laws and parts of laws general and special.

#### [Art. 2802c. Maximum tax rate in certain school districts]

In all counties in this State which, according to the Federal census of 1920, had a population of not fewer than 36,500 and not more than 36,700, the maximum rate of tax which may be levied in each school district of the said counties for the issuance of bonds and maintenance of the public schools may be One Hundred and fifty cents (\$1.50) on the \$100.00, said tax to be authorized, assessed, levied, and collected under the provisions of the general law. The amount of bond tax herein authorized shall never exceed fifty cents on the \$100.00 valuation of taxable property. [Acts 1929, 41st Leg., 1st C. S., p. 187, ch. 73, § 1.]

Section 2 of Acts 1929, 41st Leg., 1st C. S., p. 187, ch. 73, repeals all conflicting laws and parts of laws.

#### Art. 2806. Election to consolidate

On the petition of twenty (20) or a majority of the legally qualified voters of each of several contiguous common school districts, or contiguous independent school districts, praying for the consolidation of such districts for school purposes, the County Judge shall issue an order for an election to be held on the same day in each such district. The County Judge shall give notice of the date of such elections by publication of the order in some newspaper published in the county for twenty (20) days prior to the date on which such elections are ordered, or by posting a notice of such elections in each of the districts, or by both such publication and posted notices. The Commissioners' Court shall at its next meeting canvass the returns of such elections, and if the votes cast in each and all districts show a majority in each district voting separately in favor of such consolidation, the Court shall declare the school districts consolidated.

Common school districts may in like manner be consolidated with contiguous independent school districts, and the district so created shall be known by the name of the independent school district included therein, and the management of the new district shall be under the existing board of trustees of the independent school district, and all the rights and privileges granted to independent districts by the laws of this State shall be given to the consolidated independent district created under the provisions of this law; provided that when two or more independent districts are consolidated, the County Board of Trustees shall designate the name by which the said district shall be known, and shall appoint a board of seven trustees for the said consolidated district, to serve until the next regular election of trustees as prescribed by General Law, at which time the district shall elect a board of seven trustees whose powers, duties and terms of office shall be in accordance with the provisions of the General Law governing independent districts, as they now exist or may hereafter be enacted; provided further that when it is proposed to consolidate contiguous county line districts the petitions and election orders prescribed

in this Act shall be addressed to and issued by the County Judge of the County having jurisdiction over the principal school of each district and the results of the election shall be canvassed by the Commissioners' Court of the said county.

The term "district" as used in this and the succeeding nine articles means "consolidated common school districts," or "consolidated independent school district." [As amended Acts 1931, 42nd Leg., p. 182, ch. 106, § 1.]

#### [6. DISTRICTS IN LARGE COUNTIES]

[Art. 2815g—1. Apportionment of available school funds including State per capita in certain counties]

Sec. 11a. Provided that in all counties having more than 275,000 and less than 300,000 population, according to the last preceding Federal census, and counties having more than 350,000 population, according to the last preceding Federal census, all Independent School Districts having 500 scholastics or more shall be entitled to receive their pro rata part of the entire available funds arising for the County Permanent School Funds to be paid to such Independent School Districts on a per capita basis, and such Independent School Districts shall likewise be entitled to receive their pro rata part on a per capita basis of all other available school funds including the State per capita apportionment, and the pro rata part of the State per capita apportionment to which any such Independent School District shall be entitled shall be paid by the Comptroller by a warrant or warrants in favor of the Treasurer of each such Independent School District. [Acts 1931, 42nd Leg., p. 812, ch. 334, § 1.]

[Art. 2815g—2. School districts and acts of boards of trustees validated]

All School Districts, including Common School Districts, Independent School Districts, Consolidated Common School Districts, Consolidated Independent School Districts, County Line School Districts, Consolidated County Line School Districts, and Rural High School Districts, whether created by General or Special Law in this State, and heretofore laid out and established or attempted to be established by the proper officers of any County or by the Legislature of the State of Texas and heretofore recognized by either State or County Authorities as School Districts, are hereby validated in all respects as though they had been duly and legally established in the first instance; all acts of the Board or Boards of Trustees in such Districts ordering an election or elections, declaring the result of such elections, and levying taxes therefor, and all bonds issued and now outstanding, and all bonds heretofore voted but not yet issued, are hereby in all things validated. The fact that by inadvertence or oversight any act of the officers of any county in the creation of any District was omitted shall in nowise invalidate such District and the fact that by inadvertence or oversight any act was omitted by any Board of Trustees of any such District in ordering an election or elections, or in declaring the result thereof, or in levying the taxes for such District, or in the issuance of the bonds of any such District shall in nowise invalidate any of such proceedings or any bonds so issued by such District. All acts of the County Boards of Trustees of any and all counties in rearranging, changing or subdividing such School Districts or increasing or decreasing the area thereof, in any School District of any kind, or in creating new Districts out of parts of existing Districts or otherwise, are hereby in all things validated. Provided further that this Act shall not apply to any District which may have been established or consolidated and which has later returned to its original status and has been so recognized by the proper authorities. Provided further that this law shall not apply to any district



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the organization or creation or tax levy or assessment of which is now involved in litigation. [Acts 1931, 42nd Leg., 2nd C. S., p. 63, ch. 39, § 1.]

## 7. JUNIOR COLLEGES

[Art. 2815h. Junior college districts]

Sec. 1. Any Independent School District, or city which has assumed control of its schools, having in either case an assessed property valuation of not less than \$12,000,000.00, or having an income provided by endowment or otherwise that will meet the needs of the proposed Junior College District, said need to be determined by the State Board of Education, and having an average daily attendance of the next preceding school year of not fewer than 400 students in the last four years in the classified high school or high schools within the said district or city, may by vote of the qualified voters of the district or city establish and maintain a Junior College, such College District to be known as a Junior College District.

Sec. 2. When it is proposed to establish a Junior College District as above provided, a petition praying for an election therefor, signed by not less than five per cent of the qualified tax-paying voters of the proposed territory shall be presented to the Board of Education of the district or city. It shall thereupon become the duty of the Board so petitioned to pass upon the legality of the petition and the genuineness of the same. It shall then be the duty of the Board to forward the petition to the State Board of Education.

Sec. 3. It shall be the duty of the State Board of Education, with the advice of the State Superintendent of Public Instruction to determine whether or not the conditions set forth in Section No. 1 have been complied with, and also whether, in consideration of the geographic location with respect to colleges already established, it is feasible and desirable to establish such Junior College District. In passing upon this question, it shall be the duty of the State Board of Education to consider the needs of the State and the welfare of the State as a whole, as well as the welfare of the community involved. The action of the State Board of Education shall be final and shall be communicated, through the State Superintendent of Public Instruction, to the Board together with an order of the State Board of Education, authorizing further procedure in the establishment of the Junior College District, if said State Board indorses its establishment. If the State Board of Education approves of the establishment of the Junior College District, it shall then be the duty of the Board of Education to enter an order for an election to be held in the proposed territory within a time not less than twenty days and not more than thirty days after such order is issued, to determine whether or not such Junior College District shall be created and formed. Such order shall contain a description of the metes and bounds of such Junior College District to be formed, and shall fix the date for such election. If a majority of the votes cast by the qualified property tax-paying voters of such district at such election shall be in favor of the creation of a Junior College District the same shall be deemed to be formed and created, and said Board of Education, shall within ten days after holding such election, make a canvass of the returns and declare the results of the election. They shall then enter an order on the Minutes of the Board as to the results.

Sec. 4. A Junior College established and maintained by an Independent District or a city that has assumed control of its schools, shall be governed, administered and controlled by and under the direction of the Board of Education of such district or city.

Sec. 5. The Board of Trustees of Junior College Districts shall be governed in the establishment, management and control of the Junior College by the General Law governing the establishment, management

and control of Independent School Districts insofar as the General Law is applicable.

Sec. 6. The location of the Junior College within the Junior College District shall be determined by the Junior College Board, as provided for in Sections herein. The Junior College Board shall make a selection of the location of the Junior College after its establishment has been authorized as provided in this Act.

Sec. 7. The Junior College District created under this Act shall have the power to issue bonds for the construction and equipment of school buildings and the acquisition of sites therefor, and to provide for the interest and sinking fund for such bonds by levying of such taxes as will be necessary in this connection. The Junior College District shall also levy and collect taxes for the support and maintenance of the Junior College, provided that no bonds shall be issued and no taxes collected until by vote of the majority of the qualified voters of the Junior College District, at an election called for that purpose in accordance with the provisions of the General Law providing for similar elections in Independent School Districts, such bonds and taxes are authorized. The election for the issuance of such bonds for the levying of such tax or taxes, shall be ordered by the Board of Education of the Junior College upon petition signed by 10 per cent of the qualified property-tax-paying voters residing in such district, praying for the issuance of such bonds and the levying of such tax or taxes. It shall be the duty of the Board to order such election, and the same shall be conducted and the returns made to the Board of Education of the Junior College District. The issuance of the bonds for Junior College purposes, and the provision of the sinking fund for the retirement thereof, and the payment of interest and the levying of taxes for the support and maintenance of the Junior College, shall insofar as same is applicable, be in accordance with the general election laws and the laws governing the issuance of bonds and the levying of taxes in the Independent School District, provided the total amount of tax levied for the Junior College purposes shall never exceed twenty (20) cents on the \$100 of property valuation, based on the valuation fixed by the Equalization Board of the Commissioners' Court, for State and county taxes in such counties.

Sec. 8. The Board of Trustees of any single Independent District in which a Junior College shall have already been created and which under the provision of this Act shall be under the control of such Board of Trustees may set aside for the maintenance of said college, not to exceed twenty per cent of the taxes collected in said district as theretofore authorized by a vote of the people residing in said district, in the manner provided by law, without the requirement of an election to be held in said district for the purpose of voting taxes for the maintenance of said college, provided, however, that the total amount of taxes levied in said district for the maintenance of the public schools therein situated, including said Junior College, shall not exceed the highest amount now allowed, or which may hereafter be allowed by law for the maintenance of schools in an Independent School District of this State.

Sec. 9. The Board of Education of the Junior College shall levy taxes for such district, and in levying such taxes shall base the amount levied on the amount of money needed, with a reasonable margin for loss and expense in collecting same, and shall furnish a copy of the order making such levy to the proper assessing authority, as indicated above.

Sec. 10. In case the tax levy necessary to meet the needs of the Junior College District is within the limit of twenty (20) cents prescribed by this act and voted by the Junior College District, it shall be the duty of the assessing authority, as above indicated, to assess taxes for Junior College purposes, and it shall be the duty of the Collector of taxes to collect the same. The Tax Collector shall on or about the tenth of

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each month make a report to the Junior College Board of Education, showing all moneys collected by him during the past month for Junior College purposes, and shall each month place such funds with the Treasurer of the Independent School District or city, to the credit of the Junior College District, such funds to be drawn upon by action of the Junior College Board of Education. The officers assessing and collecting Junior College taxes shall receive therefor the same compensation as is paid for assessing and collecting other school taxes.

Sec. 11. The Tax Collector, before entering upon the duties of his office, shall enter into a bond, with two or more good and sufficient sureties, or surety bond, for the protection of the Junior College Fund, said bond to be made payable to the Board of Education of the Junior College, and to be made in a sum not less than double the amount of money which may be in his hands at any time while in office. The amount of said bond will be fixed by the State Board of Education, and a copy filed with the State Board. The Junior College Board shall require a similar bond of any and all other persons or corporations in whose possession such funds may be kept.

Sec. 12. A Junior College as here considered must consist of the Freshman and Sophomore College work taught either separately or in conjunction with the Junior and Senior years of the High school, and the course of study must be submitted and approved by the State Department of Education before it may be offered.

Sec. 13. The Board of Trustees of the Junior College shall have the power to select a president, dean or other administrative officer, and, upon his recommendation, to select the faculty and other employees of the college, and to fix the compensation and manner of payment of such administrative head, faculty and employees. The Board shall also have the power to fix and collect fees for matriculation, laboratories, library, gymnasium and tuition.

Sec. 14. No funds received for school purposes from the State available school fund, or raised by local taxation for school purposes, under the General or Special Laws, except as in this act specifically provided, shall be used for the establishment, support and maintenance of the Junior College and provided further that the Legislature shall not make an appropriation out of the General Fund of the State for the establishment, support or maintenance of any Junior College established or that may be established under the provisions of the Act. Any school trustee, superintendent or other person having the custody of, or being charged with the duty of expending any funds received for school purposes either from the State available school funds or from local taxation who shall violate this Section of this act, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$100.00 or more than \$1,000.00 or by imprisonment in the county jail for not less than thirty days or more than six months, or by both such fine and imprisonment.

Sec. 15. The members of the Board of Education of the Junior College shall receive no compensation for their services, but shall be reimbursed from the local funds of the Junior College District for all legitimate expenses incurred by them in the transaction of their official duties, provided that the expense of each member shall not exceed \$5.00 per day, or \$60.00 per year.

Sec. 16. Any public Junior College now organized and conducted in the State of Texas which had been actually in operation prior to January 1, 1929, or which is recognized as a standard Junior College by the State Department of Education, is hereby validated and may, by action of its Board of Trustees, choose to be governed by the provisions of this Act, and receive the privileges of the same, at any time that it may desire to do so.

Also all limitations and restrictions of this Act relating to taxable values and to pupils enrolled shall not apply to Independent School Districts which have voted in excess of Forty-one Thousand Five Hundred (\$41,500.00) dollars worth of bonds, prior to May 20, 1927, to purchase buildings and equipment and which buildings and equipment are worth in excess of two hundred and fifty thousand (\$250,000.00) dollars and which said buildings have been used, operating under and doing business by virtue of being incorporated under the Laws of the State of Texas, and which said charter was granted said college and university training school prior to the 11th day of September, 1898; and all such Independent School Districts so voting in excess of Forty-one Thousand Five Hundred (\$41,500.00) dollars worth of bonds prior to May 20, 1927, to purchase buildings and equipment, worth in excess of two hundred fifty thousand (\$250,000.00) dollars which said buildings have been used, operated and occupied by a college and university training school, incorporated under the Laws of the State of Texas prior to the 11th day of September, 1898, are hereby created Junior College Districts and all such Independent School Districts Acts in voting of any such bonds are hereby in all things validated.

Sec. 17. Two or more contiguous Independent School Districts or two or more contiguous Common School Districts, or a combination composed of one or more Independent School Districts, or a combination of one or more Independent School Districts with one or more Common school Districts of contiguous territory within the same county having a combined taxable wealth of not less than \$12,000,00.00 [\$12,000,000.00], and an average daily attendance the next preceding school year of not less than 500 students in the last four years in the classified high school of said district, may, by vote of the qualified voters of the said territory, establish and maintain a Union Junior College. Any county or combination of contiguous counties in the State, having a taxable property valuation of not less than \$12,000,000.00, and an average daily attendance the next preceding school year of not fewer than 500 students in the last four years of the classified high schools within the proposed territory may, by vote of the qualified voters of the proposed territory, establish and maintain a County or Joint County Junior College.

Sec. 18. Whenever it is proposed to establish a Union Junior College District, or a County Junior College District, as above provided, a petition praying for an election therefor, signed by not fewer than 10 per cent of the qualified tax-paying voters of the proposed territory, shall be presented to the County Board of Education. In case of the Joint County Junior College District, the petition shall be signed by not fewer than 10 per cent of the qualified tax-paying voters of each of the proposed counties and shall be presented to the Boards of Education of the Counties included in the proposed district. In case there is no County Board of Education, the petition shall be presented to the Commissioners' Court or the Commissioners' Courts of the county or counties involved. It shall thereupon become the duty of the Board or Boards, or the Commissioners' Court or Courts, so petitioned to pass upon the legality of the petition and the genuineness of the same. It shall then be the duty of the Board or Boards of Education, the Commissioners' Court or Courts, as the case may be, to forward the petition to the State Board of Education.

Sec. 19. It shall be the duty of the State Board of Education, with the Advice of the State Superintendent of Public Instruction, to determine whether or not the conditions set forth in Section 17 have been complied with, and also whether, in consideration of the geographic location with respect to colleges already established, it is feasible and desirable to establish such Junior College District. In passing upon this question, it shall be the duty of the State Board of Education to consider

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the needs of the State, the welfare of the State as a whole, as well as the welfare of the community involved. The action of the state board of education shall be communicated, through the State Superintendent of Public Instruction, to the Commissioners' Court or Courts as the case may be, together with an order of the State Board of Education, authorizing further procedure in the establishment of the Junior College District. If the State Board of Education approves of the establishment of the Junior College District, it shall then be the duty of the Commissioners' Court or Courts, as the case may be, to enter an order for an election to be held in the proposed territory within a time not less than twenty days and not more than thirty days after such order is issued, to determine whether or not such Junior College District shall be created and formed. Such order shall contain a description of the metes and bounds of such Junior College District to be formed, and shall fix the date for such election. If a majority of the votes cast by the qualified voters of such election shall be in favor of the creation of a Junior College District same shall be deemed to be formed and created, and said Commissioners' Court or Courts, as the case may be, shall within ten days after holding such election, make a canvass of the returns and declare the results of the election. They shall enter an order on the minutes of the Court or Courts as to the results. In the case of the Joint County Junior College District, the election shall by mutual agreement of the Court or Courts be held on the same day.

Sec. 20. A Union Junior College, A County Junior College, or a Joint County Junior College, shall be governed, administered and controlled by and under the direction of a Board of seven Junior College Trustees elected at large from the Junior College District by the qualified voters of said district, with such terms of office as may be provided under the General Law for trustees in Independent School Districts. Said Board of Trustees shall adopt such rules, regulations and by-laws as they may deem proper and they shall have exclusive power to manage and govern said Junior College, and, as such they shall constitute a body corporate by the name of the Junior College District ———, State of Texas, and in that name may acquire and hold real and personal property, sue and be sued, and may receive bequests and donations, or other moneys or funds coming legally into their hands, and may perform other acts for the promotion of education in said district.

Sec. 21. An Independent School District, or districts, a common school district or districts, may be annexed to a Junior College District for Junior College purposes only, by an election as provided in Section 2 hereof, upon petition of five per cent of the property tax-paying voters in such district or districts seeking to be annexed, provided further that such annexation shall have been previously approved by the Board of Trustees of the Junior College District and provided further that election for such annexation shall be called and the results canvassed and declared by the County Board of Education or the County Commissioners' Court of the county, in case there is no County Board of Education, provided further that the territory included in such annexed district shall thereby assume its share of any outstanding bonded indebtedness of the Junior College District, in proportion to the assessed valuation within the said district, and shall also become liable for taxes for maintaining the Junior College.

Sec. 22. All taxes levied for a County or Joint County Junior College District, shall be assessed by the County Tax Assessor or Assessors, and collected by County Tax Collector or Collectors who shall each month place such funds with the County Treasurer or Treasurers in the case of a Union Junior College District. [Acts 1929, 41st Leg., p. 648, ch. 290.]

Section 23 of said Acts 1929, 41st Leg., is held unconstitutional such action shall not affect the remaining sections.

[Art. 2817a. Oath to rolls and summaries and delivery to county Superintendent]

Any person who is required to make a summary of the Scholastic Census rolls showing the number of children of each race that will be included in the Scholastic Census on the first day of the next September shall make oath to his rolls and summaries and to the faithful and actual discharge of his duties and deliver the rolls, together with the forms arranged in alphabetical order, to the County Superintendent on or before May 1 next after his appointment. [Acts 1931, 42nd Leg., p. 42, ch. 33, § 1.]

Effective March 24, 1931. Section 2 of Code art. 294a. Section 3 repeals all conflicting laws and parts of laws. being a penal provision is published as Penal

Art. 2818. County line districts

The scholastic census of all common county line school districts shall be taken under the supervision of the authorities of the county having control of such school district and reported by such county to the State Department of Education as provided by law governing the taking of the scholastic census of the State, except that the census trustee taking the census of a common county line school district shall make a separate roll of the scholastic population contained in the territory of each county in such district which shall be separate and distinct from the general census roll of such district and be returned together with the general census roll, as provided by law, to be made by the census trustees. The County Superintendent of the county having control of the schools of such district shall make a duplicate of the copy containing separately the scholastic population of each county having territory in such district and send such duplicate to the County Superintendent and County Treasurer of each such county to be by them used for the purpose of apportioning the County Available School Funds. If such district has voted a special tax for the purpose of school maintenance or the payment of interest and sinking fund on school bonds, the County Superintendent of each of said counties shall, from time to time, as such taxes have been collected by his county, draw his warrant against the County Treasurer or County Depository of such county for such amount of available county school funds or special tax, or either or both, as the case may be, as shall be in the hands of the Treasurer or Depository in favor of the County Treasurer of the county having control and management of the schools of such district, and upon the presentation of such warrant, the Treasurer or Depository against whom the warrant was drawn shall pay over to the Treasurer named as depository of the county having control of the schools of the district such amount of money as is called for in such warrant. The said warrant shall be drawn in favor of the school district embracing the territory in the counties involved and in favor of the County Treasurer or Depository of the county having control of the schools of the district and be credited to such school district, and the funds of such school district shall be used as provided by law for the use of the different kinds of school funds; provided that all funds heretofore derived or hereafter to be derived from the income of the county permanent fund of each county embracing any territory of said district shall be deposited to the credit of such district and shall be used for the same purposes and in the same manner as is now provided by law for the use of the State Available School Fund. [As amended Acts 1931, 42nd Leg., 2nd C. S., p. 44, ch. 24, § 1.]

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[Art. 2827a. State available school funds; notice to State Superintendent and State Board of Education; deposit in county depositories]

Sec. 1. That, from and after August 31, 1931, it shall be the duty of the County Board of Trustees in each county in this State having an elective County Superintendent of Public Instruction to notify the State Superintendent and the State Board of Education, not later than September 1, of each scholastic year, of the amount of the State Available School Fund that should be set aside from the per capita apportionment for said county for the ensuing scholastic year for the maintenance of the office of County Superintendent in accordance with Law; provided, that the amount to be set aside from the per capita apportionment for said county shall include the per capita apportionment for the districts of the county that are now lawfully required, or that may hereafter, by General Law, be required, to contribute to said County Administration Expense Fund.

Sec. 2. That the State Superintendent of Public Instruction shall, on the order of the State Board of Education, remit to the County Depository of each such county the amount of said Available School Fund, to be deposited to the credit of the Administration Fund of the County for the purpose set forth in Section 1 of this Act; provided, that the payments to the various counties may be made in two equal installments, the first, on or before October 1, and the second, on or before March 1, of each successive school year.

Sec. 3. All laws, or parts of laws, General and Special, in conflict herewith, are hereby repealed; provided, however, that this Act is not intended to repeal Article 2827, of the Revised Civil Statutes of 1925, but is intended merely to enlarge the purposes to the extent provided in this Act for which the State Available Funds may be used. [Acts 1931, 42nd Leg., p. 298, ch. 175.]

Art. 2829. [2768] Bond

Within twenty days after the receipt of a certificate of its selection, the County Depository shall execute a good and sufficient bond, payable to the County Judge, in amount equal to the probable amount of available School Fund, which may be on deposit at any one time, and of the permanent County Fund, to be estimated by the County Superintendent, or Commissioners' Court in a county having no Superintendent, and shall be conditioned that the depository will faithfully perform its duties under this title, and safely keep and faithfully disburse the School Fund according to Law, and pay such warrants as may be drawn on said fund by competent authority; provided, in lieu of said bond, such depository may secure said School Funds in the same manner as is now provided by Law for qualification as County Depository.

Sec. 1-A. In the event depositories have been selected at the time of adoption of the above provision, such depositories may, at option, secure said School Fund by approved securities other than by personal bond. [As amended Acts 1931, 42nd Leg., p. 43, ch. 34.]

Art. 2832. [2771] Districts of more than 150 scholastics

In any Independent District of more than 150 scholastics, whether it be a city which has assumed control of the schools within its limits or a corporation for school purposes only, and whether organized under general law or created by special act, the treasurer of the school fund shall be that person or corporation who offers satisfactory bond and the best bid of interest on the average daily balances for the privilege of acting as such treasurer. The treasurer when thus selected shall serve for a term of two years and until his successor shall have been duly selected and qualified, and he shall be required to give bond in an amount equal to the estimated amount of the total receipts coming annually into his

hands, when such bond is a personal bond; provided, that when a bond is executed by a Surety Company or is a bond other than a personal bond, such bond shall be in an amount equal to the highest estimated daily balance for the current biennium, to be determined by the governing body of such School District; provided further, that such governing body may, in lieu of the bond herein authorized, accept a deposit of approved securities in an amount sufficient to adequately protect the funds of such school district in the hands of the selected treasurer. Provided, however, that no premium on any bonds shall be paid out of the funds of any said District or corporation. Said bond shall be made payable to the President of the Board and his successors in office, conditioned for the faithful discharge of the treasurer's duties and the payment of the funds received by him upon the draft of the President of the School Board drawn upon order, duly entered, of the Board of Trustees. Said Bond shall be further conditioned that the treasurer shall safely keep and faithfully disburse all funds coming into his hands as treasurer, and shall faithfully pay over to his successor all balances remaining in his hands. It shall be approved by the School Board and the State Department of Education shall be notified of the treasurer by the President of the School Board filing a copy of said bond in said department. If the custodian of the funds of any Independent School District to which this article applies has heretofore been designated as a depository, instead of a treasurer, the governing body of any such district may continue to use the name depository and this article shall govern to the same extent as if the name treasurer were used. [As amended Acts 1931, 42nd Leg., 1st C. S., p. 56, ch. 27, § 1.]

This article was also amended by Acts 90 days after May 23, 1931, date of adjournment, 1931, 42nd Leg., p. 854, ch. 362, § 1 (effective ment.)

[Art. 2832a. Depository of school funds in counties having population of 16800 and not more than 17000]

In all counties having a population of not fewer than 16,800 nor more than 17,000 according to the Federal census of 1920 the Board of School Trustees of each independent district, regardless of its scholastic population, shall have the authority to select its depository of school funds for such district in the manner prescribed in Article 2832, Revised Statutes, 1925. [Acts 1930, 41st Leg., 5th C. S., p. 161, ch. 29, § 1.]

[Art. 2844a. German text books and commercial arithmetic and book-keeping in English]

Sec. 1. The State Text Book Commission shall adopt a multiple list of not fewer than three nor more than five text books for use in the Public High Schools in teaching the German language; and also there shall be added to the free list of text books commercial arithmetic and book-keeping in the English language.

Sec. 2. The State Text Book Commission is hereby empowered to adopt single basal text books of a type suitable for Junior High Schools, provided seven-ninths of the Commission approve the policy; the adoption of the text to be made by six votes as in other adoptions and provided further, that such Junior High School text books shall be furnished free only to such school systems as maintain Junior High School organizations, as certified by the proper school authorities to the State Board of Education. [Acts 1929, 41st Leg., p. 451, ch. 210.]

Section 3 of said Acts 1929, 41st Leg., p. 451, ch. 210, repeals all conflicting laws and parts of laws.

[Art. 2880a. Certificates to aliens prohibited]

No teacher's certificate shall be issued to an alien authorizing him or her to teach in the elementary and/or/secondary public free schools unless evidence is produced showing his intention to become a citizen,



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and the State Department of Education shall not issue a teacher's permanent certificate to any person who is not a citizen of the United States. It shall be unlawful for any board of trustees to contract with any person who is an alien unless said person has been naturalized or has declared his intention to become a citizen of the United States, to teach in any elementary and/or/secondary public free school of this State, and all such contracts attempted to be made shall be void and of no effect; provided, however, that nothing in this bill shall be applicable to any contracts heretofore entered into and now in effect. [Acts 1929, 41st Leg., p. 72, ch. 38, § 1.]

Section 2 of said Acts 1929, 41st Leg., p. 72, ch. 38, repeals all conflicting laws and parts of laws.

**[Art. 2891a. Teachers' certificates revived and continued]**

Any person holding a teacher's certificate of any kind or grade which has not expired at the beginning of any summer school of any State teachers college or any other institution rated as first class by the State Department of Education in this State, shall have the right to have such certificate revived and continued in force for a period of one year by taking three courses or subjects and passing in same at such summer session of a State teachers' college or any other institution rated as first class by the State Department of Education in this State. Upon successfully passing such three courses or subjects, the president of the college shall certify to same and attach his certificate to the teacher's certificate so held by such persons, and thereupon such teacher's certificate shall be presented to the State Department of Education and upon the payment of one dollar fee by the holder, shall be renewed and continued for one year from the beginning of the ensuing year after taking said three courses; provided the work course or subject as herein specified shall mean one-third of a regular nine months' course, and this privilege shall be extended to the holder of said certificate so long as it may remain in force. [As amended Acts 1929, 41st Leg., p. 53, ch. 20, § 1.]

Section 2 of said Acts 1929, 41st Leg., p. 53, ch. 20, repeals all conflicting laws and parts of laws.

**Art. 2892a. [School attendance by child between seven and fifteen]**

Provided, however, that every child in counties of not less than three hundred twenty-five thousand (325,000) and not more than three hundred twenty-six thousand (326,000) population according to the preceding Federal Census, who is seven years and not more than fifteen years old shall be required to attend the public school in the district of its residence or in some other district to which it may be transferred, as provided by law, for the entire school term of the district in which said child attends school. [Acts 1931, 42nd Leg., Spec. L., p. 439, ch. 221, § 1.]

**Art. 2902. [2894-2900] Scholastic age**

Amended by inserting in the third line after "shall be," "included in the scholastic census and shall be", and substituting "six" for "seven" in the second and seventh lines. [Acts 1929, 41st Leg., p. 232, ch. 97, § 1.]

Section 3 of said Act 1929, 41st Leg., p. 232, ch. 97, repeals all conflicting laws and parts of laws.

**[Art. 2904a. Free tuition for persons over six and not over twenty one years of age in certain school districts]**

Sec. 1. The board of trustees of any common or independent school district, whether organized by general or special law, which levies and collects a maintenance tax for the purpose of supplementing the available school fund received from the state and county shall admit into the public

schools of the district free of tuition, all persons who are over six and not over twenty-one years old at the beginning of the scholastic year, if such person or his parents or legal guardian reside within said common or independent school district.

Sec. 2. In the event such district as is mentioned in section one of this act fails to provide high school instruction in the proper grade for any such resident pupil, the board of trustees shall pay a reasonable rate of tuition for such pupils in any other public high school of this state or of any other state if the public high school in the other state is located in a district contiguous to the state line and is more convenient to the student than a Texas public high school; provided that if the school district is unable to pay said tuition and also maintain an efficient elementary school as determined by the county board of trustees approved by the State Board of Education, the tuition or such part thereof as may be necessary, shall be paid by the State of Texas.

Sec. 3. All such high school pupils as are subject to transfer under the transfer laws of this State shall be transferred and the receiving district shall grant free tuition to such transferred pupils for the length of term the state and county funds support the public schools of the race to which such transferred pupil belongs, such free school term for such pupil to begin with the date such transferred pupil enters the school of the receiving district.

Sec. 4. High school grades within the meaning of this Act shall include the upper four grades in a public school system of eleven or twelve grades and shall not include school work of college rank. [Acts 1931, 42nd Leg., 1st C. S., p. 33, ch. 20.]

#### Art. 2905. Trustees' powers; eminent domain

The County School Trustees shall have power to purchase and lease, and by the exercise of the right of eminent domain to acquire the fee simple title to real property for all the Common School Districts and the Independent School Districts of their county having less than one hundred fifty (150) scholastics; for the purpose of supplying play grounds, agricultural tracts, and sites upon which to build schoolhouses and such other buildings as are necessary for the schools of said District, and for such other purpose as may be necessary for the schools within any such Districts, and when acquired by the exercise by the right of eminent domain herein given, the trial and all other proceedings, including the assessing of damages, shall be in conformity to the Statutes of the State of Texas, for condemning and acquiring property by railroads, and whenever final judgment is rendered in any such condemnation proceedings the plaintiff therein shall be awarded the fee simple title to the property condemned, and such plaintiff thereupon shall acquire and shall thereafter have, hold and possess such property in fee simple title with full power over the same, including the right of alienation. [As amended Acts 1931, 42nd Leg., p. 243, ch. 145, § 1.]

Effective 90 days after May 23, 1931, date of adjournment. Section 2 repeals all conflicting laws and parts of laws. See, also, art. 1109c.

#### [Art. 2913a. Combination of schools with State of New Mexico; compact Commissioner]

Sec. 1. That the Governor of the State of Texas is hereby authorized to negotiate a contract with the State of New Mexico to permit school districts, or incorporated towns, or union high school districts, located in Texas adjoining the Texas-New Mexico State line to combine with school districts, incorporated towns, and other educational subdivisions of the State of New Mexico adjoining the Texas-New Mexico State line to promote educational facilities for such communities, to permit cooperative measures to be adopted by them for the financing of school buildings and

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teaching staffs for the same, and for other purposes incident thereto or in aid thereof.

Sec. 2. That the Governor of Texas is authorized to appoint a Compact Commissioner who shall have authority to negotiate such a compact with the State of New Mexico subject to final approval by the Legislature of Texas. [Acts 1931, 42nd Leg., p. 418, ch. 251.]

## TITLE 50—ELECTIONS

### Art. 2930. [2810 to 2912-3088] Time and place

A general election shall be held on the first Tuesday after the first Monday in November, A. D. 1926, and every two years thereafter, at such places as may be prescribed by Law, after notice as prescribed by Law. Special elections shall be held at such times and places as may be fixed by Law providing therefor. In all elections, general, special, or primary, the polls shall be open from seven o'clock a. m. to seven o'clock p. m. in all counties having a population of 150,000 or more according to the last Federal census and in all other counties the polls shall be opened at 8 a. m. and shall remain open until 7 p. m. The election shall be held for one day only. [As amended Acts 1931, 42nd Leg., p. 387, ch. 232, § 1.]

### Art. 2956. [2939] Absentee voting

Any qualified elector, as defined by the laws of this State, who expects to be absent from the County of his or her residence on the day of election may vote subject to the following conditions, to-wit: At some time, not more than twenty (20) days nor less than three (3) days, prior to the date of such election, such elector shall make his or her personal appearance before the Clerk of the County of his or her residence and shall deliver to such Clerk his or her poll tax receipt or exemption certificate entitling him or her to vote at such election, and said Clerk shall deliver to such elector one ballot which has been prepared in accordance with the law for use in such election, which shall then and there be marked by said elector apart and without the assistance or suggestion of any person, and in such manner as said elector shall desire same to be voted; which ballot shall be folded and placed in a sealed envelope and delivered to said Clerk who shall keep same so sealed, and who shall also keep said poll tax receipt or certificate open to the inspection of any person who may wish to examine or see same until the second day prior to said election; and said Clerk shall, on said second day, place the said poll tax receipt or certificate, together with the said envelope containing said marked ballot, in another envelope which shall then be mailed by said Clerk to the Presiding Judge of the voting precinct in which said elector lives. Or, at some time not more than twenty (20) days prior to the date of such election, such elector shall make his or her written application to the County Clerk of his or her County requesting a ballot, and shall send together with said application his or her poll tax receipt or exemption certificate, but in the event said elector does not have his or her receipt or certificate, the County Clerk is directed to procure from the Tax Collector a certificate in lieu of said receipts or exemption certificates. Such County Clerk receiving the application for a ballot, after verification shall mail a ballot to such elector, which ballot having been prepared in accordance with the law for use in such election, said envelope to be marked "Official Ballot for \_\_\_\_\_ (giving elector's name)." Such elector, upon receipt of said ballot, shall mark the same immediately, apart and without assistance or suggestion of any other person, in such manner as said elector shall desire same to be voted, which ballot shall be folded and placed in a sealed envelope, prepared for the purpose, and mailed by such elector to the County Clerk of the County wherein such elector votes, who

shall keep same so sealed, and who shall also keep said poll tax receipt or certificate open to the inspection of any person who may wish to examine or see same until the second day prior to said election; said Clerk shall on said day place the said poll tax receipt or certificate, together with the said sealed envelope containing said sealed ballot, in another envelope which shall be by said Clerk then mailed to the presiding Judge of the voting precinct in which said elector lives.

On the day of such election, and in the presence of the election officers provided by law, the presiding Judge shall, between the hours of two and three o'clock, open the envelopes containing said poll tax receipts, exemption receipts, and marked ballots, and publicly announce that the ballot of such named electors are proposed to be cast, at which time any person who desires to challenge said vote and the right of same to be cast, shall be heard to present such challenge, and if there be no challenge of same, said vote shall be cast and counted according to the law; and if there be any challenge of such vote, legal cause for same shall be heard and decided according to the law provided in the case of challenge. In case no challenge is made, such poll tax receipt, after same is marked "voted" as provided by law, shall be mailed back to the said County Clerk. But in case of challenge, such poll tax receipt together with affidavits relating thereto shall be mailed by said Judge of election to the County Clerk of such County who shall keep same for thirty (30) days, and if no demand be made for the production of same before anybody or persons in authority within said time, said County Clerk shall deliver such receipt to the owners thereof. When voted, the Judge of election shall mark opposite the name of such absentee voter the word "Absentee." The provisions of this Article shall apply to all elections, including General, Special, and Primary Elections. [As amended Acts 1931, 42nd Leg., p. 180, ch. 105, § 1.]

#### Art. 2963. Receipt mailed

When in cases permitted by this Title, the tax is paid by an agent, the tax receipt shall not be delivered to such agent, but shall be sent by mail to the taxpayer or kept and delivered to him in person by the Tax Collector. Where a property taxpayer residing either within or without a city of ten thousand inhabitants or more, has a poll tax assessed against him or his wife or both, he may, at the same time that he pays his property tax by bank check or money order, also pay the poll tax of himself and wife, or either, and in the same way, and it shall be the duty of the Tax Collector in such cases, to mail such poll tax receipts, together with the property tax receipt to such property taxpayer. Exemption certificates shall be mailed in like manner, with the property tax receipt upon the payment of property taxes.

All tax receipts issued for any year after January 31st shall be stamped on the face thereof: "Holder not entitled to vote," and the names of the holders of such poll tax receipts shall not be included in the list of qualified voters. [Acts 1929, 41st Leg., p. 248, ch. 109, § 1, as amended Acts 1929, 41st Leg., 1st C. S., p. 111, ch. 51, § 1.]

Effective 90 days after March 14, 1929,  
date of adjournment, and 90 days after  
May 21, 1929, date of adjournment.

Section 4 of Acts 1929, 41st Leg., 1st C.  
S., p. 111, c. 51, being a penal provision is  
published as Pen. Code, art. 205a.

#### Art. 2965. [2949-50] Form of receipt

Each poll tax receipt and its duplicate shall show the name of the party for whom it was issued, the payment of the tax, the age and race of the taxpayer, and length of time the taxpayer has resided in the State and whether the taxpayer is a citizen of the United States, and if so, whether a native born or naturalized citizen of the United States, and the State of the United States, or the foreign country where the taxpayer was born, the length of time the taxpayer has resided in the county, the voting precinct in which the taxpayer lives, except when in an un-

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organized county, the taxpayer's occupation and postoffice address, or if living in an incorporated city, the ward, street and number of residence in such city or town. The poll tax receipt shall be in the following form, and numbered consecutively in each book provided for in this title:

Poll Tax Receipt No. \_\_\_\_\_  
 State of Texas, County of \_\_\_\_\_ Received of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ A. D., \_\_\_\_\_ the sum of \_\_\_\_\_ dollars in payment of poll tax for the year A. D. 19—.

The said taxpayer, being duly sworn by me, says that s— he is \_\_\_\_\_ old, that he resides in voting precinct No. \_\_\_\_\_ in \_\_\_\_\_ County, that h— race is \_\_\_\_\_ s— he— is a (native born) citizen of the United (naturalized)

States and was born in \_\_\_\_\_, that he has resided in Texas \_\_\_\_\_ years, and in \_\_\_\_\_ County \_\_\_\_\_ years, that s— he is by occupation \_\_\_\_\_ and that his (her) postoffice address is \_\_\_\_\_ (if in an incorporated city or town, a blank must be provided for the ward, street and number of residence in lieu of his (her) postoffice address, and length of time he has resided in such city or town.)

All of which I certify.

(Seal)

(Signed) \_\_\_\_\_

Unless the taxpayer shall make oath, either personally or through an authorized agent, that he is either a native born or a naturalized citizen of the United States, the Tax Collector shall either write or stamp across the face of his poll tax receipt the words, "Not entitled vote." [Acts 1929, 41st Leg., p. 248, ch. 109, § 2, as amended Acts 1929, 41st Leg., 1st C. S., p. 111, ch. 51, § 2.]

Effective 90 days after March 14, 1929, date of adjournment, and 90 days after May 21, 1929, date of adjournment.

Section 4 of Acts 1929, 41st Leg., 1st C. S., p. 111, ch. 51, being a penal provision is published as Pen. Code, art. 205a.

#### Art. 2968. [2953] Exemption certificate in cities

Every person who is exempted by law from the payment of a poll tax, and who is in other respects a qualified voter, who resides in a city of 10,000 inhabitants or more, shall after the 1st day of January after the year when such voter shall have become entitled to such exemption, and before he offers to vote, obtain from the Tax Collector of the county of his or her residence, a certificate showing his or her exemption from the payment of a poll tax.

Such exempt person shall on oath state his name, age, race, county of residence, occupation, the length of time he has resided in said county, and the length of time in the city, and the number of the ward or voting precinct in which he resides, and shall also state his street address by name and number, if numbered. He shall also state the grounds upon which he claims exemption from the payment of a poll tax.

A certificate of exemption from the payment of poll tax shall be issued from a well bound book, containing therein original and duplicate, and upon issue the certificate issued to the exempt voter shall be detached from said book, leaving therein a duplicate carbon or other copy thereof, which shall contain the same description, and the original certificate bearing its proper number, shall be delivered to the citizen in person to identify him in voting. Certificates of exemption for each precinct shall be numbered consecutively, beginning at Number One.

Certificates shall be in substantially the following form:

#### CERTIFICATE OF EXEMPTION FROM THE PAYMENT OF POLL TAX.

The State of Texas, County of \_\_\_\_\_, Precinct No. \_\_\_\_\_ No.

I, \_\_\_\_\_, Tax Collector for said County, of the State of Texas, do hereby certify that \_\_\_\_\_, personally appeared before me on the \_\_\_\_\_ day

of \_\_\_\_\_, A. D. 19\_\_\_\_, and being duly sworn declared his name to be \_\_\_\_\_, that his race is \_\_\_\_\_, that \_\_\_\_\_ he is \_\_\_\_\_ years old, that he has resided in the State of Texas for \_\_\_\_\_ years, in \_\_\_\_\_ County for \_\_\_\_\_ years, and in \_\_\_\_\_, Texas, for \_\_\_\_\_ years; and that he now and has for the past \_\_\_\_\_ years resided in Precinct No. \_\_\_\_\_ in Ward No. \_\_\_\_\_ in said City, and that his street number is No. \_\_\_\_\_ Street; that \_\_\_\_\_ he is exempt from the payment of a poll tax by reason of \_\_\_\_\_; and that he is a qualified voter under the Constitution and laws of the State of Texas, and that such exemption from payment of poll tax is \_\_\_\_\_.

(temporary or permanent, as the case may be)

If this certificate is permanent, it need not be renewed or reissued yearly, but is required to be renewed or reissued in the event of removal from the voting precinct of the residence of the voter in which the same was issued to him.

Given under my hand and seal of office, this the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 19\_\_\_\_.

(Seal)

(Signed) \_\_\_\_\_

Tax Collector, \_\_\_\_\_ County,  
Texas.

If said voter is exempt from the payment of poll tax for any of the reasons stated in Article 2960, Revised Civil Statutes of Texas for 1925, the Tax Collector shall mark such exemption to be a permanent exemption, and thereafter it shall not be necessary or required of the voter, while he has his residence in the county and voting precinct where such certificate was issued to him, for such voter to obtain a yearly certificate of exemption from the payment of poll tax. In the event the exempt voter, holding certificate under this Article, shall remove from one voting precinct to another within the county, where certificate of exemption is required, he shall only be required to present his certificate of exemption to the Tax Collector for endorsement, which endorsement shall show the date of removal, and the date of endorsement, the new address and precinct to which such voter has removed, and be under the seal and signed by the County Tax Collector.

In the event of loss of certificate of exemption the voter may secure a re-issue under his old number, by making affidavit of such loss before the County Tax Collector.

In the event such exempt voter removes from his voting precinct to another voting precinct where certificate of exemption is required, under the law, he shall secure certificate of exemption in the county to which he shall remove, as in cases or original.

In no case where a voter is granted a certificate for under age, shall any type of certificate be issued except temporary. [As amended Acts 1929, 41st Leg., p. 248, ch. 109, § 3, Acts 1929, 41st Leg., 1st C. S., p. 111, ch. 51, § 3, Acts 1930, 41st Leg., 5th C. S., p. 157, ch. 26, § 1.]

Section 4 of Acts 1929, 41st Leg., 1st C. S., p. 111, ch. 51, being a penal provision is published as Pen. Code art. 205a.

#### Art. 2994. [2986] Collector's fees for poll taxes

The tax collector shall be paid fifteen cents for each poll tax receipt and certificate of exemption issued by him to be paid pro rata by the State and county in proportion to the amount of poll tax received by each, which amount shall include his compensation for administering oaths, furnishing lists of qualified voters in election precincts for use in all general and primary elections and primary convention when desired, and for all duties required of him under this title; provided, that collectors in counties having a population in excess of 25,000 as determined by Article 3889, shall receive only ten cents for each poll tax receipt and certificate

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of exemption issued by him. [As amended Acts 1930, 41st Leg., 4th C. S., p. 30, ch. 20, § 1.]

Section 10 of Acts 1930, 41st Leg., 4th C. S., p. 30, ch. 20 repeals Rev. Civ. Sts. 1925, arts. 3900, 3912 and 3894, but excepts from repeal art. 3902d which it makes cumulative thereof, and provides that officers named in arts. 3883, 3883A in counties having a population of twenty-five thousand or less as well as all other counties shall make the report and keep the statement required in

arts. 3896, 3897 and shall be subject to the limitations and requirements of the fee bill.

Section 12 provides that if any provision is held invalid, the same shall not affect the remaining portions.

Section 13 contains an emergency clause and section 14 makes the act effective Jan. 1, 1931.

[Art. 2997a. Providing for voting machines]

**Sec. 1. Providing for Examination and Approval of Voting Machines by the Secretary of State.** Any person, firm or corporation owning or controlling any voting machine and desiring to have the same adopted for use in the State of Texas, may apply to the Secretary of State to have such machine examined. Before the examination the applicant shall pay to the Secretary of State the sum of four hundred fifty (\$450.00) dollars. The Secretary of State shall cause said machine to be examined as hereinafter provided and shall make and file and keep on file in the office of the Secretary of State a report of such examination, which shall show whether the kind of machine so examined can safely be used by the voters at an election or primary election, under the conditions hereinafter provided. If the report states that the machine can be so used, it shall be deemed approved, and machines of its kind may be adopted for use at elections and primary elections as herein provided. Before making and filing such report, the Secretary of State shall require such voting machine to be examined by three examiners to be appointed by the Secretary of State for such purpose, one of whom shall be an expert in patent law, and the other two mechanical experts, and shall require of them a written report on such machine, and which reports shall be attached to the Secretary of State's report and be kept on file. Each examiner shall receive the sum of one hundred and fifty (\$150.00) dollars as his compensation and expenses in making an examination and report as to each voting machine examined by him. Neither the Secretary of State nor any examiner shall have any pecuniary interest in any voting machine. When the machine has been approved, any improvement or change that does not impair its accuracy, efficiency or capacity, shall not make necessary a re-examination or re-approval thereof. Any form of voting machine not approved as herein set out, or which has not been examined by voting machine examiners and reported on pursuant to law and its use specifically authorized by law, cannot be used at any election or primary election in the State of Texas.

**Sec. 2. Setting Out Requirements of Voting Machines.**—A Voting machine approved by the Secretary of State must be so constructed as to provide facilities for voting for such candidates as may be legally placed on a ballot in the State of Texas. It must also permit a voter in a general election to vote for any person for any office, whether or not nominated as a candidate by any party but whose name is legally on the ballots as an independent candidate, and must permit voting in absolute secrecy. It also must be so constructed that a voter cannot vote for a candidate or on a proposition for whom or on which he is not lawfully entitled to vote. It also must be so constructed as to prevent voting for more than one person for the same office and at the same time preventing his voting for the same person twice. It must be provided with a lock or locks, by the use of which immediately after the polls are closed or the operation of such machine for such election or primary is completed, any movement of the voting or registering mechanism is absolutely prevented. Such machine shall be equipped with one or more protective counters.

**Sec. 3. [Adoption by Commissioners' Court.]** The Commissioners' Court of any County in the State of Texas having a population of 150,000

or more, according to the latest Federal Census, may, on or before July 1st, 1930, adopt for use in elections and primary elections, in at least three (3) of the larger voting precincts in voting strength in said County, any kind of voting machine approved by the Secretary of State, and may adopt such voting machines at any time, for use in such additional voting precincts in the County as it may deem advisable; and the Commissioners' Court of any other county may, in its discretion, adopt at any time, such voting machines for said purpose; and thereupon, such voting machines shall be used at any and all elections and primary elections, municipal, county, district or State, held in that County, or any part thereof designated for voting, registering and counting votes cast at such election and primary elections. All school and bond elections also shall be conducted by the use of voting machines in those counties or parts thereof where such machines have been adopted, where the law specifically makes their use obligatory.

**Sec. 4. Experimental Use of Voting Machines.**—The Commissioners' Court of any county in the State of Texas, where not otherwise herein provided, may secure, for experimental use, at an election or primary election, in one or more precincts, without a formal adoption thereof; and its use at such election or primary shall be as valid for all purposes as if it had been formally adopted.

**Sec. 5. Providing Voting Machines, Generally.**—The County Commissioners of a county which has adopted voting machines for that county or any portion thereof, shall as soon as practicable, and in no case later than six months after adoption thereof, provide for each voting precinct designated one or more approved voting machines in complete working order, and shall thereafter preserve and keep them in repair.

**Sec. 6. Payment for Voting Machines.**—The County Commissioners' Court shall provide for the payment of voting machines to be used in such county in such manner as the court may deem for the best interest of the county, but in no case shall ever be called upon to pay more than Eleven Hundred (\$1100.00) Dollars per machine. And for the purpose of paying for voting machines, such Commissioners' Court is hereby authorized to issue bonds, certificates of indebtedness or other obligations, to be used for this purpose and no other, which shall be a charge against the county. Such bonds, certificates of indebtedness or other obligation may be issued with or without interest, payable at such time or times as the Commissioners may determine, but shall never be issued nor sold for less than par. The necessary tax shall be set aside at the time of creating such obligation so as to meet the debt provisions of the Constitution. Such voting machines shall be the property of the County paying for the same and when used in any election or primary election which the county is not charged by law with the holding of, such machines shall be leased to the authorities charged with holding such election or primary election, and payment shall be received by the county, at such lease price as the Commissioners shall fix, but not to exceed ten per cent of the original cost of such voting machines as may be required to hold each election or primary election. Those charged with the holding of such election or municipality [municipality], a political party or any other organization or authority.

**Sec. 7. Absentee Voting.**—In counties in which voting machines are used, a voting machine shall be placed in the County Clerk's office and those entitled under the law shall cast their vote on such machine, under the laws not applicable to absentee voting, except that the machine shall be sealed at the close of the day's voting in the presence of authorized watchers of all persons interested, and such seal shall be broken in the presence of such authorized persons the following morning when voting shall begin. When absentee voting is legally concluded for that election or primary election, such voting machine shall be locked and sealed in



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the manner prescribed for other precincts, to be kept intact until election or primary election day, when, at 7 P. M. on such election or primary election day, the machine shall be opened and the vote canvassed by the County Clerk, the County Judge and the County Treasurer, in the presence of authorized watchers for all persons interested, and the result declared in the same manner as for other voting precincts.

**Sec. 8. Form of Ballots on Voting Machines.**—All ballots shall be printed in black ink on white, clear material, of such size as will fit the ballot frame, and in as plain, clear type as the space will reasonably permit. In general elections, the party name and a designating letter and number shall be affixed to the name of each candidate, and the name of all candidates of one political party shall be so arranged that a voter may be able to cast his ballot for such candidates as he may desire or to cast one ballot for all the candidates of that political party. In primary election, however, the ballot shall be so arranged and the levers so locked as to prevent the voting of straight tickets, and should there be so many candidates file in a primary election as to exceed the capacity of one machine, more than one such machine shall be provided for each voting precinct, but in all cases where more than one machine is used in a voting precinct, the names of all candidates for any particular office shall be placed on one machine. Where the lease price has been paid; however, for use of voting machine in a primary election, no charge shall be levied for a second or run-off primary.

**Sec. 9. Sample Ballots.**—The authorities charged with holding the election or primary election shall provide for each precinct two sample ballots and one model arranged in the form of a diagram showing such part of the face of the voting machine as shall be in use in that election or primary election. Such sample ballots and model shall be on display in each precinct voting place throughout the time the polls are open and attention shall be especially called to them before each voter uses machine.

**Sec. 10. Preparation of Voting Machines.**—It shall be the duty of the County Clerk of each County where voting machines are used, to cause the proper ballot labels to be placed on voting machines, to cause the machines to be placed in proper order for voting, to examine all voting machines in the presence of authorized watchers for any interested persons, before they are sent out to the polling places, to see that all the registering counters are set at zero (000), to lock, in the presence of authorized watchers, all voting machines so that the counting machinery cannot be operated and to seal each one with a numbered seal, a list of which numbered seals and the number on the protective counters, together with the number of the precinct to which it was sent, shall be kept as a permanent record open to any citizen, in the records of the County Clerk. Such inspection and sealing of voting machines shall begin at 9 A. M. of the day before any election or primary election at which such machines are to be used, and continue until all such machines are sealed. When all machines are locked and sealed, the key to each machine shall be placed in an envelope and sealed, the signature of the County Clerk and the signatures of two watchers of opposed interest (if there be such) placed across the seal, and on the envelope shall be written the number then on the protective counter and the number on the seal of the voting machine, such envelope to be delivered to the presiding officer of each precinct.

It shall be the duty of the sheriff in an election which the county is charged with the expense of, the duty of the County Chairman in the primary election, the duty of the Mayor in a city election, the duty of the president of a school board in a school election, and the duty of the authority holding such election or primary election of any character, to have delivered a voting machine or machines, to each and every polling place where same is required by law to be used, at least one hour before the time set for the opening of the polls in such voting precinct. After

the machine has been delivered, the same authority shall cause such machine to be set up in the proper manner and cause protection to be given so such machine shall be free from molestation and injury. The same authority shall cause to be delivered with each such machine a lantern properly prepared to be lighted in emergency, so arranged that the light from such lantern will illuminate the face of the machine sufficiently that a voter may be able to read all the names on such machine, and suitable for officers in examining counters. The protective hood and screen of the machine shall be examined to see that they conceal the actions of the voter properly, while such voter is operating the machine. All poll lists and necessary supplies shall be delivered to the presiding officer at the same time the key or keys to the machine are delivered.

**Sec. 11. Instruction of Election Officers.**—Not less than three days before an election or primary election, the authority charged with holding the same, shall cause to be held a public school of instruction for those who will actually conduct the election or primary election at the polling places, such school to be open to any interested person and notice of such meeting being given to the public press at least 48 hours before same is to be held.

**Sec. 12. Preliminaries of Opening the Polls.**—The key or keys to the voting machine or machines shall be delivered to the presiding officer of each precinct at least thirty minutes before time for the opening of the polls, the seal of the envelope containing the same to be unbroken, and the seal shall be broken by the presiding officer only in the presence of at least two authorized watchers for opposing interests (if there be such), and shall only be broken after comparison shows that the number written on the envelope and the number shown in the protective counter are identical. If these numbers are found not to be the same the seal shall not be broken until the County Clerk or his representative shall arrive and deliver the correct keys or until another and properly sealed machine is delivered. If the numbers written on the envelope and the numbers on the sale of the machine are not identical then the envelope shall not be opened and the same procedure as above set out shall govern. But if the numbers written on the envelope and the respective numbers on the seal and on the protective counter are found to be the same, the presiding officer shall open the doors concealing the counters, and before the polls are declared open, the election officials and each authorized watcher for any person interested shall carefully examine each and every counter and see that it registers zero (000). All of those last enumerated then shall examine the ballots and satisfy themselves they are in their proper places on the machine. The election officials shall cause to be conspicuously placed the sample ballots and model for the guidance of the voters. All the persons authorized to be in the polls shall satisfy themselves that the voting machine is properly placed, being at least three feet from any wall or partition or any other obstruction and that the face of the machine is turned toward where the election officials and the public may obtain a clear and unobstructed view of the same at all times, except when the curtain on the machine is closed for the casting of the ballot. The election officials and at least two watchers of opposing interests (if there be such) shall then sign a certificate setting out that the keys were delivered intact, that the numbers on the protective counter and the seal correspond with that on the envelope, that all the counters were set at zero (000) and that the ballot labels were in their proper places. If any counter, however, shall be found not to register zero (000), the presiding officer shall write out a statement to that effect and keep the same prominently posted throughout the day showing the number that counter was found to register, and in filling out the statement of canvass, he shall subtract such number from the number found to register on that counter when the polls close. The machine shall then be opened for voting and the polls formally declared on.

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**Sec. 13. General Provisions.**—The presiding officer shall be in general charge of the poll and shall see that the clerk of the election properly checks off the name of each voter from the poll list before such voter casts his ballot, that the poll tax certificate or exemption certificate of the voter is stamped voted with the date of the particular election or primary election with the rubber stamp provided under the law or writes "voted" with the date with pen and ink if no rubber stamp be provided, the third election official, besides the presiding officer and the clerk, shall be a mechanical expert and his duty shall be to see that the voting machine is not tampered with and shall attend the machine at all times. He shall inspect the ballot labels after each voter leaves the machine to see that none have been tampered with and to see that the machine has not been injured. He shall see that the coverings of the counter compartments of the machine are never unlocked or opened so the counters are exposed during voting except for good and sufficient reasons, a statement of which shall be made and signed by all authorized persons in the polls and attached to the returns.

**Sec. 14. Instructions and Assistance for voters in the polls.**—In addition to the sample ballots and model hereinbefore mentioned, which shall be prominently displayed and the particular attention of each voter there-to called by the presiding officer, if any voter after entering the machine, but before the curtains thereof are closed, shall desire further instructions, two watchers of opposing interests (if there be such) under the direction of the presiding officer shall give such instruction without asking, persuading or otherwise trying to induce such voter to vote for or against any ticket, candidate, amendment, question or proposition. Finishing instructions, the three shall retire, whereupon such voter shall close the curtain and vote as in the case of an unassisted voter.

**Sec. 15. Manner of Voting.**—But one voter shall be admitted at a time and after ascertaining if such vote be on the poll list and the certificate marked voted such voter shall proceed to the machine, and no voter shall be permitted to keep the curtain of the machine closed longer than two (2) minutes.

**Sec. 16. Voting for Person Whose Name Does Not Appear on the Ballot.**—Ballots voted for any person whose name does not appear on the ballot shall be designated "irregular" ballots, but such ballots shall be valid and shall be counted as though they had been voted on the voting machine. Should a voter desire to vote for some person for an office whose name does not appear on the ballot, such person shall write the name of the person for whom he desires to vote on the roll of paper provided and designated for such purpose and such ballot shall be counted and included in the canvass officially made from that precinct, but no irregular ballot shall be cast or counted for any person whose name shall appear on the voting machine.

**Sec. 17. Unofficial Ballots, Repair and Substitution of Machines.**—Should the official ballots for any precinct where voting machines are to be used be not delivered at the time required, or if after delivery shall be lost, destroyed or stolen, the County Clerk or the presiding officer of that precinct shall cause other ballots to be prepared, printed or written, as nearly in the form of the official ballots as practicable, and shall cause the ballots so substituted to be used in the same manner, as near as may be, as the official ballots. Such ballots shall be known as unofficial ballots, and a certificate setting out the circumstances of the use shall be made out by the presiding officer and signed by such officer together with every person legally serving in such poll, such certificate to be attached to the [the] canvass from that precinct. Should any voting machine become out of order while being used, it shall, if possible, be repaired; or another machine substituted in its place as promptly as possible.

**Sec. 18. Canvass of the Vote and the Proclamation of the Result.—**

As soon as the polls are closed officials thereat shall immediately lock the machine against voting. They then shall sign a certificate stating that the machine was locked and sealed, giving the exact time; such certificate giving the number of voters shown on the public counters, which shall be the total number of votes cast on such machine in that precinct; the number on the seal; the number registered on the protective counter. (This also shall be the procedure at the close of absentees voting.) They then shall open the counting compartment in the presence of the watchers, and at least one representative of any newspaper or press association which cares to be represented, giving full view of all the counter numbers. The presiding officer shall under the scrutiny of the watchers, in the order of the offices as their titles are arranged on the machine, read and announce in distinct tones the designating number and letter on each counter for each candidate's name, the result as shown by the counter numbers, and shall then read the votes recorded for each office on the irregular ballots. He shall also in the same manner announce the result on each Constitutional amendment, bond proposition or any other question voted on. The vote as registered shall be entered on the statements of canvass in ink by two watchers of opposing interest (if there be such) and verified by the three election officials, such entries to be made in the same order on the space which has the same designating number and letter, after which the figures shall again be verified by being called off in the same manner from the counters of the machines by watchers of opposed interest (if such there be). The returns of the canvass as required by law shall then be filled out, verified, and shall show the number of votes cast for each, candidate, the number of votes cast for and against any proposition submitted, and shall be signed by the three election officials and at least two watchers of opposed interests (if such there be).

The counter compartments of the voting machine shall remain open throughout the time of the making of all statements and certificates and the official returns and until such have been fully verified, and during such time any candidate or his representative or any representative of any newspaper or press association shall be admitted. The proclamation of the result of the votes cast shall be deliberately announced in a distinct voice by the presiding officer, who shall read the names of each candidate, with the designating number and letter of his counter, and the vote registered on such counter; also the vote cast for and against each proposition submitted. During such proclamation ample opportunity shall be given to any person lawfully entitled to be in the polls to compare the results announced with the counter dials of the machine and any necessary corrections shall then and there be made, after which the doors of the voting machine shall be locked and sealed with the seal provided, so sealing the operating lever of the machine that the voting and counting mechanism will be prevented from operation. Irregular ballots, properly sealed, and signed shall be filed with the original statement of canvass, which canvass shall be delivered in the same manner and to the same authorities as now provided by law. The presiding officer shall deliver to the County Clerk the keys of the machine enclosed in a sealed envelope across [across] the seal of which shall be written his own name together with that of at least two watchers of opposed interest (if such there be) or the two other election officials, and on this envelope shall be recorded the date of the election or primary election, the number of the precinct, the number of the seal with which the machine was sealed, the number of the public counter and the number of the protective counter.

**Sec. 19. Statements of Canvass.—**The authority charged with the holding of an election or primary election where voting machines shall be used, shall cause to be prepared a statement of canvass of a form to be approved by the Secretary of State, in the necessary number as now required by

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law, such statement of canvass to conform with the type of voting machine to be used, and the designating number and letter of each candidate (or proposition) shall be printed next to the candidate's name on the statement of canvass.

**Sec. 20. Preservation of Ballots and Records of Voting Machines.**—The voting machine shall remain locked against voting for a period of thirty days and then shall have the seal broken only on the order of a district judge having jurisdiction in that county, such order to be entered on the minutes of the district court of that county, and if in the opinion of such district judge contest is likely to develop, shall remain locked for such time as the district judge may direct. Except, that on the order of any court of competent jurisdiction or on the order of any legislative body the seal may be broken for the purposes of proper investigation and when such investigation is completed the machine shall again be sealed and across the envelope containing the keys shall be written the signature of the person or persons having broken same. Irregular ballots shall be preserved in the same manner and for the same length of time as now provided by law for other ballots.

**Sec. 21. Custody of Voting Machines and the Keys Thereof.**—The County Commissioners of a county in which voting machines are used shall have general custody and care and repair of such machines, but the County Clerk is charged with the care and custody of the keys and seals for the same. The same authority that caused the delivery of the voting machines shall be charged with the transporting such machines back into the custody of the County Commissioners and shall furnish all necessary protection to see that such machines are not molested nor injured from the time such machines leave the place where they are regularly stored until they are turned into the custody of the officials of a precinct and from the time that custody ceases on the part of the precinct officials and the machines are returned to the place of regular storage.

**Sec. 22. Provisions for Recanvass of Vote.**—The same authority as now charged by law may apply to a district judge for an order to break the seals of a voting machine for the purpose of recanvassing the vote should same become necessary, whereupon all the other articles in the Revised Civil Statutes of Texas, 1925, shall be followed in making such recanvass and the machines shall be re-sealed as herein provided. However, nothing herein or elsewhere contained shall authorize any change in the official[s] returns of any canvass where at least two watchers of opposed interests have signed the same.

**Sec. 23. Application of other Laws.**—The provisions of all other laws relating to the conduct of elections or primary elections, shall, so far as practicable, apply to the conduct of elections and primary elections where voting machines are used, unless herein otherwise provided.

**Sec. 24. Representation.**—The authorities charged with holding an election or primary election are directed wherever possible, in the naming of election officers, to name for each precinct a presiding officer and a clerk for such precinct, of opposed interest in that election, or primary election, the third official, who should be a mechanical expert, being wherever possible non-partisan. But each political party concerned in an election is entitled to name one watcher for each voting precinct where voting machines are used, said watcher to be recognized by the presiding officer of that precinct upon the presentation of a certificate signed by the county chairman of that political party, and any candidate for a State office, the State Senate, any candidate for Representative in the House of the Legislature of Texas, or any candidate for District Judge, or any one-fifth of the candidates for county offices, or any one-fifth of the candidates for precinct offices; or any candidate for mayor, or any candidate for city commissioner in municipalities, or any three candidates in a school election, or the proponents or the opponents of a bond issue, may name one

watcher for each precinct in an election or primary election for each precinct where voting machines are used. Any candidate for the United States Senate or Representative in the House of the United States Congress may name one watcher for each election precinct where a voting machine is used. The candidate desiring representation by a watcher shall sign a certificate setting out the name of the person, the number of the precinct where such watcher is to serve, such certificate to bear the signature of the candidate or candidates entitled to representation, together with the signature of the bearer. The presiding officer of the election must require a counter signature and preserve the certificate of the bearer to make certain he is the identical person referred [referred] to in the certificate, but cannot for any other reason refuse to permit such watcher to serve. For their services election officials and employees shall be paid a sum to be set by the authority charged with holding the election or primary election, but not less than the amount set now by law and not more than ten (\$10) dollars per day. Watchers, a necessary adjunct to an election with voting machines, may be paid by the interest they represent, but not to exceed [ten] (\$10) dollars per day.

**Sec. 25. Definitions.**—The list of candidates and offices used or to be used on the front of the voting machine shall be deemed official ballots for the purpose of precincts using machines.

The provisions of this Act shall apply only in counters in which said voting machine is adopted.

The word "ballot" as used herein (except when referring to irregular or unofficial ballots) means that portion of the cardboard or other material within the ballot frames containing the name of the candidate and the office or a statement of a constitutional amendment, bond issue or other proposition with the words "yes" or "no" for voting for or against.

The term "protective counter" means a separate counter built into the machine which cannot be reset, and which records the total number of movements of the operating lever.

The term "public counter" means a device in full view of the election officials while the voter is voting which records only the number of votes cast on the machine.

The term "watcher" is similar to supervisor in meaning, but an official of the election in this act. [Acts 1930, 41st Leg., 4th C. S., p. 60, ch. 33.]

#### Art. 3039a. [Special election to Legislature]

That whenever there shall be held a special election in any representative or senatorial district in this State for the election of any member of the Legislature, during the session of any Legislature, or within a period of 30 days prior to the convening of any session of the Legislature, it shall be the duty of the County Commissioners of each county in such district to meet within two days after such election is held, and canvass the returns thereof, and to immediately certify such returns to the proper returning County Judge, and such County Judge shall immediately thereafter open and count such returns in the same manner as is now provided in such Chapter 8; such judge shall immediately issue a certificate, as is now provided by law and immediately forward same to the Secretary of State. [Acts 1929, 41st Leg., p. 7, ch. 3, § 1.]

#### Art. 3079. [3176-7] Time of election

On the Tuesday after the first Monday in November, A. D. 1932, and on the Tuesday next after the first Monday in November, every four years thereafter, or at such other times as the Congress of the United States may direct, there shall be elected by the voters of the State, as many electors for President and Vice-President of the United States as the State of Texas may at that time be entitled to elect, no one of whom shall be a person holding the office of Senator or Representative in Congress, or any

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office of trust or profit under the United States. [As amended Acts 1931, 42nd Leg., p. 314, ch. 186, § 1.]

[Art. 3079A. Count of vote for candidates of Political Party for both President and Vice President]

A vote for the candidates of any Political Party for both President and Vice-President of the United States shall be conclusively deemed to be a vote for candidates of the same party for Presidential electors, and shall be so counted and recorded for such electors as the State shall be empowered to elect. [Acts 1931, 42nd Leg., p. 314, ch. 186, § 1.]

[Art. 3079B. Canvass and returns of votes for candidates for President and Vice President]

The canvass of the votes for candidates for President and Vice-President of the United States and the returns thereof shall be a canvass and return of the votes cast for the electors of the same party, respectively, and the certificate of such election made by the Governor shall be in accord with such return. [Acts 1931, 42nd Leg., p. 314, ch. 186, § 1.]

[Art. 3079C. Certification of names of candidates for President and Vice President]

The names of the candidates for President and Vice-President, respectively, of a Political Party as defined in the Law, shall, at least twenty days prior to the election, be certified to the Secretary of State by the chairman and secretary of the State Committee of said Party. [Acts 1931, 42nd Leg., p. 314, ch. 186, § 1.]

Art. 3108. [3094] Expenses of primary

At the meeting of the county executive committee provided in Article 3117, the county committee shall also carefully estimate the cost of printing the official ballots, renting polling places where same may be found necessary, providing and distributing all necessary poll books, blank stationery and voting booths required, compensation of election officers and clerks and messengers, to report the result in each precinct to the county chairman, as provided for herein, and all other necessary expenses of holding such primaries in such counties and shall apportion such cost among the various candidates for nomination for county and precinct offices only as herein defined, and offices to be filled by the voters of such county, or precinct only, (candidates for State offices excepted), in such manner as in their judgment is just and equitable, giving due consideration to the importance and emoluments of each such office for which a nomination is to be made, and shall, by resolution, direct the chairman to immediately mail to each person whose name has been requested to be placed on the official ballot a statement of the amount of such expenses so apportioned to him, with the request that he pay the same to the county chairman on or before the Saturday before the fourth Monday in June thereafter. [As amended Acts 1931, 42nd Leg., p. 180, ch. 105, § 2.]

Art. 3115. [3103] Primary committee

Subject to the approval of the committee, the County Chairman shall appoint a subcommittee of five (5) members to be known as the primary committee, of which he shall be ex-officio chairman. This subcommittee shall meet on the 4th Monday in June and make up the official ballot for such general primary in such county, in accordance with the certificates of the State and District Chairman and the request filed with the County Chairman, and place the name of the candidates for nomination for State, district, county and precinct officers thereon in the order determined by the county executive committee as herein provided. [As amended Acts 1931, 42nd Leg., p. 180, ch. 105, § 2.]

**Art. 3124. [3122] Returns of election**

All returns of precinct primary elections, properly signed and certified as correct by the judges and clerks thereof, showing the vote cast for each candidate, shall be sealed and immediately delivered, after such primary election, to the Chairman of the county executive committee of the party. Such party chairman shall securely keep same and shall neither open nor permit the same to be opened, but shall give notice to the members of the county executive committee to assemble at the county seat of the county on the first Saturday after any primary election; and said returns shall then be opened under the direction and in the presence of such executive committee and canvassed by them. [As amended Acts 1929, 41st Leg., p. 570, ch. 275, § 1.]

Section 2 of said Acts 1929, 41st Leg., p. 570, ch. 275, being a penal provision is published as Pen. Code, art. 246a.

**Art. 3152. [3154 to 3157] By district court**

In State, District, County, Precinct, or Municipal Offices, the certificate of nomination issued by the President or Chairman of the Nominating Convention or Chairman of the County Executive Committee, shall be subject to review, upon allegations of fraud or illegality, by the District Court of the county in which the contestee resides, or the Judge of said Court in vacation; provided, that such allegations are filed in said Court within ten (10) days after the issuance of said certificate; and when said allegations are so filed, or the appeal from the decision of the executive committee is perfected, the Judge of the District Court shall set same down for hearing, either in term time or vacation, at the earliest practical time; and a copy of said grounds of contest, together with the notice of the date set for hearing, shall be prepared and issued by the District Clerk and be served upon the contestee five (5) days before the hearing said Court or Judge, and the parties to said contest shall have the right to summon witnesses. The said Court or Judge shall determine said contest at the earliest time practical. A certified copy of the judgment of said Court or Judge shall be transmitted by the Clerk thereof to the Officers charged with the duty of providing the official ballot, and the name of the candidate in whose favor said judgment shall be rendered shall be printed in the official ballot for the general election. [As amended Acts 1931, 42nd Leg., p. 395, ch. 241, § 1.]

**Art. 3153. [3158] Appeal from district court**

In all contests as provided by the provision of the preceding Article had before the District Court, exercising either its original or appellate jurisdiction, either party may appeal to the Court of Civil Appeals. Such appeal shall be perfected forthwith and shall be advanced on the docket of said Appellate Court and have precedence of all other cases. [As amended Acts 1931, 42nd Leg., p. 395, ch. 241, § 2.]

**TITLE 51—ELEEMOSYNARY INSTITUTIONS****[Art. 3183a. Oil and gas lands of State Eleemosynary Institutions and Parks]**

Sec. 1. A Board is hereby created to consist of the Commissioner of the General Land Office, the Attorney General, and the Chairman of the Board of Control, who shall perform the duties hereinafter indicated; the Board shall be known as the "Board for Lease of Eleemosynary and State Memorial Lands." The term "Board" wherever it appears hereafter in this Act shall mean the Board for Lease of Eleemosynary and State Memorial Park Lands. This Board shall keep a complete record in writing of all its proceedings.



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Sec. 2. All lands or any parcel of same now owned, or that may be owned and held by the State as State Eleemosynary and State Memorial Park Lands may be leased by the Board to any person, or persons, firm, or corporation, subject to, and as provided for in this Act, for the purpose of leasing for agricultural purposes or for prospecting, or exploring for and mining, producing, storing, caring for, transporting, preserving, and disposing of the oil and/or gas therein belonging to the State.

Sec. 3. The Board is hereby authorized to cause the State Eleemosynary and State Memorial Park lands to be surveyed and subdivided into such lots or blocks as will be conducive or convenient to facilitate the advantageous sale of oil and/or gas leases thereon, and identify such lots and blocks by permanent markings on the ground, and to make such maps and plats as may be thought necessary to carry out the purposes of this Act. The Board shall forthwith obtain authentic abstracts of title to all Eleemosynary and State Park lands, and cause same to be examined by the Attorney General, who shall file written opinions thereon, and said Board shall take such steps as may be necessary to perfect a merchantable title [title] to such lands in the State of Texas. Such Abstracts of Title and the Attorney General's opinion thereon shall be held on file in the General Land Office as public documents for the inspection of any prospective purchaser of oil and gas leases on said lands.

Sec. 4. Wherever, in the opinion of the Board, there shall be such a demand for the purchase of oil and/or gas leases on any lot or tract of said land as will reasonably insure an advantageous sale, the Board shall place such oil and gas in said land on the market in such blocks or lots as the Board may designate. It shall cause to be advertised a brief description of the land from which the oil and gas is proposed to be sold, and that sealed bids for the purchase of said oil and/or gas by lease will be opened at a designated day, at ten o'clock A. M. that day, and that sealed bids received up to that time will be considered. Said advertisements shall be made:

(a) In addition the Board may in its discretion, cause said advertisement to be placed in oil and gas journals in and out of the State to be mailed generally to such persons as they think might be interested.

Sec. 5. All bids shall be directed to the said Board in care of the General Land Office of the State of Texas, and shall be retained by the Commissioner of the General Land Office until the day designated for the opening of bids, and upon that day the said Board, or a majority of its members, shall open said bids and shall list and file and register all bids and money received. A separate bid shall be made for each whole survey or subdivision thereof. No bid shall be accepted which offers a royalty of less than one-eighth of the gross production of oil and/or gas in the land bid upon, and this minimum royalty may be increased at the discretion of the Board, all members concurring, before the promulgation of the advertisement of the land. Every bid shall carry the obligation to pay an amount not less than \$1.00 per acre for delay in drilling, such amount to be fixed by the Board in advance of the advertisement, and which shall be paid every year for five years, unless in the meantime production in paying quantities is had upon the land.

Sec. 6. Every bid shall be accompanied by a payment equal to the minimum price fixed on the land per acre for the delay in drilling if the bid is accepted. The bid shall further indicate the royalty the bidder is willing to pay, which royalty shall not be less than one-eighth of the gross production. The bid shall further name such amount as the bidder may be willing to pay in addition to the royalty and in the annual payment herein provided for, and shall be accompanied by cash or checks collectable in Austin to cover said amounts.

Sec. 7. If any one of the bidders shall have offered a reasonable and proper price therefor, and less than the price fixed by the Board, the lands

advertised, or any whole survey or subdivision thereof, may be leased for oil and/or gas purposes under the terms of this Act, and such regulations as the Board may prescribe, not inconsistent with the provisions of this Act. If after any bidding by sealed bids the Board should reject all bids, as it is hereby authorized to do, it may thereafter offer for sale and sell the oil and/or gas in said lands, in separate whole surveys only or subdivisions thereof, by open public auction at a price less than the price offered by the sealed bids. All bids may be rejected. In the event of no sale at public auction, any subsequent procedure for the sale of said oil and gas leases shall be in the manner above provided. Provided, that no lease for oil or gas shall be made by said Board which will permit the drilling for oil or gas within 1,000 feet of any building where patients are confined.

Sec. 8. If the Board shall determine that a satisfactory bid has been received for said oil and gas, it shall be filed in the General Land Office. Whenever the royalties shall amount to as much as the yearly payment as fixed by the Board, the yearly payment may be discontinued. If before the expiration of three years oil and/or gas shall not have been produced in paying quantities, the lease shall terminate.

Sec. 9. If during the term of any lease issued under the provisions of this Act the lessee shall be engaged in actual drilling operations for the discovery of oil and/or gas on land covered by any such lease, no rentals shall be payable as to the tract on which such operations are being conducted so long as such operations are proceeding in good faith; and in the event oil or gas is discovered in paying quantities on any tract of land covered by any such lease, then the lease as to such tract shall remain in force so long as oil or gas is produced in paying quantities from such tract. In the event of the discovery of oil and/or gas on any tract covered by a lease issued hereunder or on any land adjoining same, the lessee shall conduct such operations as may be necessary to prevent drainage from the tract covered by such lease to properly develop the same. Failure to comply with the obligations provided by this section shall subject the holder of the lease to penalties provided in Sections 12 and 13 of this Act.

Sec. 10. Title to all rights purchased may be held by the owners so long as the area produces oil and gas in paying quantities. All rights purchased may be assigned in quantities of not less than forty acres, unless there be less than forty acres remaining in any survey, in which case such lesser area may be so assigned. All assignments shall be filed in the General Land Office within one hundred days after the date of the first acknowledgment thereof, accompanied by ten cents per acre for each acre assigned, and if not so filed and payment made, the assignment shall be ineffective. All rights to any whole survey and to any assigned portion thereof may be relinquished to the State at any time by having an instrument of relinquishment recorded in the county or counties in which the area may be situated, and filed in the Land Office accompanied with one dollar for each area assigned, but such assignment shall not relieve the owner of any past due obligations theretofore accrued thereon. The Board shall authorize the laying of pipe line, telephone line, and the opening of such roads over the Eleemosynary and State Park Lands as may be deemed reasonably necessary for and incident to the purposes of this Act.

Sec. 11. Royalty as stipulated in the sale shall be paid to the General Land Office at Austin, Texas, for the benefit of the Special Building Fund of the Eleemosynary Institutions on or before the 20th day of each succeeding month for the preceding month during the life of the rights purchased, and it shall be accompanied by the sworn statement of the owner, manager or other authorized agent showing the gross amount of oil produced and saved since the last report and the amount of gas produced and sold off the premises and the market value of the oil and gas, together with a copy of all daily gauges of tanks, gas meter readings, pipe line receipts, gas line receipts, and other checks and memoranda of the amounts produced

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and put into pipe lines, tanks or pools and gas lines or gas storage. The books and accounts, receipts and discharges of all wells, tanks, pools, meters, pipe lines, and all contracts and other records pertaining to the production, transportation, sale and marketing of the oil and/or gas shall at all times be subject to inspection and examination by the Commissioner of the General Land Office, the Attorney General, or any member of the State Board of Control.

Sec. 12. In every case where the area in which oil and/or gas sold shall be contiguous or adjacent to land not eleemosynary and State Park Land, the acceptance of the bid and the sale made thereof to adequately protect the land leased from drainage from adjacent lands. In cases where the area in which the oil and/or gas is sold, as a lesser royalty, the owner shall likewise protect the State from drainage from the land so leased or sold for lesser royalty. Upon failure to protect the land from drainage as herein provided the sale and all rights thereunder may be forfeited by the Board in the manner elsewhere provided herein for forfeitures.

Sec. 13. If the owner of the rights acquired under this Act shall fail or refuse to make the payment of any sum due thereon, either as rental or royalty on the production, within thirty days after same shall become due, or if such owner or his authorized agent should make any false return or false report concerning production, royalty or drilling, or if such owner shall fail or refuse to drill any offset well or wells in good faith, as required by his lease, or if such owner or his agent should refuse the proper authority to access to the records and other data pertaining to the operations under this Act, or if such owner, or his authorized agent, should fail or refuse to give correct information to the proper authorities, or fail or refuse to furnish the log of any well within thirty days after production is found in paying quantities, or if any of the material terms of the lease should be violated, such lease shall be subject to forfeiture by the Board by an order entered upon the minutes of the Board reciting the facts constituting the default, and declaring the forfeiture. The Board may, if it so desires, have suit instituted for forfeiture through the Attorney General of the State. Upon proper showing by the forfeiting owner, within thirty days after the declaration of forfeiture, the lease may, at the discretion of the Board and upon such terms as it may prescribe, be reinstated. In case of violation by the owner of the lease contract, the remedy of the State by forfeiture shall not be the exclusive remedy but suit for damages or specific performance, or both, may be instituted. The State shall have a first lien upon all oil and/or gas produced upon the leased area, and upon all rigs, tanks, pipe lines, telephone lines, and machinery and appliances used in the production and handling of oil and gas produced thereon, to secure any amount due from the owner of the said lease.

Sec. 14. All surveys, files, records, copies of sale and lease contracts and all other records pertaining to the sales and leases hereby authorized shall be filed in the General Land Office and constitute archives thereof. Payment hereunder shall be made to the Commissioner of the General Land Office at Austin, Texas, who shall transmit to the State Treasurer all royalty for deposit to the credit of the General Revenue Fund, and all rentals for delay in drilling and all other payments, including all filing assignments and relinquishment fees hereunder to the credit of the General Revenue Fund.

Sec. 15. The expenses of executing the provisions of this Act shall be paid monthly by warrants drawn by the Comptroller on the State Treasurer, and for that purpose the sum of Two Thousand (\$2,000.00) Dollars, or as much thereof as may be necessary is hereby appropriated out of any money in the Treasury not otherwise appropriated until September 1, 1930.

Sec. 16. If any provision hereof should be held unconstitutional, the balance of the Act shall not be affected thereby.

Sec. 17. The Board shall adopt proper forms and regulations, rules and contracts as will in its best judgment protect the income from lands leased hereunder. A majority of the Board shall have power to act in all cases, except where otherwise herein provided. The Board may reject any and all bids and shall have the further right to withdraw any lands advertised for lease prior to receiving and opening bids. Any and all or parts of laws in conflict with this Act are hereby repealed.

Sec. 17a. The said board herein created shall have no right, power or authority to lease for any purpose any of the land composing the San Jacinto Battlefield lands or any other lands where battles were fought for Texas Independence and Washington Park on the Brazos, and it is hereby expressly forbidden from leasing same. [Acts 1930, 41st Leg., 4th C. S., p. 55, ch. 32.]

[Art. 3183b. Eminent domain exercised by charitable and eleemosynary corporations]

That any Charitable or Eleemosynary Institution incorporated under the laws of the State of Texas, shall have the right of eminent domain and condemnation within the confines of any corporated city in this State having more than 43,000 inhabitants according to the United States Census of 1920, which city is in a county having a population of less than 100,000 inhabitants according to said Census; such Charitable or Eleemosynary Corporation shall have the right to eminent domain with all rights and powers as fully as are conferred by Law upon steam railway corporations, which power of eminent domain shall be exercised in accordance with the provisions of Title 52, Revised Statutes of Texas of 1925. [Acts 1931, 42nd Leg., Spec. L., p. 132, ch. 52, § 1.]

[Art. 3186a. Insane convicts; trial as to insanity by County Judge of Walker County]

Sec. 1. When any prisoner confined in the State Penitentiary becomes insane, he shall be treated by the prison physician at Huntsville and shall be observed by said physician and the Warden of the Penitentiary; and when, in the judgment of said physician or Warden, such convict is insane and should be transferred to one of the State Hospitals for treatment of the insane, then either said prison physician or said warden shall go before the County Judge of Walker County, Texas, and make affidavit to said fact, and the County Judge shall forthwith proceed to try said convict in the same manner as other persons and under the same rules of procedure as apply to the trial of citizens who become insane. Upon trial, if said convict is found to be insane, the County Judge before whom he is tried shall issue his warrant for transfer of said convict to one of the State Hospitals for the treatment of the insane or other place provided hereafter by law, provided the provision of this law shall not apply to prisoners under sentence of death and confined within the State Penitentiary.

Sec. 2. When a State Convict, located on any of the prison farms, becomes insane, he shall immediately be transferred to the main prison at Huntsville for observation and treatment.

Sec. 3. The County Judge and Officers trying said convict shall receive the same fees as allowed by law for the trial of such cases in the County Court; but all costs and expenses incident thereto including Court costs and fees, and the costs of providing the necessary clothing for the admission of said convict to a State Hospital for the treatment of the insane, together with the expense of transferring said prisoner to such an institution shall be paid by the manager of the Prison System out of funds allowed for management and operation of the Prison System.

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Sec. 4. The headquarters and main offices of the Texas Prison System, being located at Huntsville, in Walker County, that County is given exclusive venue in the trial of insane convicts who are inmates of the Texas Prison System. [Acts 1931, 42nd Leg., p. 25, ch. 21.]

[Art. 3192a. Dallas State Hospital created; consolidation of hospitals]

That the Dallas State Hospital is hereby created, to be composed of the Dallas Psychopathic Hospital as defined in Chapter 2, Article 3192, Revised Civil Statutes, 1925, and the State Cancer and Pellagra Hospital as defined in Chapter 185 of the General and Special Laws of the 41st Legislature, Regular Session, 1929, provided there shall be only one Superintendent for said consolidated hospitals. [Acts 1931, 42nd Leg., p. 70, ch. 47, § 1.]

Art. 3202—a. Price for care

The Board of Control, directly or through an authorized agent or agents, may make contracts fixing the price for the support, maintenance and treatment of children maintained, supported and treated, in the State Orphans Home, the State Home for Dependent and Neglected Children, the Texas School for the Deaf, the Texas School for the Blind, Austin State School, and the Deaf, Dumb and Blind Institute for Colored Youth, at a sum fixed by the State Board of Control, not to exceed the actual cost of supporting such child, or for such part thereof as the estate of said child or as any person legally liable for such child's support may be able to pay or agree to pay, and binding the persons making such contracts to payment thereunder. The costs of educating such children however shall not be included in arriving at such costs. Such payments by guardians shall be in accordance with the legal method controlling expenditures by guardians. The Board of Control is authorized to demand investigation to determine whether or not a child is possessed of or entitled to property and whether or not some other person is legally liable for his support and to pay therefor. The County Judge of the county from which the child is received into such institution or the county having jurisdiction over the estate of such child, may from time to time, upon the request of the State Board of Control, cite the guardian of such child, or other persons legally liable for his support, to appear at some regular term of the County Court having jurisdiction of such matter, then and there to show cause why the State should not be paid or have judgment for the amount due it for the support and maintenance of such child; or such guardian or other persons legally liable for the support of such child may be cited to appear at some regular term of the District Court having jurisdiction of such matter, then and there to show cause why the State should not have judgment for the amount due it for the support and maintenance of such child; and, if sufficient cause be not shown judgment may be entered against such guardian or other persons for the amount found to be due the State, which judgment may be enforced as in other cases. The certificate of the superintendent of the State Institution or School wherein such child is being, or shall have been supported and maintained, as to the amount due, shall be sufficient evidence to authorize the Court to render judgment. The County or District Attorney, upon request of the State Board of Control, shall appear and represent the State in all cases provided for in this Section. [Acts 1931, 42nd Leg., p. 191, ch. 112, § 2.]

Section 4 of said act provides that if any provision is held invalid such decision shall not affect the remainder.

[Art. 3202—b. Failure to make required payments]

In the event any payments are not made as required by the Board of Control it may provide for the discharge of any such children of said institutions or schools. [Acts 1931, 42nd Leg., p. 191, ch. 112, § 3.]

## [Art. 3207a. State Commission for the Blind; powers and duties]

Sec. 1. That there is hereby created and established the State Commission for the Blind consisting of three members, one a graduate of the Texas School for the Blind and two others appointed by the Governor to serve for a term of three years, or until their successors shall have been appointed and qualified; provided, that of the first members appointed hereunder, one shall serve for one year, one for two years, one for three years. No paid employee or Board member of any agency carrying on work for the blind shall be eligible for appointment. Members of the Commission for the Blind shall serve without compensation but shall receive their necessary traveling and other expenses actually incurred in the performance of their duties. The Commission for the Blind shall annually elect from its members a chairman, and a secretary who shall also act as treasurer.

Sec. 2. The State Commission for the Blind shall maintain a Bureau of Information, the object of which shall be to aid the blind whose training is not otherwise provided for, in finding employment, in developing home industries among the blind, and in marketing their products. The Commission shall in its discretion furnish materials, tools and books for the use as a means in rehabilitating such persons, and it may establish workshops and salesrooms, and shall have authority to use any receipts or earnings that accrue from the operation of industrial schools, salesrooms or workshops as provided in this Chapter, but detailed statement of receipts or earnings and expenditures shall be made monthly to the Auditor of the State. Through the employment of teachers the Commission may give instruction to adult blind persons in their homes; provided that it shall not undertake the permanent support or maintenance of any blind person. The Commission may also register cases of persons whose eyesight is seriously defective or who are likely to become visually handicapped or blind, and take such measures, in cooperation with other authorities, as it may deem advisable for the prevention of blindness or conservation of eyesight, and in appropriate cases, for the education of children and for the vocational guidance of adults having seriously defective sight. The Commission may receive gifts, bequests, or devises from individuals, associations or corporations, and may expend them in accordance with the provisions of this Act.

Sec. 3. The State Commission for the Blind may appoint and fix the compensation of an executive secretary and such other workers as may be necessary to make effective the purposes of this Act within the appropriations provided.

Sec. 4. The Commission shall make a detailed report to the Legislature by January 1st of each biennium in which it convenes, showing all appropriations received and how the same have been expended, and covering its activities and accomplishments and making recommendations therein for the further improvement of the conditions of the blind in the State. [Acts 1931, 42nd Leg., p. 122, ch. 80.]

## Art. 3217. Wife of inmate

Any woman who is the wife of a Confederate soldier and who is an inmate of the Confederate Woman's Home, and whose husband is an inmate of the Confederate Home, and who became the wife of such soldier prior to his admission into the Confederate Home, may on her request be transferred from the Confederate Woman's Home to the Confederate Home and may remain as an inmate of the Confederate Home with her husband as long as her husband remains an inmate of that institution, and while such inmate she shall be entitled to the same care, support, maintenance and privileges, and be subject to the same discipline, rules and regulations as other inmates of that institution; but the wife of any Confederate soldier so transferred to the Confederate Home shall be immediately transferred

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back to the Confederate Women's Home on the death of her husband, or whenever for any reason her husband ceases to be an inmate of the Confederate Home, or whenever in the judgment of the Board of Control it will be to the interest of the individual or of the institution to make such transfer; provided, however, that when there is room in the Confederate Home and there is an overcrowded condition existing in the Confederate Woman's Home, the Board of Control may retain at or remove to said Confederate Home any widow who is entitled to the privileges conferred by this Chapter.

Sec. 2. The fact that there is an overcrowded condition existing in the Confederate Woman's Home, whereas there is ample space and accommodations to take care of the widows of Confederate veterans at the Confederate Home, but the same can not be kept at such institutions after the death of their husband by reasons of present Law, creates an emergency and an imperative public necessity, demanding that the Constitutional Rule requiring all bills to be read on three several days in each House, be suspended, and that said Rule is hereby suspended, and that this Act shall take effect and be in force from and after date of its passage, and it is so enacted. [As amended Acts 1931, 42nd Leg., p. 5, ch. 4.]

#### Art. 3221. [210] Powers and duties of Board of Control

The Board shall make all necessary rules and regulations for the government of the Deaf, Dumb and Blind Asylum for Colored Youths and Colored Orphans to comport as nearly as may be practicable with the rules and regulations of the asylums for like purposes in this State. Said Board shall prescribe the duties of all subordinate officers or assistants in said asylum; shall appoint and may remove all such officers or assistants, determine their duties and their compensation. The admission of all deaf, dumb and blind applicants to said asylum, their treatment, instruction and continuance therein, all questions relating to their dismissal or removal, or voluntary departure from said asylum, or employment therein, or thereabout, shall be governed by the rules and regulations of the State Asylums for white youths for the deaf, dumb and blind, and the Board of Control shall have authority to make necessary rules and regulations for the admittance, treatment, instruction and discharge of other applicants for admission to said asylum.

Sec. 2. The State Board of Control is hereby authorized to accept and care for, support and maintain, orphan negro children in said asylum, located at Austin, Texas. Said Board shall have authority to move any and all orphan negro children from the Dickson Colored Orphanage located near Gilmer, Texas, to Austin, and place them in said asylum, and care for, support and maintain them, in said institution whenever they deem it advisable to do so; and until such time said Board shall be authorized to use the land and other property at Gilmer, Texas, now occupied and used by said Dickson Colored Orphanage for such purpose, and shall have all powers and authority herein conferred to control the property of said orphanage at such place, and use it for such purposes until such time as suitable provisions shall be made for caring for said orphans at the said Deaf, Dumb and Blind Asylum for Colored Youths and Colored Orphans at Austin, Texas.

Sec. 3. The sum of Seventy-five Hundred (\$7,500.00) Dollars is hereby appropriated out of the State Treasury to pay the expenses of caring for and transporting said negro children as provided for in this Act, and to care for, maintain and support orphan negro children as herein provided for the fiscal year ending August 31, 1929, the same to be available to the Board of Control for such purposes.

Sec. 4. The further sum of Thirty Thousand (\$30,000.00) Dollars is hereby appropriated out of the State Treasury for the care, maintenance, support and transportation of said orphan negro children for the year

ending August 31, 1930, and also the sum of Thirty Thousand (\$30,000.00) Dollars for the year ending August 31, 1931, the same to be available to the Board of Control for such purposes.

Sec. 5. The donation by the Dickson Colored Orphanage Incorporated to the State of Texas of the lands and premises, and improvements therein described in the deed conveying said property to W. H. Francis, Trustee, in trust for the State of Texas, for the establishment of an orphanage asylum for colored children; said land consisting of approximately seven hundred acres, all in solid body, situated near the Town of Gilmer in Upshur County, Texas, together with all improvements thereon, said improvements consisting of approximately twenty-nine buildings, is hereby accepted; and said trustee is hereby directed to execute and deliver the proper deed conveying said land and premises unto the State of Texas for the purpose herein specified, free from all debts, liens, or encumbrances of any character whatsoever; the instrument conveying said property shall be drawn by the Attorney General and after its execution, shall be delivered to the State Board of Control of the State of Texas to be by it filed and recorded in the office of the County Clerk of Upshur County, Texas; the said trustee shall also furnish to the Attorney General of the State of Texas an abstract of title to said property showing said property to be free from all debts, liens or encumbrances of any character whatsoever, and it is hereby made the duty of the Attorney General to examine and approve the title to said property.

The donation by the said Dickson Colored Orphanage Incorporated to the State of Texas of all personal property owned by it and used in connection with or located at said orphanage, and consisting of several carloads of brick; approximately one thousand sacks of cement; approximately nineteen mules, four horses, twenty-five head of fairly good grade jersey cattle, a breeding sow, four pigs, a few chickens, numerous farming implements, household and kitchen furniture, cooking utensils, and food supplies, is hereby accepted and the Board of Control of this State is hereby authorized and directed to accept and receive said personal property, and to use and dispose of the same as in this Act provided. [As amended Acts 1929, 41st Leg., 3rd C. S., p. 523, ch. 21.]

Sec. 6. Nothing in this Act shall be construed so as to require the real estate herein to be deeded to the State of Texas before the Board of Control shall have the authority to use the money herein appropriated for the care of said Negro orphans, but to the contrary, this Act shall be construed so as to give the Board of Control authority to accept the property herein mentioned at any time and in any manner so long as they do not bind the State of Texas to pay any indebtedness on said property; and this Act shall also give the Board of Control authority to care for, maintain and support said Negro orphans and to provide quarters and other things incidental to the welfare of said orphans such as the Board of Control may deem advisable. [As amended Acts 1929, 41st Leg., 3rd C. S., p. 523, ch. 21, § 6; Acts 1930, 41st Leg., 5th C. S., p. 180, ch. 40, § 1.]

Section 6 of Acts 1929, 41st Leg., 3rd C. S., p. 523, ch. 21, provided that the appropriation should not be available until the real estate had been conveyed in fee simple to the State clear of all incumbrances.

Sec. 7. As soon as all the negro children are removed from said Dickson Colored Orphanage by the Board of Control as provided for in this Act, the said Board shall be authorized, and it is hereby made its duty, to sell the said Dickson Colored Orphanage property for the best price that can be obtained therefor; said sale to be either for cash or on a credit as said Board may determine to be for the best interest of the State. The title to said real property shall be conveyed to the purchaser by deed duly executed by the members of the Board of Control, and the title to the personal property shall be passed to the purchaser by bill of sale, duly executed by said members. The proceeds from the sale of said property when collected shall be used by the said Board of Control for the purchase of additional



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land, the erection of additional buildings, or the support and maintenance for the said Deaf, Dumb and Blind Asylum for Colored Youths and Colored Orphans at Austin, Texas, as said Board may determine to be for the best interest of said institution. [As amended Acts 1929, 41st Leg., 3rd C. S., p. 523, ch. 21.]

### STATE CANCER AND PELLAGRA HOSPITAL

[Art. 3263a. Cancer and Pellagra hospital, commission to control and officers]

Sec. 1. That there shall be built, established and maintained at a practicable point hereinafter provided for, in the State of Texas, an institution for the treatment of persons afflicted with Cancer or Pellagra; said institution to be known as the State Cancer and Pellagra Hospital;

Sec. 2. The Governor of the State with the State Health Officer, the Chairman of the Board of Control and the Attorney General shall constitute the Anti-Cancer and Pellagra Commission of Texas. The Governor and Commission shall meet once every six (6) months unless called more often by the chairman. They shall accept title to the land selected by them in the name of the State, for use and benefit of the State, but not until the Attorney General shall first have approved the title to the land so selected.

Sec. 3. Support and maintenance of said institution shall be made by appropriation for that purpose. Said hospital shall be located at such place as to make it easy [easily] accessible to the citizenship of this State and such that the climate and surroundings would advise, and it shall contain not more than five hundred (500) acres nor less than one hundred (100) acres and shall have an abundant supply of water. In the selection of a place for the establishment of this hospital all other things being equal it shall be located at, or near, a city that has a State Institution of a kindred nature, or a city in which there is a Medical School of recognized standing.

Sec. 4. The Governor with the State health Officer, the Chairman of the Board of Control and the Attorney General shall constitute the Commission for the Cancer and Pellagra hospital of Texas, and shall have full power to act in their capacity as hereinbefore provided; and they shall advertise for plans and specifications for said hospital. When plans have been accepted, the Board of Control shall contract for the construction and equipment of said hospital, according to plans and specifications as adopted, to the lowest responsible bidder, who shall give good and sufficient bond for the completion and equipment of said plant according to the contract; providing, that the total cost of land and buildings, with all necessary equipment and buildings shall not exceed two hundred thousand (\$200,000.00) dollars and that said plants when so completed and equipped shall have a capacity of two hundred (200) patients.

Sec. 5. Persons afflicted with Cancer or Pellagra who shall have been citizens of this State and of the County from which he or she comes at the time of filing their application shall be admitted in said institution under this Act.

Sec. 5½. A citizen of this State under the provisions of this Act is defined to be any person who has actually resided therein with the bona-fide intention of being a citizen thereof for a period of twelve months next preceding the date of the application for admission to said hospital.

Sec. 6. Patients admitted to said institution shall be of three classes, to-wit:

1. Indigent public Patients.
2. Non-indigent public patients.

### 3. Private patients.

Indigent public patients are those who possess no property of any kind nor have any one legally responsible for their support, and who are unable to reimburse the State. This class shall be supported entirely at the expense of the State.

Non-indigent public patients are those who possess some property out of which the State may be reimbursed, or who have some one legally liable for their support. This class shall be kept and maintained at the expense of the State, as in the First instance, but in such case the State shall have the right to be reimbursed for the support of such patients, and the claim of the State shall constitute a valid lien against any property of any such patients, or, in case he has a guardian, against any property of his which is in the possession of said guardian, or against the person or persons who may be legally liable for his support, and financially able to contribute as herein provided; and such claim may be collected by suit or other proceedings in the name of the State of Texas by the county attorney of the county from which said patient is sent, against such patient, his guardian or the person or persons liable for his support; and the venue of any such suit is hereby fixed to be in the county from which such patient was sent. Such suit or proceedings shall be instituted upon the request in writing, of the superintendent of said hospital, accompanied by a certificate as to the amount due the State, which in no case shall exceed five dollars per week for the board of such patient, and together with the necessary cost incident to his transportation to said hospital. In all suits or proceedings, the certificate of the superintendent shall be sufficient evidence of the amount due the State for the support of such patient. It shall be the duty of the county attorney, upon such request being made, to institute and conduct such proceedings, and for which he shall be entitled to a commission of ten (10) per cent of the amount collected. All moneys so collected less the commission above provided for, shall be by the county attorney paid to the superintendent of said hospital, who shall receive and receipt for the same, and shall use the same for the maintenance and improvement of said property.

Private patients may be admitted into said hospital upon application of parent or guardian or friend, under such regulations as the Commission may prescribe, not in conflict with this Act. Such patients shall be kept and maintained at the hospital, at their own expense for the board and care of such patients. The Commission may make special contracts for private patients at a rate of not to exceed ten dollars per week, payable in advance.

Sec. 7. The parent, guardian or friend or [of] any patient seeking admission may make application in writing and under oath to the county judge of the county wherein such patient resides, for admission of said patient into said hospital, which application shall show:

1. The name of the patient.
2. The sex.
3. Age and nativity.
4. Whether possessing any property; if so, what, and the estimated value thereof, and where located.
5. Whether the patient has any one legally liable for his support if so, whom, what property possessed by such person; the estimated value thereof and where located.
6. Residence of patient for two years next preceding the date of application.
7. Occupation, trade or employment.
8. Parent or parents, if living, or guardian, if any.
9. Name of husband or wife, if any.
10. Children, if any; number, age and sex.
11. Relatives similarly affected, insane, invalid, consumptive, and

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such other information as may be required by the Commission of said institution.

Sec. 8. Said application shall be accompanied by the certificate of a reputable practising physician, or, in the case of indigent patient by a certificate from the county physician, stating that he has thoroughly examined the person for whose admission application has been made, and that such person is suffering from Cancer or Pellagra, and the duration of said disease, if known, and the accompanying bodily disorders; provided, that no person afflicted with any contagious, infectious or transmissible disease, other than cancer or pellagra, shall be admitted. It shall be the duty of the county judge to certify that the Physician making the certificate is a reputable physician, actively engaged in the practice of his profession, and has complied with the laws of this State governing licenses to physicians, to practice medicine.

Sec. 9. If the county judge is not satisfied as to the showing made in said application and certificate, or either, he may subpoena witnesses and examine them under oath touching such matters, and if it be made to appear to the county judge that such person is entitled to admission into the hospital under the provisions of this Act he shall forward an application for admission, together with the application hereinbefore described, to the State Health officer, and the State Health Officer shall receive the same, alphabetically index it and file in his office, where it shall become a permanent record. If the county judge shall find that the person for whom application is made is in fact not indigent, then he shall make application as before provided, for him as a non-indigent patient, and in either or both cases, if the county judge shall determine not to make such application for any person, then such person may make an application direct to the state Health Officer, and if in the judgment and opinion of the State Health Officer such patient is entitled to admission into the State Hospital for Cancer or Pellagra, then he shall order him to be admitted upon his own motion, which order must be by him written, signed and filed with the superintendent of the institution into which such patient is admitted.

Sec. 10. No patient in any State hospital shall be discriminated against by virtue of the fact that he is an indigent, non-indigent or private patient, but they shall all be treated alike, given equal facilities, equal attention and equal treatment, and no patient in any such institution shall be permitted to give to any officer, servant, agent or employee in any such institution any tip, gift, pay or reward of any character of any kind whatever, and if such patient does so, and it is discovered, it shall be a cause for his expulsion from said hospital, and the discharge of any servant or attendant accepting the same; and the Commission shall see that this provision is rigidly and drastically enforced.

Any inmate of any of the eleemosynary or penal institutions of this State requiring treatment for Cancer or Pellagra shall be admitted to this institution under rules and regulations prescribed by the Commission.

Sec. 11. The State Health Officer shall keep on file an alphabetical index of all applications of all patients, and patients shall be admitted according to their file number; reserving at all time not less than one-half the accommodations afforded at the hospital for indigent cases of Cancer or Pellagra, one-fourth of the accommodations for the non-indigent patients, and one-fourth for private or pay patients; subject, however, to the control and discretion of the Commission.

Sec. 12. It shall be the duty of the County Judge to see that each patient admitted to the hospital is supplied with three full suits of underwear and one neat top suit, all being such as may be prescribed by the State Health Officer; and the expense of the clothing and transportation of indigent public patients shall be paid by the county from which the patient is sent. And if any patient is admitted directly upon the certifi-

cate of the State Health Officer as an indigent patient as provided hereinabove, then the State Health Officer shall supply such patient with such clothing, and his certificate thereof shall be full evidence that the same was so supplied and of the value thereof, and the county from which the said patient came shall be chargeable with said clothes; and shall pay the same upon presentation of said certificate. Non-indigent public patients shall pay for their clothing and transportation themselves.

Sec. 13. It shall be the duty of the Commission of said Hospital to prepare and adopt by-laws, rules and regulations for the government of the entire hospital, prescribing the duties of all officers and employees and for enforcing the necessary discipline and restraint of all patients. The Commission shall appoint for said hospital a regularly licensed physician as superintendent who shall receive a salary to be fixed by the Legislature not to exceed the sum of four thousand (\$4,000.00) dollars per year, with provisions for himself and family, not to exceed in value \$500.00 per annum with water, lights, fuel, laundry and housing; The superintendent shall appoint such assistant physicians well qualified in Surgery, Dermatology, Pathology and Radiology, subject to approval of the commissioners, who shall receive a salary to be fixed by the Legislature not to exceed the sum of thirty-six hundred (\$3,600.00) per year, with provisions for board and laundry for himself and family, and in addition to such physician the board shall supply said hospital with the necessary cooks, waiters, yardmen, nurses, etc., for the operation and maintenance of such hospital. The Physician so appointed shall be superintendent of the institution, and shall have the power to remove at will, and without assigning any cause whatever, any person employed in the hospital. [Acts 1929, 41st Leg., p. 400, ch. 185.]

Section 14 of said Acts 1929, 41st Leg., p. 400, ch. 185, declares that if any section is held invalid, such decision shall not affect the remainder.

## TITLE 52—EMINENT DOMAIN

### Art. 3268. [6530] [4471] [4205] Damages paid first

Amended by adding to subdivision 2 "The State, a County or Municipal Corporation shall not be required to deposit a bond or the amount equal to the award of damages by the Commissioners as provided in Section 2 hereof." [As amended Acts 1930, 41st Leg., 4th C. S., p. 75, ch. 37, § 1.]

### Art. 3269. [6531] [4472] Practice in case specified

When any person, or corporation, or district, or association of persons having the right of eminent domain are sued for property or for damages to property occupied by them or it for the purposes for which it or they have the right to exercise such power, or when a suit is brought for an injunction to prevent them or it from going upon such property or making use thereof for such purposes, the Court in which such suit is pending may determine the matters in dispute between the parties, including the condemnation of property and assessment of damages, upon petition or cross bill asking such remedy by defendant, and such petition or cross bill asking such relief shall not be an admission of the plaintiff's title to such property; and in such event the condemnor may assert his or its claim to such property, and ask in the alternative to condemn the same if he or it fails to establish such claim; and provided that, if injunctive relief be sought the Court may grant such relief under the Statutes and Rules of Equity or may, as a prerequisite for denying such relief, require defendant to give such security as the Court may deem proper for the payment of any damages that may be assessed on defendant's cross bill for condemnation. [As amended Acts 1931, 42nd Leg., p. 413, ch. 245, § 1.]

## TITLE 54—ESTATES OF DECEDENTS

### [Art. 3293—A. Administration to receive funds from Federal Government; venue]

An administration may be had upon the estate of a person deceased, in the county where the applicant resides, where the purpose of such administration is to appoint an administrator or administratrix to receive only funds or money due such deceased or the estate of such deceased, from the Federal Government; provided that notice shall be given to the mother or father and/or husband or wife of such deceased person.

Provided, further, that this article shall in no way conflict with the provisions of Article 3293 and Article 3357. [Acts 1931, 42nd Leg., p. 93, ch. 59, § 1.]

### [Art. 3310a. Return of citation and notices]

All citations and notices issued out of the County Court in probate matters shall be returnable to the Court from which issued on the first Monday after the service is perfected. All such notices and citations now required to be posted shall be posted at the Court House door for not less than ten (10) days before the return day thereof. All such notices and citations now required to be published shall be published once and said publication shall be not less than ten (10) days before the return day thereof. All such notices and citations now required to be served personally shall be served at least ten (10) days before the return day thereof. The time of the return of the notice for citation shall be fixed by the Clerk in accordance with the provisions of this Act.

Sec. 2. All laws requiring service of citations, notices, orders or other proceedings in probate matters for a period of time and in a manner different from that herein provided, and in conflict with this Act, are hereby expressly repealed insofar as they conflict with this Act, it being the purpose of this Act to require only ten (10) days service, exclusive of the day of service, whether such service is personal, by posting or by publication. Any Probate Statute now in force and not hereby repealed by other provisions of this Act, using the expression "at the next term of Court," or "next regular term," or "during term time," or other similar expressions shall be so construed as to conform to this Act, and are hereby amended and modified as to accomplish the purposes set out in this Act. [Acts 1929, 41st Leg., 1st C. S., p. 107, ch. 48, § 1, as amended Acts 1931, 42nd Leg., p. 210, ch. 123.]

Effective 90 days after May 23, 1931, date of adjournment. Section 3 of said act provides that it shall not affect process previously issued.

### Art. 3325. [3247] [1880] [1827] Time to file

Amended by omitting the final words "and not later" and adding "provided that this Article shall not apply in any case where administration is necessary in order to receive or recover funds or other property due the estate of the decedent." [Acts 1929, 41st Leg., p. 288, ch. 132, § 1.]

### Art. 3334. [3257] [1890] [1837] Service

The citation shall be served by posting for at least ten days exclusive of the day of posting before the first day of the term of the court to which it is returnable. [As amended Acts 1929, 41st Leg., p. 235, ch. 100, § 2.]

### Art. 3386. [3309] [1942] [1889] Bond of executors and administrators

Before the issuance of letters of testamentary or of administration, the person to whom letters are granted, shall enter into bond, to be ap-

proved by, and payable to, the County Judge of the county, in such penalty as he may direct in amount equal to double the estimated value of the personal property belonging to such estate, plus a reasonable amount to be fixed at the discretion of the County Judge, to cover rents, revenues and income derived from the renting or use of real estate belonging to such estate, except in case of Temporary Administrator, when the bond shall be in such sum as the County Judge may direct; provided bonds of executors and administrators may be made by either domestic or foreign corporations permitted to do business in this State, for the purposes of issuing surety guarantee or indemnity bonds, guaranteeing the fidelity of executors, administrators and guardians, and may be accepted by the County Judge. The cost of any such bond of an executor or administrator may be paid out of the estate being administered. [As amended Acts 1929, 41st Leg., p. 63, ch. 29, § 1.]

**Art. 3393a. [Decrease of amount of bond]**

The County Judge shall have the power and authority to decrease the amount of any executor's or administrator's bond upon the submission of proof that a smaller bond than the one in effect would be adequate to meet the requirements of the Law and protect the estate. [Acts 1929, 41st Leg., p. 130, ch. 63, § 1.]

**[Art. 3432a. Extending obligations]**

The executor or administrator of the estate of any person may, upon application and order authorizing same, renew or extend any obligation owing by or owing to such estate. [Acts 1931, 42nd Leg., p. 842, ch. 352, § 1.]

**Art. 3492. [3420] [2053] [2000] Liens have preference**

If property upon which there is a valid subsisting lien or encumbrance, shall be set apart to the widow or children as exempt property, or appropriated to make up allowances made in lieu of exempt property or for the support of the widow or children, the debts secured by such lien, shall, if necessity requires, be either discharged or continued as against such property. This Article applies to all estates, whether solvent or insolvent. [As amended Acts 1931, 42nd Leg., p. 391, ch. 236, § 1.]

Effective 90 days after May 23, 1931, date of adjournment. Section 2 repeals all conflicting laws and parts of laws.

**[Art. 3515a. Regulating claims against estates of deceased persons]**

Sec. 1. That in addition to the matter contained in the affidavit provided for in Articles 3514 and 3515 of the Revised Civil Statutes of 1925, when a secured claim against an estate is presented, the claimant shall specify therein:

(a) Whether it is desired to have the claim allowed and approved as a matured secured claim to be paid in due course of administration, in which event it shall be so paid if allowed and approved, or

(b) Whether it is desired to have the claim allowed, approved and fixed as a preferred debt and lien against the specific property securing the indebtedness and paid according to the terms of the contract which secures the lien, in which event it shall be so allowed and approved if it is a valid lien, provided, however, that the executor or administrator may pay said claim prior to maturity if it is for the best interest of the estate to do so.

Sec. 2. If a secured claim is not presented within the time provided by law it shall be treated as a claim to be paid as provided in Subsection (b) of Section 1. If the instrument evidencing or supporting a claim provides for attorney's fees then the claimant may include as a part of the claim the portion of such fee that he has contracted to pay to an attorney to prepare, present and collect such claim. If the claim is presented under Subsection (b) of Section 1 and is not contested the fee shall not exceed fifty (50%)

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per cent. of the amount provided in the instrument evidencing or supporting the claim, which fee shall be treated as a matured part of such claim, but if the claim is contested the full amount of attorney's fees may be recovered.

Sec. 3. When an indebtedness has been allowed and approved under Subsection (b) of Section 1, hereof no further claim shall be made against other assets of the estate by reason thereof, but the same thereafter shall remain a preferred lien against the property securing same and the property shall remain security for the debt in any distribution or sale that may be made of it prior to final maturity and payment of the debt.

Sec. 4. If property securing a claim allowed, approved and fixed under Subsection (b) of Section 1, hereof is not sold or distributed within twelve months from the date letters testamentary or of administration are granted the executor or administrator shall promptly pay all maturities which have accrued on the debt according to the terms thereof and shall perform all the terms of any contract securing same. If the executor or administrator defaults in such payment or performance on motion of the claimholder, the court shall require the executor or administrator to sell said property subject to the unmatured part of such debt and apply the proceeds of the sale to the liquidation of the maturities, or, at the option of the claimholder, a motion may be made in a like manner to require the executor or administrator to sell said property free of such lien and apply the proceeds to the payment of the whole debt. [Acts 1931, 42nd Leg., p. 79, ch. 52.]

Section 5 repeals all conflicting laws and parts of laws and makes its provisions cumulative of Title 54, chapters 18 and 19 relating to the allowance, approval and classification of claims and liens against the estates of deceased persons.

#### Art. 3531. [3458] [2091] [2037] Classification of claims

The claims against an estate shall be classed and have priority of payment as follows:

1. Funeral expenses and expenses of last sickness for a reasonable amount to be approved by the County Judge, not to exceed the sum of Five Hundred (\$500.00) Dollars; any excess to be classified and paid as other unsecured claims.

2. Expenses of administration and expenses incurred in preservation, safe-keeping and management of the estate.

3. Claims secured by mortgage or other liens so far as the same can be paid out of the proceeds of the property subject to such mortgage or other lien, and when more than one mortgage or lien shall exist upon the same property, the oldest shall be first paid; but no preference shall be given to such claims secured by mortgage or other lien further than regards the property subject to such mortgage or other lien.

All claims legally exhibited within one (1) year after the original grant of letters testamentary or of administration.

5. All claims legally exhibited after the lapse of one (1) year from the original grant of letters testamentary or of administration. [As amended Acts 1931, 42nd Leg., p. 389, ch. 234, § 1.]

Effective 90 days after May 23, 1931, date of adjournment. Section 2 repeals all conflicting laws and parts of laws.

#### Art. 3576. [3501] [2134] [2080] Order of court

Amended by substituting "said" for "such" before "sale" in the last line and adding a final clause "and shall require the executor or administrator to file a good and sufficient bond, subject to the approval of the court, in an amount equal to twice the amount for which such real estate is sold." [Acts 1929, 41st Leg., p. 63, ch. 29, § 2.]

**Art. 3690. [3622] [2246] [2191] No commissions**

A commission shall not be allowed or received for receiving any cash which was on hand at the time of the death of the testator or intestate, nor a commission for receiving money realized from the sale of property to satisfy debts against the property and the paying out of the proceeds in satisfaction of the debt except as to the amount realized from the sale in excess of the debt, nor for paying out money to the heirs or legatees as such. Provided, however, that if the administrator or executor shows to the court that the value of the services rendered the estate in making a sale of property securing a debt exceeds the amount of the commission calculated as above provided, then the court shall allow a commission for a just amount. The amount not to exceed that now allowed by law. [As amended Acts 1931, 42nd Leg., p. 390, ch. 235, § 1.]

Effective 90 days after May 23, 1931, date of adjournment. Section 2 repeals all conflicting laws and parts of laws.

**TITLE 55—EVIDENCE****[Art. 3726b. Defects not affecting admissibility in evidence of certain instruments]**

Every instrument of writing which is permitted or required by law to be recorded in the office of the clerk of the County Court, and which has been, or hereafter may be, so recorded, after being proved or acknowledged in the manner provided by the laws of this state in force at the time of its registration, or at the time it was proved or acknowledged, or every instrument which has been, or hereafter may be, actually recorded for a period of 10 years in the book used by said clerk for the recording of such instruments, whether executed, proved or acknowledged in such manner or not, shall be admitted as evidence in any suit in this State without the necessity of proving its execution, provided, no claim adverse or inconsistent to the one evidenced by such instrument shall have been asserted during that 10 years; provided, that the party to give such instrument in evidence shall file the same among the papers of the suit in which he proposes to use it at least three days before the commencement of the trial of such suit, and give notice of such filing to the opposite party, or his attorney of record; and unless such opposite party, or some other person for him, shall, within three days before the trial of the cause, file an affidavit stating that he believes such instrument of writing to be forged. Whenever any party to a suit shall file among the papers of the cause an affidavit stating that any instrument of writing, recorded as aforesaid, has been lost, or that he cannot procure the original, a certified copy of the record of any such instrument shall be admitted in evidence in like manner as the original could be. And after such instrument shall have been actually recorded as herein provided for a period of 10 years, it shall be no objection to the admission of same, or a certified copy thereof, as evidence that it has not been signed by the proper officer of any corporation; or that the corporate seal of the corporation has not been impressed on such instrument; or that the record does not show such corporate seal; or that the record does not show authority therefor by the Board of Directors and [and] stockholders (or either of them) of a corporation; or that such instrument was executed and delivered by a corporation which had been dissolved or whose charter had expired, or whose corporate franchise had been canceled, withdrawn or forfeited; or that the executor, administrator, guardian, assignee, receiver, Master in Chancery, agent, or trustee or other agency mentioned in such instrument, signed or acknowledged the same individually instead of in his representative or official capacity; or that such instrument is executed by a trustee without record of Judicial or other ascertainment of the author-



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ity of such trustee or of the verity of the facts therein recited; or that the officer taking the acknowledgment of such instrument having an official seal did not affix the same to the certificate of acknowledgment; or that the notarial seal is not shown of record; or that the wording of the consideration may or might create an implied lien in favor of grantor, (By this is not meant an express vendor's lien retained); and said instrument shall be given the same effect as if it were not so defective; provided that this Act shall be cumulative of all other laws on this subject; and provided that if any portion of this Act be declared unconstitutional the remaining portion shall not be affected thereby and shall remain in full force and effect. [Acts 1929, 41st Leg., p. 390, ch. 179, § 1.]

**Art. 3736. [3712] [2323] [2266] Suit on sworn account**

When any action or defense is founded upon an open account, or other claim or claims for goods, wares and merchandise, including claims or suits for liquidated money demands based upon written contracts or based on business dealings between the parties, or for personal service rendered, on which a systematic record of said account has been kept, supported by the affidavit of the party, his agent or attorney, taken before some officer authorized to administer oaths, to the effect that such cause of action is, within the knowledge of affiant, just and true, that it is due, and that all just and lawful offsets, payments and credits have been allowed, the same shall be taken as prima facie evidence thereof, unless the party resisting such claim shall, before an announcement of ready for trial in said cause, file a written denial, under oath, stating that such account is not just or true, in whole or in part, and if in part only, stating the items and particulars which are unjust; provided, that when such counter affidavit shall be filed on the day of the trial the party claiming under such verified account shall have the right to continue such cause until the next term of court; when he fails to file such affidavit, he shall not be permitted to deny the account, or any item therein as the case may be. [As amended Acts 1931, 42nd Leg., p. 393, ch. 239, § 1.]

**[Art. 3769a. Execution of commission issued by court of foreign state]**

Whenever any mandate, writ or commission is issued out of any court of record in any other state, territory district or foreign jurisdiction, and it is required to take the testimony of a witness or witnesses in this state, either on written interrogatories or by oral deposition, the witnesses may be compelled to appear and testify in the same manner and by the same process and proceeding as may be employed for the purpose of taking testimony in proceedings pending in this State. [Acts 1929, 41st Leg., p. 553, ch. 268, § 1.]

**[Art. 3769b. Contempt in disobeying writ]**

Whenever any commission for the taking of the deposition of any witness or party to any civil suit pending in any of the courts of Texas shall have been regularly and legally issued and placed in the hands of a person legally designated and qualified to take depositions under the laws of this state such officer shall have authority to issue any writ authorized by law to compel the attendance of a witness in court, and upon disobedience of such writ by any such witness he may be punished as for contempt either by the court out of which such commission issued, or by the Judge of any District Court of the County in which such witness resides. [Acts 1929, 41st Leg., p. 553, ch. 268, § 1-a.]

**[Art. 3769c. Testimony of adverse parties in civil suits]**

In the trial of any Civil suit or proceeding now pending or hereafter filed in any Justice Court, County Court, or District Court of this State, any party plaintiff or defendant shall have the right to call as a witness in his behalf any other individual who is a party to such suit or proceedings, either as plaintiff or defendant, and if such other party be a corporation,

then any officer or director of such corporation, or manager, superintendent, agent or party in control of the particular matters and things under investigation by any of said Courts in the trial of a Case may be called as a witness with like effect as if they were individual parties to such suit or proceeding; and any such witness may be examined by the party calling the witness, and if such witness give testimony adverse to the party calling him, the party so calling such adverse witness shall not be bound to accept the testimony of such adverse witness as true, but shall have the right to impeach such witness and the testimony of such witness, and shall have the right to introduce other evidence upon any issue involved in such suit or proceeding without regard to the testimony of such adverse witness; and in examining such adverse witness leading questions may be asked by counsel for the party calling such witness but opposing counsel shall not be permitted to ask such witness leading questions or in any manner lead such witness. [Acts 1929, 41st Leg., 1st C. S., p. 255, ch. 105, § 1, as amended Acts 1931, 42nd Leg., p. 307, ch. 181, § 1.]

Section 2 of Acts 1929, 41st Leg., 1st C. S., p. 255, ch. 105, directs that this article shall be referred to as article 3769a, but inasmuch as that article has already been designated as a prior law it is classified as article 3769c.

## TITLE 57—EXEMPTIONS

### [Art. 3832a. Insurance policies]

The cash surrender value of any life insurance policy which has been in force more than two years, shall be exempt from liability for any debt, and shall not be subject to forced sale, or other process to satisfy any debt, provided a member or members of the family of the insured are the beneficiaries under such policy, and in event they are only partially the beneficiaries then such policies shall be so exempt to the extent of their beneficiary interest. This act shall not apply to debts arising under the policy nor to debts secured by lawful assignment of the policy. [Acts 1929, 41st Leg., 2nd C. S., p. 78, ch. 43, § 1.]

## TITLE 61—FEES OF OFFICE

### Art. 3883. [3881 to 3883] Maximum fees

Except as otherwise herein provided, the maximum annual fees that may be retained by County Officers mentioned in this Article shall be as follows:

1. In counties containing less than twenty-five thousand (25,000) inhabitants; County Judge, Two Thousand, Two Hundred Fifty Dollars (\$2,250.00); Sheriff, Two Thousand, Seven Hundred Fifty Dollars (\$2,750.00); County Clerk, Two Thousand, Two Hundred Fifty Dollars (\$2,250.00); County Attorney, Two Thousand, Two Hundred Fifty Dollars (\$2,250.00); District Clerk, Two Thousand, Two Hundred Fifty Dollars (\$2,250.00); Tax Collector, Two Thousand, Two Hundred Fifty Dollars (\$2,250.00); Tax Assessor, Two Thousand, Two Hundred Fifty Dollars (\$2,250.00); Justice of the Peace, Two Thousand Dollars (\$2,000.00); Constable, Two Thousand Dollars (\$2,000.00).

2. In counties containing as many as twenty-five thousand (25,000) and less than thirty-seven thousand, five hundred (37,500) inhabitants, in which there is no city containing twenty-five thousand (25,000) inhabitants; County Judge, Two Thousand, Five Hundred Dollars (\$2,500.00); Sheriff, Three Thousand Dollars (\$3,000.00); County Clerk, Two Thousand, Four Hundred Dollars (\$2,400.00); County Attorney in counties having only one District Court, Two Thousand, Four Hundred Dollars (\$2,400.00); and in counties having two or more District Courts, and in which there is no District Attorney, Three Thousand, Five Hundred Dollars (\$3,500.00); District Attorney, Two Thousand, Five Hundred

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Dollars (\$2,500.00); District Clerk, in counties having only one District Court, Two Thousand, Four Hundred Dollars (\$2,400.00); and in counties having two or more District Court, Three Thousand, Five Hundred Dollars (\$3,500.00); Tax Assessor, Two Thousand, Four Hundred Dollars (\$2,400.00); Tax Collectors, Two Thousand, Four Hundred Dollars (\$2,400.00).

3. In counties containing as many as thirty-seven thousand, five hundred (\$7,500) inhabitants, or containing a city of over twenty-five thousand (25,000) inhabitants: County Judge, Three Thousand, Five Hundred Dollars (\$3,500.00); Sheriff, Three Thousand, Five Hundred Dollars (\$3,500.00); County Clerk, Two Thousand, Seven Hundred Fifty Dollars (\$2,750.00); County Attorney, Three Thousand, Five Hundred Dollars (\$3,500.00); District Attorney, Two Thousand, Five Hundred Dollars (\$2,500.00); District Clerk, Two Thousand, Seven Hundred Fifty Dollars (\$2,750.00); Tax Collector, Two Thousand, Seven Hundred Fifty Dollars (\$2,750.00); Tax Assessor, Two Thousand, Seven Hundred Fifty Dollars (\$2,750.00).

Compensation herein fixed for Sheriff of any county shall be exclusive of any reward received for the apprehension of criminals or fugitives from justice. The maximum fixed for the compensation of each District Attorney, shall be inclusive of the salary allowed by the Constitution. [As amended Acts 1931, 42nd Leg., p. 822, ch. 340, § 1.]

Effective 90 days after May 23, 1931, date of adjournment. This article was also amended by Acts 1930, 41st Leg., 4th C. S., p. 30, ch. 20, § 11. See, also, art. 2350h, ante. See note to art. 2994.

[Art. 3883b. Fees of officers in certain counties; deputies and assistants]

In all counties having a population of not less than 15,550, and not more than 15,800 according to the last available Federal Census and each available Federal Census thereafter, all officers shall be entitled to receive the fees earned by their respective offices in accordance with the provisions of the Maximum Fee Bill; provided, however, that in such counties the maximum amount of fees which may be retained, including all excess fees, shall be Six Thousand (\$6,000.00) Dollars for each officer, whose office earns sufficient fees to pay this amount. Each officer earning fees in excess of Six Thousand (\$6,000.00) Dollars shall make disposition of such excess in accordance with the provisions of the Maximum Fee Bill. All officers in counties hereby affected shall be entitled to deputies and assistants in the manner authorized in the Maximum Fee Bill. [Acts 1931, 42nd Leg., Spec. L., p. 355, ch. 174, § 1.]

Effective 90 days after May 23, 1931, date of adjournment.

Art. 3884. [Repealed by Acts 1931, 42nd Leg., p. 364, ch. 214, § 1]

Art. 3886. District and county attorneys of large counties

In any county having a population in excess of 150,000 and having a county attorney, the county attorney shall receive, and in counties having a population in excess of 150,000 inhabitants which do not have a county attorney, the district attorney or criminal district attorney shall receive all fees, commissions and perquisites earned by such office; provided, that the amount of said salary, fees, commissions and perquisites to be so received and retained by him including in case of district attorneys the five hundred (\$500.00) dollars provided by the Constitution shall not exceed the sum of six thousand (\$6,000.00) dollars per year and the excess fees allowed under Article 3891; in counties having a population less than one hundred fifty thousand (150,000) inhabitants the district attorney or criminal district attorney thereof shall receive all fees, com-

missions and perquisites earned by such office; provided that the amount of said salary, fees, commissions and perquisites to be received and retained by him, including the five hundred dollars (\$500.00) provided by the Constitution, shall not exceed the sum of eight thousand (\$8,000.00) dollars per year. All salaries, fees, commissions and perquisites so earned and received by such office in excess of said amount during each and every fiscal year shall be paid into the county treasury of said county in accordance with the terms and provisions of the Maximum Fee Bill, except as to such portion of such excess as shall be used and expended in the payment of salaries to deputies, stenographers, investigators or other employees, as herein provided. Each such county attorney and each district attorney or criminal district attorney in counties of over 150,000 population having no county attorney, may appoint 7 assistant district attorneys, one of whom shall receive a salary not to exceed forty-eight hundred dollars per annum; one of whom shall receive a salary not to exceed forty-two hundred dollars per annum; one of whom shall receive a salary not to exceed thirty-six hundred dollars per annum; two of whom shall receive a salary not to exceed three thousand dollars per annum each; two of whom shall receive a salary not to exceed twenty-four hundred dollars per annum each. He may employ two stenographers, who shall receive a salary not to exceed two thousand four hundred dollars per annum each. He may employ three investigators who shall receive a salary not to exceed two thousand four hundred dollars per annum each. The salaries of assistants, stenographers and investigators and other employees, above provided for, shall be paid monthly by said county, by warrant drawn upon the general funds thereof. Should such district [district] attorney or county attorney be of the opinion that the number of deputies, assistants, stenographers, investigators or other employees above provided for are inadequate for the proper investigation of crime and the efficient performance of the duties of said office, he may appoint such additional assistants and employees and fix their salary, provided such salaries shall in no event exceed the maximum provided herein to be paid to such assistants or other employees, but such additional assistants or employees so appointed, before qualifying and entering upon the duties of such office and employment, shall be confirmed by the Commissioners' Court of the county in which such appointments are made. The salaries for such additional assistants and employees shall be paid monthly out of the excess fees collected by such district attorney or county attorney and his office which would otherwise go to said county, a detailed sworn itemized statement of which he shall include in his annual report, as provided to be made in the Maximum Fee Bill. In no event shall said county be liable for the salaries of such additional assistants or employees. Any such assistant, deputy, stenographer, investigator or employee, whether regular or additional, shall be subject to removal at will of said district or criminal district attorney.

The criminal district attorney or county attorney of any county with a population exceeding one hundred fifty thousand (150,000) inhabitants, shall have the right to appoint, in addition to those now provided by law, not more than two (2) assistant county or district attorneys, at a salary not to exceed three hundred fifty (\$350.00) dollars per month, each, nor more than five (5) clerks, investigators or abstractors at a salary not to exceed two hundred (\$200.00) dollars per month, each, for the purpose of assisting the said attorney in performing his duties with reference to the collection of delinquent taxes and such other duties that might be assigned by the district or county attorney, such salaries to be paid out of the general fund of the county; provided, in counties under one hundred fifty thousand (150,000) population, the county attorney, with the approval of the Commissioners' Court, may employ not more than one assistant at a salary not to exceed two hundred fifty (\$250.00) dollars per month for

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the purpose of assisting the county attorney in performing his duties with reference to the collection of delinquent taxes, which salary shall be paid out of the county general fund, and the services of said assistant may be dispensed with at any time by the Commissioners' Court. [As amended Acts 1930, 41st Leg., 4th C. S., p. 30, ch. 20, § 2.]

See note to art. 2994.

#### Art. 3887. County attorney

In any county having a population of one hundred thousand (100,000) inhabitants or less and containing a city having a population in excess of fifty thousand (50,000) inhabitants, according to the last preceding Federal Census and each succeeding Federal Census thereafter, where there is no District Attorney, the County Attorney shall be allowed to retain out of the fees earned and collected by him the sum of Five Thousand (\$5,000.00) Dollars, as his compensation, exclusive of the compensation of assistants, stenographers and investigators, and shall be allowed to retain any amount as may be incurred as expenses under the authority of Article 3899 of the Revised Civil Statutes of Texas, including, in addition to the items enumerated in said Article, expenses incurred in investigating crime and accumulating evidence in criminal cases including the procurement of expert testimony, and shall pay all fees earned by such office in excess of Five Thousand (\$5,000.00) Dollars and in excess of such expenses herein provided for, during each and every fiscal year, into the County Treasury in accordance with the provisions of the Maximum Fee Bill. In arriving at the amount collected by him he shall include the fees arising from all classes of criminal cases, whether felony or misdemeanor, arising in any court in such county, including habeas corpus hearings and fines and forfeitures, and including fees for representing the State in criminal actions in corporation courts, such latter fees to be the same as those fixed by law for like service in Justice Courts. Each such County Attorney may appoint not to exceed three (3) Assistant County Attorneys, two (2) of them shall receive a salary of not to exceed Three Thousand (\$3,000.00) Dollars per annum and one (1) of whom shall receive a salary of not to exceed Twenty-one Hundred (\$2100.00) Dollars per annum. He may appoint an investigator who shall receive a salary not to exceed Twenty-four Hundred (\$2400.00) Dollars per annum. He may appoint not to exceed two (2) stenographers, each of whom shall receive a salary not to exceed Fifteen Hundred (\$1500.00) Dollars per annum. The salaries of the assistants, investigators and stenographers shall be paid monthly by said county by warrants drawn on the general funds thereof. Any such assistant, investigator or stenographer shall be subject to removal at the will of such County Attorney. Except as herein specifically provided otherwise, all provisions of this Chapter shall apply. [As amended Acts 1931, 42nd Leg., p. 800, ch. 326, § 1.]

Sec. 2a. The provisions of this Act shall also apply in any county having a population of seventy-five thousand (75,000) inhabitants or more, according to the last preceding Federal Census and each succeeding Federal Census thereafter, which has voted Road and Bridge Bonds amounting to Six Million Dollars (\$6,000,000.00) or more, and Flood Protection Bonds amounting to One Million Dollars (\$1,000,000.00) or more, where there is no District Attorney, and having two or more District Courts and in which the County Attorney acts as District Attorney. [Acts 1931, 42nd Leg., 2nd C. S., p. 56, ch. 34, § 1.]

Section 2 of said act provides that if any provision is invalid, such decision shall not affect the remainder.

This article was also amended by Acts 1929, 41st Leg., p. 256, ch. 112, § 1 (effective Feb. 19, 1929).

#### [Art. 3888a. Compensation of county judge and stenographer]

Sec. 1. That in all counties of this State in which Road and Bridge bonds have been voted by the people amounting to Six Million Dollars or

more, and in addition have voted flood protection bonds amounting to One Million Dollars or more, there shall be paid to the County Judge out of the General Funds of the county, and in addition to the maximum compensation now allowed to him by law, the sum of Three Hundred Dollars per month and be paid to him on the first day of each calendar month, and which sum shall be in addition to the compensation now allowed by law and shall not be accounted for as fees of office, provided said compensation from all sources shall not exceed the sum of \$5,000.00 per year.

Sec. 2. The Commissioners' Court of such counties shall on application of the County Judge authorize the County Judge to employ a stenographer at a salary of not exceeding \$125.00 per month, to be paid out of the General Funds of the county. [Acts 1929, 41st Leg., 1st C. S., p. 239, ch. 97.]

**Art. 3891. [3889] Disposition of fees**

Each officer named in this Chapter shall first, out of the fees of his office, pay or be paid the amount allowed him under the provisions of this Chapter, together with the salaries of his assistants and deputies, and the amount necessary to cover costs of premium on whatever Surety Bond may be required by Law. If the fees of such office collected in any year be more than the amount needed to pay the amount allowed such officer and his assistants and deputies, same shall be deemed excess fees, and in counties in which the population is less than thirty-seven thousand five hundred (37,500) inhabitants, such officer [shall]\* retain all of such fees, in addition to the amounts specified in Articles 3883 and 3883-A, until same amounts to Twelve Hundred Fifty (\$1,250.00) Dollars, and of the remaining excess fees, such officers shall retain one-fourth of such remaining excess fees until such one-fourth amounts to Seven Hundred Fifty (\$750.00) Dollars; provided, that in no case shall any officer in such counties receive as total compensation in excess of Four Thousand Five Hundred (\$4,500.00) Dollars; and in counties in which the population is as many as thirty-seven thousand five hundred (37,500) inhabitants and is less than seventy-five thousand one (75,001) inhabitants, such officer shall retain all excess fees until the same amounts to One Thousand Two Hundred Fifty (\$1,250.00) Dollars and of the remaining excess fees such officer shall retain one-fourth of such remaining excess fees until such one-fourth, together with the maximum fees allowed by this Chapter and said sum of One Thousand Two Hundred Fifty (\$1,250.00) Dollars, shall amount to the sum of Five Thousand Five Hundred (\$5,500.00) Dollars; and in counties in which the population exceeds seventy-five thousand (75,000) inhabitants, and is less than one hundred fifty thousand and one (150,001) inhabitants, such officer shall retain all excess fees until the same amounts to Three Thousand (\$3,000.00) Dollars; and of the remaining excess fees, such officer shall retain one-fourth of such remaining excess fees until such one-fourth, together with the maximum fees allowed by this Chapter and said sum of Three Thousand (\$3,000.00) Dollars shall amount to the sum of Eight Thousand (\$8,000.00) Dollars; and in counties in which the population exceeds one hundred and fifty thousand (150,000) inhabitants, such officer shall retain all excess fees until the same, together with the maximum fees allowed by Articles 3883, 3883-A, and 3886, shall amount to the sum of Twelve Thousand Five Hundred (\$12,500.00) Dollars; provided after the expiration of the present elective term that in counties in which the population according to the last preceding census exceeds three hundred and twenty-five thousand (325,000) inhabitants and does not exceed three hundred and forty-five thousand (345,000) inhabitants all such county officers and Justices of the Peace shall retain all excess fees until the same, together with the maximum fees allowed by Articles 3883, 3883-A and 3886 shall amount to the sum of Ten Thousand

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(\$10,000.00) Dollars. All fees collected by officers named in Articles 3883, 3883-A and 3886, during any fiscal year in excess of maximum amount allowed by Law, and of the amounts of excess fees allowed by this Article for their services, and for services of their deputies, or their assistants as herein provided for, shall be paid into the County Treasury of the county where the excess accrued, provided that in counties of less than twenty-five thousand (25,000) inhabitants and which constitute a separate Judicial District, the chief deputy or the first assistant of the officer named in this Chapter, shall receive a sum not to exceed a rate of Eighteen Hundred (\$1,800.00) Dollars per annum, and the other deputies or assistants a sum of not to exceed a rate of Fifteen Hundred (\$1,500.00) Dollars per annum, and the limitations as to the pay of deputies and assistants elsewhere provided in this Chapter, shall not apply in such counties.

The compensation, limitations, and maximums herein fixed in this Chapter for officers shall include and apply to all fees and compensation whatever collected by said officers in their official capacity, whether accountable as fees of office under present Law or not, and shall also include all compensation for certified or uncertified copies of any record or paper, and all fees or compensation for any certificates issued, any Law, General or Special, to the contrary notwithstanding, and particularly shall include all fees now allowed by Law to officers pertaining to delinquent taxes and tax certificates, but this enumeration shall not be construed so as to exclude any other fees from the operation of this Chapter. The compensation fixed by this Chapter for sheriffs shall be exclusive of any reward received for the apprehension of criminals or fugitives from justice. The maximum fees for the compensation of District Attorneys and Criminal District Attorneys shall be inclusive of the salary allowed such attorneys by the Constitution. The maximum fees for the compensation of County Judges and Justices of the Peace shall be exclusive of any compensation received for performing marriage ceremonies, which amount shall not be accountable for and not required to be reported as fees of office. [As amended Acts 1931, 42nd Leg., p. 870, ch. 368, § 1.]

\*Not in copy. amended by Acts 1930, 41st Leg., 4th C. S.,  
Effective 90 days after May 23, 1931, date p. 30, ch. 20, § 3.  
of adjournment. This article was also See note to art. 2994.

#### Art. 3892. [3890] Failure to collect maximum

Any officer mentioned in this Chapter who does not collect the maximum amount of his fees for any fiscal year and who reports delinquent fees for that year, shall be entitled to retain, when collected, such part of such delinquent fees as is sufficient to complete the maximum compensation authorized by Articles 3883, 3883-A, and 3886 for the year in which delinquent fees were charged, and also retain the amount of excess fees authorized by law, and the remainder of the delinquent fees for that fiscal year shall be paid as herein provided for when collected; provided, the provisions of this Article shall not apply to any officer after one year from the date he ceases to hold the office to which any delinquent fee is due, and in the event the officer earning the fees that are delinquent has not collected the same within twelve months after he ceases to hold the office, the amount of fees collected shall be paid into the county treasury. Provided, however, that nothing in this Act precludes the payment of ex-officio fees in accordance with Title 61 of the Revised Civil Statutes of Texas, 1925, as part of the maximum compensation. Provided, that any change made in this Article by this Act shall not apply to fees heretofore earned. [As amended Acts 1930, 41st Leg., 4th C. S., p. 30, ch. 20, § 4.]

See note to art. 2994.

Art. 3894. [Repealed by Acts 1930, 41st Leg., 4th C. S., p. 30, ch. 20, § 10]

Art. 3897. [3895] Sworn statement

Each officer mentioned in Articles 3883, 3883-A and 3886, shall, at the close of each fiscal year, make to the district court of the county in which he resides, by filing with the district clerk, on forms designed and approved by the State Auditor, a sworn statement in triplicate, one copy of which shall be forwarded to the State Auditor by the district clerk within thirty days after same has been filed in his office, and one copy of which shall be filed with the county auditor, if any; otherwise, said copy shall be filed with the Commissioners' Court. Said report shall show the amount of fees collected by him during the fiscal year, and the number of deputies and assistants employed by him during the year, and the amount paid, or to be paid each. Such statement shall include all fees and compensation whatever collected by said officer even though heretofore exempt from the provisions of any law. Said report shall be filed not later than March 1st, following the close of the fiscal year and for each day after said date said report has not been filed, said officer shall be liable to a penalty of twenty-five (\$25.00) dollars, which may be recovered by the county in a suit brought for such purpose, and shall be subject to removal from office. Provided, that where any officer mentioned in this Chapter has expenses of office for which he is required to file an expense account under Article 3899, the Commissioners' Court is hereby expressly inhibited and debarred from paying any ex-officio salary to such officer until such expense account has been filed in accordance with Article 3899. [As amended Acts 1930, 41st Leg., 4th C. S., p. 30, ch. 20, § 5.]

See note to art. 2994.

[Art. 3899a. Constable's expense account]

In those counties which have a population in excess of eighty thousand inhabitants and less than one hundred thousand inhabitants and containing a city with a population with thirty-five thousand inhabitants, according to the census of the United States in 1920, the constable whose precinct includes such a city shall receive an annual expense account to be allowed by the Commissioners' Court not to exceed fifteen hundred dollars per annum, to be paid monthly by warrant drawn on the general funds of the county. [Acts 1929, 41st Leg., p. 37, ch. 12, § 1.]

[Art. 3899b. Offices and office supplies and furniture]

Sec. 1. There shall be allowed to County Judges, clerks of the District and County Courts, sheriffs, County Treasurers, Tax Assessors and Tax Collectors, such books, stationery, including blank bail bonds and blank complaints, and office furniture as may be necessary for their offices, to be paid for on the order of the Commissioners' Court out of the County Treasury; and suitable offices shall also be provided by the Commissioners' Court for said officers at the expense of the county. And such books and stationery as are necessary in the performance of their duties shall also be furnished Justices of the Peace by said Commissioners' Court. Provided all purchases herein must be approved by Commissioners' Court, and must be made under the provisions of Article 1659, Revised Civil Statutes of Texas, 1925.

Sec. 2. Suitable offices and stationery and blanks necessary in the performance of their duties may in the discretion of the Commissioners' Court also be furnished to resident District Judges, resident District and County Attorneys, County Superintendents and County Surveyors, and may be paid for on order of the Commissioners Court out of the County Treasury. [Acts 1929, 41st Leg., p. 448, ch. 207.]



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[Art. 3899c. Sheriff's compensation in certain counties]

In all counties having a population of not less than ten thousand and fifteen (10,015) and not more than ten thousand and forty (10,040), as shown by the United States Census of 1920, or any subsequent Federal Census, and in all counties having a population of not less than ten thousand and eighty (10,080) and not more than eleven thousand and ten (11,010), as shown by the United States Census of 1930, or any subsequent Federal Census, and in all counties having a population of not less than twenty-three thousand six hundred and sixty-nine (23,669) and not more than twenty-three thousand seven hundred and fifty (23,750) according to the Federal Census of 1930, or may hereafter have a population according to any subsequent Federal Census of not less than twenty-three thousand six hundred and sixty-nine (23,669) nor more than twenty-three thousand seven hundred and fifty (23,750), the Commissioners' Court may allow the sheriff for summoning jurors in District or County Courts serving all legal notices to overseers of roads and for all other public service for which compensation is not otherwise provided for; an ex-officio allowance of not exceeding Three Thousand Dollars (\$3,000.00) per annum, the amount to be fixed by the Commissioners' Court and to be paid out of the General Fund of the county. [Acts 1929, 41st Leg., 1st C. S., p. 221, ch. 90, as amended Acts 1931, 42nd Leg., Spec. L., p. 284, ch. 146, § 1.]

Counties having population of 13,950 to 14,050, not exceeding \$2,500.00: Special Laws 1931, p. 442, ch. 224.

Art. 3900. [Repealed by Acts 1930, 41st Leg., 4th C. S., p. 30, ch. 20, § 10]

Art. 3902. [3903] Deputies—appointment of

Whenever the County Judge, Sheriff, County Clerk, County Attorney, District Clerk, Tax Collector, Tax Assessor, Justice of Peace, Constable shall require the services of deputies or assistants in the performance of his duties, he may apply to the County Commissioners' Court of his county for authority to appoint such deputies or assistants, setting out by sworn application the number needed, the position sought to be filled, and the amount to be paid. Said application shall be accompanied by a statement showing the probable receipts and disbursements of the office; and said Court may make its order authorizing the appointment of such deputies and fix the compensation to be paid them and determine the number to be appointed; provided, that in no case shall Commissioners' Courts or any member thereof attempt to influence the appointment of any person as deputy or assistant in any office. Upon the entry of such order the officers applying for such deputies shall be authorized to appoint them as provided by law; provided, that said compensation shall not exceed the maximum amount hereinafter set out. In counties having a population in excess of one hundred thousand (100,000) inhabitants, the District Attorney in the county of his residence or the County Attorney where there is not a District Attorney, shall be allowed by order of the Commissioners' Court of the county where such official resides such amount as said Court may deem necessary to pay for the proper administration of the duties of such office, not to exceed Seventy-five (\$75.00) Dollars per month; such amount to be allowed on the affidavit of said District or County Attorney showing a necessity for such expenses and for all amounts so incurred. Said Commissioners' Court may also require any other evidence as it may deem necessary to show the necessity of such expenditure, and its judgment in allowing same shall be final.

The maximum compensation which may be allowed for deputies and/or assistants to the officers above named for their services shall be as follows, to-wit:

First assistant or chief deputy not to exceed Eighteen Hundred (\$1800.00) Dollars per annum; other assistants or deputies not to exceed Fifteen Hundred (\$1500.00) Dollars per annum each.

Provided, that in counties having a population of from thirty-seven thousand, five hundred (37,500) to one hundred thousand (100,000) inhabitants, the maximum compensation which may be allowed such deputies or assistants for their services shall be as follows, to-wit:

First assistant or chief deputy not to exceed Twenty-one Hundred (\$2100.00) Dollars per annum; heads of such department not to exceed Eighteen Hundred (\$1800.00) Dollars per annum each; other deputies or assistants not to exceed Fifteen Hundred (\$1500.00) Dollars per annum each.

Provided, that in counties having a population of from thirty-seven thousand, five hundred (37,500) to one hundred thousand (100,000) and/or containing a city of over twenty-five thousand (25,000) or counties containing a population of more than one hundred thousand (100,000) and less than one hundred twenty-five thousand (125,000) population, the maximum compensation that may be allowed such deputies or assistants for their services shall be as follows, to-wit:

First assistant or chief deputy, not to exceed Twenty-seven Hundred (\$2700.00) Dollars per annum; heads of each department not to exceed Twenty-four Hundred (\$2400.00) Dollars per annum each, other deputies or assistants not to exceed Eighteen Hundred (\$1800.00) Dollars per annum each.

Provided, that in counties having a population in excess of one hundred twenty-five thousand (125,000) inhabitants, the maximum compensation that may be allowed such deputies or assistants for their services shall be as follows, to-wit:

First assistant or chief deputy, not to exceed Three Thousand (\$3,000.00) Dollars per annum; provided the Commissioners' Court may increase said amount not to exceed Thirty-three Hundred (\$3300.00) Dollars per annum, where a necessity thereof is shown and where the person to be appointed has been previously the head of a department for not less than one (1) year or has been in the continuous service of the county for a period of not less than two (2) years.

Heads of departments may be allowed by the Court, when in their judgment such are necessary, not to exceed Twenty-seven Hundred (\$2700.00) Dollars per annum, when such heads of departments sought to be appointed shall have previously served the county for not less than two (2) continuous years. Other heads of departments shall receive not to exceed Twenty-four Hundred (\$2400.00) Dollars per annum; provided that no head of a department shall be created except where the person sought to be appointed is to be in actual charge thereof, with deputies or assistants under his supervision, or a department approved by the Court and only in offices capable of a bona fide subdivision into departments.

Deputies or assistants other than those above provided for may be allowed, the number to be determined by the Commissioners' Court, and their salaries based as far as possible on a graduate scale according to service, ability and qualifications. Fifty per cent of the number so appointed may be authorized at a rate not to exceed Twenty-five Hundred (\$2500.00) Dollars per annum, provided that such rate shall be allowed only to deputies in service for two (2) years or more and all others so appointed at a rate not to exceed Twenty-one Hundred (\$2100.00) Dollars per annum.

Provided further, that in determining the number of inhabitants in each of the instances heretofore mentioned, the number of inhabitants as shown by the last United States Census shall control.

The County Commissioners' Court in each order granting authority to appoint deputies or assistants shall state the number of deputies or as-

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sistants authorized and the amount of compensation to be allowed each deputy or assistant, which compensation shall be paid out of the fees of the office to which such deputies or assistants may be appointed and assigned shall not be included in estimating the maximum fees of the officers named above. The salaries referred to shall not be paid by the county, but are to be paid out of the fees of the office in the following manner:

First, out of any current fees collected; second, if such fees are not sufficient, then out of any delinquent fees collected which are due the county after all legal deductions are made, and if there be any balance remaining after payment of the maximum fee, compensation and excess fees due such officer or officers and the compensation of such deputies or deputy, such balance shall be paid to the County Treasurer.

Provided, however, that nothing in this Act shall be construed to repeal House Bill No. 196, passed by the Regular Session of the 36th Legislature, same being known as Chapter 47, of the Acts of the Regular Session of the 36th Legislature, Page 83, and any Act amendatory thereof, relating to fixing salaries of District Attorneys, their deputies, assistants and stenographers in counties having a population of more than one hundred thousand (100,000).

Provided, that in counties of one hundred twenty-five thousand (125,000) inhabitants and over, according to the last United States Census, and in which counties there are more than one (1) District Court, including Criminal District Courts, the clerk of the District Court shall appoint a special deputy for each such Court when directed so to do by the Judge of any such Court, except in instances where there is now one provided for by law; provided, further, that any such special deputy shall be paid out of the General Fund of the County a salary not in excess of the minimum salary per annum, provided for deputies now by law, payable monthly, and such compensation shall not be paid out of the fees of compensation of the District Clerk, and shall not be taken into consideration in arriving at the maximum compensation and excess fees allowed the clerk of the District Courts.

All laws and parts of laws in conflict herewith are expressly hereby repealed, except Chapter 81, Acts of the Regular Session, 41st Legislature, [Art. 2372a] same being House Bill No. 596. [As amended Acts 1931, 42nd Leg., p. 364, ch. 214, § 2.]

This article was, also, amended by Acts effective 90 days after May 21, 1929, date of 1929, 41st Leg., 1st C. S., p. 225, ch. 92, § 2, adjournment.

#### [Art. 3902A. Deputy sheriffs in certain counties]

Sec. 1. In any county coming within the provisions of this Act the Sheriff may with the consent of the Commissioners Court of the County appoint not to exceed two deputy sheriffs who shall have the power, authority and duties of deputy sheriffs under the laws of this State, and all the laws of this State applicable to Deputy Sheriffs not in conflict with this Act shall be applicable to said deputies. Each such deputy shall receive a salary of not exceeding One Hundred Fifty (\$150.00) Dollars per month, to be fixed by the Commissioners Court and paid out of the general fund of the County. [Acts 1929, 41st Leg., 1st C. S., p. 58, ch. 24.]

Sec. 2. This act shall apply only to the following classes of counties:

(a) Any county having a population of more than 11,090 and less than 11,130, according to the latest United States census.

(b) Any county having a population of more than 4300 and less than 4400, according to the latest United States census. [Acts 1929, 41st Leg., 1st C. S., p. 58, ch. 24, as amended Acts 1929, 41st Leg., 2nd C. S., p. 94, ch. 55, § 1.]

#### [Art. 3902c. Deputy sheriffs in certain counties]

In any county containing not less than 10,040 and not more than 10,050 population as shown by the preceding Federal census, the sheriff

may, with the consent of a majority of the Commissioners' court, appoint one deputy whose salary may be paid by the county out of the general fund, the salary not to exceed fifteen hundred (\$1500.00) per year. [Acts 1929, 41st Leg., 2nd C. S., p. 97, ch. 58, § 1.]

Art. 3902—E. [Salaries of assistants to county attorney and heads of department in certain counties]

Provided that in any county having a population of more than one hundred and thirty thousand (130,000) and less than one hundred and fifty thousand (150,000) inhabitants, as shown by the latest United States Census, and containing two cities of fifty thousand (50,000) population, or more, each, as shown by the said Census, said County composing two or more Judicial Districts, and having no District Attorney, the maximum compensation that may be allowed the first assistant, heads of departments, and other assistants to the County Attorney, shall be as follows:

First assistant, not to exceed the sum of Thirty-six Hundred Dollars (\$3600.00) per annum.

Heads of departments, or second assistants, not to exceed the sum of Three Thousand Dollars (\$3,000.00) per annum, each.

And other assistants, not to exceed the sum of Twenty-four Hundred Dollars (\$2400.00) per annum, each.

The compensation herein provided for and the amounts thereof shall be fixed by the Commissioners' Court of such County, not in any event to exceed said maximum amounts, upon the application of the County Attorney of such County, which said application shall show the necessity therefor, and the said assistants or heads of departments shall not be required to have rendered official service in such County nor to have been the head of a department therein. Said compensation when fixed and allowed by order of the Commissioners' Court of such county, shall be paid in monthly installments as follows:

The first assistant shall be paid in monthly installments by said County, by warrant drawn upon the general fund thereof.

The heads of departments, or second assistants, and other assistants, shall be paid monthly installments out of the fees of the office of County Attorney of such county, and the County shall in no case be liable for the payment of such compensation of the said heads of departments or second assistants, and other assistants hereinabove provided for.

Provided further, the County Attorney in any such County having a population of more than one hundred and thirty thousand (130,000) and less than one hundred and fifty thousand (150,000) inhabitants, as shown by the latest United States Census, and containing two cities of fifty thousand (50,000) population or more, each, as shown by the said Census, said County composing two or more Judicial Districts, and having no District Attorney, shall have the right to appoint two stenographers, one of whom shall receive a salary not to exceed the sum of Twenty-four Hundred Dollars (\$2400.00) per annum, and one of whom shall receive a salary not to exceed the sum of Fifteen Hundred Dollars (\$1500.00) per annum; and he may appoint two investigators, one of whom shall receive a salary not to exceed the sum of Twenty-four Hundred Dollars (\$2400.00) per annum, and one of whom shall receive a salary not to exceed the sum of Eighteen Hundred Dollars (\$1800.00) per annum. The compensation herein provided for and the amounts thereof shall be fixed by the Commissioners' Court of such County, not in any event to exceed said maximum amounts, upon the application of the County Attorney of such County, which said application shall show the necessity therefor. Said compensation, when fixed and allowed by order of the Commissioners' Court of such County, shall be paid in monthly installments by said County, by warrant drawn upon the General Fund thereof.

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And provided further, the County Attorney in any such County having a population of more than one hundred and thirty thousand (130,000) and less than one hundred and fifty thousand (150,000) inhabitants, as shown by the latest United States Census, and containing two cities of fifty thousand (50,000) population or more, each, as shown by the said Census, said County composing two or more Judicial Districts, and having no District Attorney, shall have the right to appoint, in addition to those above provided for, not more than two assistants, one of whom shall receive a salary not to exceed the sum of Three Thousand Dollars (\$3,000.00) per annum, and one of whom shall receive a salary not to exceed the sum of Twenty-four Hundred Dollars (\$2400.00) per annum, and not more than two assistants or clerks at a salary not to exceed the sum of Fifteen Hundred Dollars (\$1500.00) per annum, each, for the purpose of assisting the said County Attorney in performing the duties with reference to the collection of delinquent taxes and such other duties that might be assigned by the said County Attorney. The compensation herein provided for and the amounts thereof shall be fixed by the Commissioners' Court of such County, not in any event to exceed said maximum amounts, upon the application of the County Attorney of such County, which said application shall show the necessity therefor. Said compensation, when fixed and allowed by order of the Commissioners' Court of such County, shall be paid in monthly installments by said County, by warrant drawn upon the General Fund thereof. [Acts 1931, 42nd Leg., p. 815, ch. 336, § 1.]

Effective May 7, 1931. Section 2 of said act repeals all conflicting laws and parts of laws.

[Art. 3902f. Compensation of deputies and assistants to sheriffs, clerks, etc., in certain counties]

That the maximum compensation which may be allowed for deputies and/or assistants to the sheriff, County Clerk, District Clerk, Tax Assessor and Tax Collector in counties with a population of not less than 275,000, and not more than 320,000; and in all counties having a population of 350,000 or more, according to the last United States Census, shall be as follows:

First Assistant or Chief Deputy not to exceed \$4,200.00 per annum.

Heads of departments not to exceed \$3,000.00 per annum.

Deputies or assistants other than those above provided for not to exceed \$2,400.00 per annum. [Acts 1931, 42nd Leg., p. 806, ch. 330, § 1.]

Effective April 21, 1931. Section 2 of said act repeals all conflicting laws and parts of laws.

Art. 3912. [Repealed by Acts 1930, 41st Leg., 4th C. S., p. 30, ch. 20, § 10]

Art. 3914. [3837] [2439] Secretary of State

The Secretary of State is authorized and required to charge for the use of the State the following other fees:

Upon filing each charter, amendment, or supplement thereto of a channel and dock, railroad, magnetic telegraph line, street railway or express corporation, a filing fee of Two Hundred (\$200.00) Dollars, provided, that if the authorized capital stock exceeds One Hundred Thousand (\$100,000.00) Dollars, an additional filing fee of Fifty Cents for each One Thousand (\$1,000.00) Dollars authorized capital stock or fractional part thereof, after the first One Hundred Thousand (\$100,000.00) Dollars, shall be paid.

Upon filing each charter, amendment or supplement thereto of a corporation for the support of public worship, any benevolent, charitable, educational, missionary, literary or scientific undertaking, the maintenance of a library, the promotion of a public cemetery not for profit and

the encouragement of agriculture and horticulture, to aid its members in producing and marketing agricultural products, or for acquiring, raising, breeding, fattening or marketing livestock, a filing fee of Ten (\$10.00) Dollars; and for filing the semi-annual financial statement of such agricultural products or livestock corporation, Ten (\$10.00) Dollars, which shall include the annual license fee.

Upon filing each charter, amendment or supplement thereto, of a private corporation created for any other purpose intended for mutual profit or benefit, a filing fee of Fifty (\$50.00) Dollars, provided that if the authorized capital stock of said corporation shall exceed Ten Thousand (\$10,000.00) Dollars it shall be required to pay an additional fee of Ten (\$10.00) Dollars for each additional Ten Thousand (\$10,000.00) Dollars of its authorized capital stock or fractional part thereof after the first.

Upon obtaining a permit under Article 1529 and upon filing a certified copy of any amendment or supplement under Article 1537, each foreign corporation shall pay the following fees for the privilege of being admitted to do an intrastate business in this State; Fifty (\$50.00) Dollars for the first Ten Thousand (\$10,000.00) Dollars of its issued capital stock employed in Texas, as hereinafter determined, and Ten (\$10.00) Dollars for each additional Ten Thousand (\$10,000.00) Dollars or fractional part thereof. The amount of the issued capital stock so taxable shall be that proportion of the whole thereof, as the gross assets employed in whole or in part in intrastate business in Texas, plus the gross receipts from intrastate Texas business, bear to the entire assets and receipts of the corporation. In the case of a beginner corporation obtaining a permit to do business in Texas for the first time, where it has theretofore employed no capital stock in Texas, the basic filing fee of Fifty (\$50.00) Dollars shall be paid as hereinabove provided and within ninety (90) days after the expiration of the first year under its permit, the corporation shall file an affidavit with the Secretary of State executed by one of its executive officers, showing the amount of gross assets employed in whole or in part in intrastate business in Texas and the amount of its entire gross assets at the end of such first year with all other data required to calculate the fee, and at such time shall pay to the Secretary of State the balance of the filing fee on the proportion of its issued capital stock, as hereinbefore determined, in excess of Ten Thousand (\$10,000.00) Dollars at the rate of Ten (\$10.00) Dollars for each additional Ten Thousand (\$10,000.00) Dollars or fractional part of such excess. If, during any year of the life of any such permit, additional capital stock is issued under an amendment increasing the capital stock, such corporation shall, within ninety (90) days from the end of such permit year, file a similar affidavit and pay the balance of the filing fee on any such additional issued capital stock employed in Texas, as shown in such report in the same manner as provided herein for the payment on the excess in the case of a beginner corporation; provided that the minimum filing fee for any amendment or supplement shall be Fifty (\$50.00) Dollars. Where the assets employed in Texas are used jointly in intrastate and interstate business, only that proportion of the gross value thereof shall be used in calculating such fees as the intrastate Texas receipts bear to the interstate Texas receipts from the entire operation in Texas.

The gross receipts in all cases shall be for the permit year preceding the date the fee is payable; provided that where no intrastate Texas business has been done for such period, then the ratio used shall be simply that of the Texas gross assets to the entire gross assets. Where such corporation has no capital stock, the amount of its net assets shall be used in the place of issued capital stock. Issued capital stock without par value shall be taken at the amount received for its issuance.

The maximum filing fees to be paid by any domestic or foreign corporation shall be Twenty-five Hundred (\$2500.00) Dollars.

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For each commission to every officer elected or appointed in this State, One (\$1.00) Dollar.

For each official certificate, One (\$1.00) Dollar.

For each warrant of requisition, Two (\$2.00) Dollars.

For every remission of fine or forfeiture, One (\$1.00) Dollar.

For copies of any paper, document or record in this office, Fifty Cents per legal size page.

For recording each contract for the conditional sale, lease or hire of railroad equipment and rolling stock, and for recording each declaration of performance of such contract, Five (\$5.00) Dollars; and for entering such declaration on the margin of the record of such contract, One (\$1.00) Dollar.

For recording each certificate of consolidation of cities, and for recording each certificate of adoption of a city charter or amendment under the "Home Rule Act," Fifty Cents per legal size page; provided such fee shall not be less than Two (\$2.00) Dollars. [As amended Acts 1931, 42nd Leg., p. 204, ch. 120, § 1.]

Effective May 13, 1931. Section 2 of said act provides that its provisions are separable and if any section is held invalid, such decision shall not affect the remainder.

#### Art. 3920. [3844] [2443] [2378] Commissioner of Insurance

The Board of Insurance Commissioners shall charge and receive for the use of the State the following fees:

For filing each declaration or certified copy of charter of an Insurance Company \$ 25.00

For filing the annual statement of an Insurance Company, or certificate in lieu thereof \$ 20.00

For certificate of authority and certified copy thereof \$ 1.00

For every copy of any paper filed in the Department of Insurance, for each 100 words \$ .20

For affixing the official seal and certifying to the same \$ 1.00

For valuing policies of Life Insurance, for each one million of insurance or fraction thereof \$ 10.00

[As amended Acts 1931, 42nd Leg., p. 252, ch. 152, § 1.]

Effective 90 days after May 23, 1931, date of adjournment. Section 3-B of said act appropriates the sums paid into the Insurance Examination Fund for the expenses provided for in the act. Section 4 repeals all conflicting laws and parts of laws.

#### Art. 3926. [3850 to 3853] Other fees of county judge

3. For presiding over the Commissioners' Court, ordering elections and making returns thereof, hearing and determining civil causes, if any, and transacting all other official business not otherwise provided for, the County Judge shall receive such salary from the County Treasury as the Commissioners' Court may allow him by order, payable monthly from the general funds of the county, provided, that in counties having \$290,000,-000.00 assessed valuation, or more, and which have established therein institutions for the care of both dependent and delinquent boys and girls, the County Judge shall receive as ex-officio salary, not to be accounted for as fees of office, and in addition to all amounts allowed under the Maximum Fee Bill, the further sum of \$3,000.00 per annum, payable monthly out of the general funds of the county. [As amended Acts 1929, 41st Leg., p. 64, ch. 30, § 1.]

#### Art. 3932. [3862] [2459] [2395] County clerk: ex-officio services

For all ex-officio services in relation to roads, bridges and ferries, issuing jury script, county warrants, and taking receipts therefor, services in habeas corpus cases, making out bar dockets, keeping records of trust funds, filing and docketing all papers for Commissioners' Court, keeping road overseers' books and list of hands, recording all collection returns of

delinquent involvents [insolvents], recording county treasurer's reports, recording reports of justices of the peace, recording reports of animals slaughtered, and services in connection with all elections, and all other public services not otherwise provided for to be paid upon the order of the Commissioners' Court out of the treasury, the county clerk shall receive such sum as the Commissioners' Court may determine under the provisions of Article 3895, to be paid quarterly. No county clerk shall be compelled to file or record any instrument of writing permitted or required by law to be recorded until the payment or tender of payment of all legal fees for such filing or recording has been made. Nothing herein shall be held to include papers or instruments filed or recorded in suits pending in the county court. [As amended Acts 1930, 41st Leg., 4th C. S., p. 30, ch. 20, § 6.]

See note to art. 2994.

**Art. 3937. [3871] Tax assessor**

Each assessor of taxes shall receive the following compensation for his services which shall be estimated on the total value of the property assessed as follows: For assessing the State and County taxes on all sums for the first Two Million (\$2,000,000.00) Dollars or less, five cents, for each One Hundred (\$100.00) Dollars of property assessed. On all sums in excess of Two Million (\$2,000,000.00) Dollars and less than Five Million (\$5,000,000.00) Dollars, two and one-half cents on each One Hundred (\$100.00) Dollars, and on all sums in excess of Five Million (\$5,000,000.00) Dollars, two and one-fourth cents on each One Hundred (\$100.00) Dollars, provided, that in counties in which the population does not exceed twelve thousand, five hundred (12,500) inhabitants, the assessor shall receive on all sums for the first Four Million (\$4,000,000.00) Dollars, the sum of five cents for each One Hundred (\$100.00) Dollars, and on all sums above such amount the fee shall be as above stated, one-half of the above compensation shall be paid by the State and one-half by the county; for assessing the taxes on all drainage districts, road districts, or other political subdivisions of the county, the assessor shall be paid three-fifths of one cent for each One Hundred (\$100.00) Dollars of the assessed value of such districts or sub-divisions.

Provided that in counties in which the population is not more than Forty-two Thousand (42,000) nor less than Forty-one Thousand, Fifty (41,050) inhabitants according to the preceding United States Census, the Tax Assessor shall be paid for assessing the taxes, in all drainage districts, road districts, or other political sub-divisions of the county, two cents for each One Hundred (\$100.00) Dollars of the assessed value of such districts or sub-divisions, provided further that such compensation as is paid to the assessor shall be prorated among the various drainage districts, road districts, and other political sub-divisions of the county, according to the value of the property assessed in each district or other political sub-division, and for assessing the poll tax, five cents for each poll, which shall be paid by the State. The Commissioners' Court shall allow the assessor of taxes such sums of money to be paid monthly from the county treasury as may be necessary to pay for clerical work, taking assessments and making out the tax rolls of the county, but such sums so allowed to be deducted from the amount allowed to the assessor as compensation upon the completion of said tax rolls, provided the amount allowed the assessor by the Commissioners' Court shall not exceed the compensation that may be due the county to him for assessing. [As amended Acts 1931, 42nd Leg., p. 133, ch. 94, § 1.]

Effective 90 days after May 23, 1931, date of adjournment. This act was filed without the Governor's signature.

This article was also amended by Acts 1930, 41st Leg., 4th C. S., p. 30, ch. 20, § 7 (effective Jan. 1, 1931).

See note to art. 2994.



**Art. 3943. [3875] [2469] [2405] Treasurer; commissions limited**

The commissions allowed to any County Treasurer shall not exceed Two Thousand (\$2,000.00) Dollars annually; provided, that in all counties in which the assessed value of the property of such counties shall be One Hundred Million (\$100,000,000.00) Dollars or more as shown by the preceding assessment roll, the Treasurers thereof shall receive as their commissions a sum not exceeding Two Thousand, Seven Hundred (\$2,700.00) Dollars annually; provided that in all counties having a population of not less than seventy-five thousand (75,000) and not more than eighty thousand (80,000) according to the preceding United States Census, in which counties, road or road and bridge bonds in the amount of Six Million (\$6,000,000.00) Dollars or more and flood protection bonds in the amount of One Million (\$1,000,000.00) Dollars or more have been voted by the people, the Treasurers thereof shall receive as their commissions a sum not to exceed Twenty-seven Hundred (\$2700.00) Dollars annually; and shall be allowed an assistant at a salary not to exceed Twelve Hundred (\$1200.00) Dollars annually; provided that in all counties having a population of one hundred and fifty thousand (150,000) or more and less than two hundred and ten thousand (210,000) according to the last United States Census, the Treasurers thereof shall receive as their commissions of a sum not exceeding Two Thousand Seven Hundred (\$2,700.00) Dollars annually, and shall be allowed an assistant at a salary not to exceed One Thousand (\$1,000.00) Dollars per annum. [As amended Acts 1931, 42nd Leg., p. 833, ch. 346, § 1.]

Effective May 18, 1931.

tive April 27, and by Acts 1931, 42nd Leg.,

This article was, also, amended by Acts  
1931, 42nd Leg., p. 803, ch. 328, § 1 effec-

p. 792, ch. 319, § 1 effective April 16, 1931.

**[Art. 3943a. Additional compensation of treasurer in certain counties]**

Sec. 1. That in counties having a population of not less than 250,000, and where in such counties the County Treasurer prepares the payrolls and makes payment thereunder in cash, and acts as paymaster for the county, in addition to the duties of a custodian of a County Fund, there shall be paid to such County Treasurer out of the General Funds of the county, and in addition to the maximum compensation now allowed to him by law, the sum of Two Hundred (\$200.00) Dollars per month and be paid to him on the first day of each calendar month, provided said compensation from all sources shall not exceed the sum of Fifty-one Hundred (\$5,100.00) Dollars per year.

Sec. 2. The County Treasurer of such counties shall be authorized to employ an assistant at a salary not to exceed the sum of One Hundred Fifty (\$150.00) Dollars per month, to be paid out of the General Funds of the county. [Acts 1931, 42nd Leg., p. 770, ch. 308.]

**TITLE 66—FREE PASSES, FRANKS AND TRANSPORTATION**

**[Art. 4006—A. Free transportation to Indian War Veterans]**

Article 4005 shall not be held to prevent any railway company or other companies mentioned therein from granting free transportation, franks, privileges, or passes to Indian War Veterans, subject to the same limitations as apply to other Veterans provided in Article 4006. [Acts 1931, 42nd Leg., p. 335, ch. 202, § 1.]

**Art. 4014. Reports, etc.**

Each corporation, company or persons subject to the provisions of this title shall, as and when requested by the Railroad Commission of Texas, furnish said Commission with any and all information which may at any time be requested by said Commission relating to free transportation or

right thereto which has been given to travel, or to have property or messages transported or transmitted, free over the lines of any such corporation, company or person, and if requested by said Commission to give the name and address of such person or persons to whom said rights have been granted, either free or at a reduced rate; any corporation, company or person, who shall fail or refuse to comply with the request of the Railroad Commission of Texas, under the provisions of this Act, shall, for each such failure and refusal, be subject to a penalty not exceeding One Thousand (\$1,000.00) Dollars, to recover which suit shall be brought by the Attorney General of Texas under the direction of the Railroad Commission; provided, however, that each such corporation, company or person, who complies with the provisions of this Act, from and after January 1, 1931, shall not be required to furnish the reports provided for under Article 4014, Revised Civil Statutes of 1925, which is hereby amended. [As amended Acts 1931, 42nd Leg., p. 261, ch. 156, § 1.]

### TITLE 67—FISH, OYSTER, SHELL, ETC.

[Art. 4026a. Prohibiting sale of Trinity River bed and reservation for hunting and fishing]

Sec. 1. That the river bed of the Trinity River in Henderson and Navarro Counties shall remain the property of the State and shall not be sold and that all portions of this river bed, that are now the property of this State, shall not be sold, even though the channel of such river has been changed or may be changed, and providing further, that the people of this State shall have full right to fish in the waters of said Trinity River and in such waters that are in abandoned channels of this river, the bottoms of which are owned by this State, and shall have full right to hunt within the confines of such State property, provided that such fishing or hunting is in accordance with the laws of this State or such laws or regulations that may hereafter be provided.

Sec. 2. The Commissioners' Court of the County of Henderson or the County of Navarro is hereby granted full power to condemn rights of way in order that the public may reach the Trinity River or the waters of the abandoned channels of said river and such condemnation is hereby declared a public necessity.

Sec. 4. It shall be the duty of the Game, Fish and Oyster Commission to make investigations to determine how game and fish may be conserved in those portions of this State to which this Act applies. Any regulations provided shall be filed in the office of the County Clerk in the Counties of Henderson and Navarro and a copy of said regulations filed with the Secretary of State and a copy of said regulations shall be published in one issue of a newspaper regularly published in each of the Counties of Henderson and Navarro and such regulations shall become effective ten (10) days after copies of such regulations are published in each newspaper in accordance with the provisions of this Act.

Sec. 5. All laws or parts of laws in conflict with this Act are hereby repealed and all laws or parts of laws effecting the taking of game or fish or the manner or means of taking game or fish or in any way pertaining to same, in that portion of this State to which this Act applies, be, and the same are hereby specifically repealed in their application to this area, provided that if any portion of this law is held to be unconstitutional, that all laws in effect at this time applying to the areas specified in this Act, shall remain in full force and effect. [Acts 1931, 42nd Leg., 2nd C. S., p. 42, ch. 23.]

Section 3 of said acts 1931, 42nd Leg., 2nd C. S., p. 42, ch. 23, being a penal provision is published as Pen. Code, art. 978h.

## [Art. 4032a. License to fish and fees]

Sec. 1. No person, who is a nonresident of Texas, or who is an alien, shall fish in the waters of this State without first having procured from the Game, Fish and Oyster Commission of Texas, or a Deputy Game Warden thereof, or from a County Clerk in Texas, or other legally authorized agent, a license to fish; and no person who is a resident of this State shall fish with artificial lures of any kind in the waters of this State without first having procured from the Game, Fish and Oyster Commission, or a Deputy thereof, or from a County Clerk in Texas, or other legally authorized agent, a license to fish. [As amended Acts 1931, 42nd Leg., p. 381, ch. 227, § 1.]

Sec. 2. Any officer, deputy of [or] legally authorized agent, issuing any license to fish under the provisions of this Act, shall collect from the person to whom the license is issued the following fees:

(1) If issued to a resident, the sum of One Dollar and Ten Cents (\$1.10), of which amount he shall retain as his fee Ten (10¢) Cents, the balance of which amount he shall remit to the Game, Fish and Oyster Commissioner on or before the 10th day of the month next succeeding that during which said license was issued.

(2) If issued to a non-resident or an alien, the sum of Five Dollars (\$5.00), of which amount he shall retain as his fee Twenty Five (25¢) cents, the balance of which amount he shall remit to the Game, Fish and Oyster Commissioner as required under subdivision One (1) of this section; provided that he may issue to such nonresident a license good for only five (5) days, including the day of issuance, upon payment by the licensee of One Dollar and Ten Cents (\$1.10), of which amount the officer so issuing said license shall retain as his fee Ten (10¢) Cents, and the balance of which amount he shall remit to the Game, Fish and Oyster Commissioner as provided for in subdivision One (1) of this section.

The officer issuing such license shall keep a complete and correct record of each fishing license issued, showing the name and place of residence of each licensee and the serial number and date of issuance of said license, on such form as the Game, Fish and Oyster Commissioner may prescribe; and the stubs of such licenses and the record thereof shall belong to the State of Texas and shall be filed with said Commissioner as and when he may direct.

The licenses provided for herein shall entitle the holder thereof to fish in the waters described in this Act until and including August 31st next succeeding the date of issuance thereof, except that the five (5) days license shall be good only for the five days from and including the day of the issuance thereof; and every license issued under the provisions of this Act shall contain; the true date of issuance thereof, the name of licensee, his age, height [height], weight, color of hair, color of eyes, county of residence, if a resident of Texas, State or County of residence, if a nonresident of Texas or an alien, and such other information as the Commissioner may deem advisable to require, and the licensee shall sign upon said license a pledge to obey the laws of Texas as to fishing.

Sec. [3] Any person required under the provision of this Act to procure a license to fish who shall fish in, or who shall take by any means fish, oysters, shrimp or other marine life in any of the waters of this State in violation of the provisions of this Act without first procuring such license, or who shall fail, or refuse on demand by any officer, to show such officer his fishing license required of him by this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than Ten (\$10.00) Dollars nor more than One Hundred (\$100.00) Dollars; provided the provisions of this Act shall not apply to a resident citizen of Texas who holds a license for commercial fishing under Article 4032 of the Revised Civil Statutes of Texas of 1925, so long as he does

only commercial fishing. [As amended Acts 1931, 42nd Leg., p. 381, ch. 227, § 2.]

[Art. 4049b. Condemnation of lands and water rights, etc., for hatcheries]

Sec. 1. The State of Texas through the Game, Fish and Oyster Commission shall have the right, power and authority to enter upon, condemn and appropriate lands, water rights, easements, right of ways, and property of any person or corporation in Smith County, Texas, for the purpose of erecting, constructing, enlarging and maintaining fish hatcheries, buildings, necessary equipments, roads and passageways to said hatcheries in Smith County, Texas, provided the manner and method of such condemnation, assessment, payment of damages therefor[e] shall be the same as now provided by law in the case of railroads.

Sec. 2. Condemnation suits brought under this Act shall be brought in the name of the State by the Attorney General in Smith County. All costs in such proceedings shall be paid by the State or by the person against whom such proceedings are had, to be determined as in the case of railroad condemnation proceedings and all damages and pay or compensation for property awarded in such proceedings shall be paid by the State of Texas by warrant drawn by the Comptroller against any fund in the State Treasury appropriated to the Game, Fish and Oyster Commission for the use of constructing, and maintaining fish hatcheries. [Acts 1929, 41st Leg., 1st C. S., p. 67, ch. 31.]

[Art. 4050a. Consent to establishment of migratory bird reservations by Federal Government]

Consent of the State of Texas is given to the acquisition by the United States of America by purchase, gift, devise, or lease of such areas of land or water, or of land and water, in the State of Texas, as the United States may deem necessary for the establishment of migratory bird reservations in accordance with the Act of Congress approved February 18, 1929, entitled: "An Act to more effectively meet the obligations of the United States under the Migratory Bird Treaty with Great Britain by lessening the dangers threatening migratory game birds from drainage and other causes by the acquisition of areas of land and of water to furnish in perpetuity reservations for the adequate protection of such birds; and authorizing appropriations for the establishment of such areas, their maintenance and improvement and for other purposes"; reserving, however, to the State of Texas, full and complete jurisdiction and authority over all such areas not incompatible with the administration, maintenance, protection and control thereof by the United States under the terms of said Act of Congress. [Acts 1931, 42nd Leg., p. 38, ch. 30, § 1.]

Art. 4054b. [Removal of sand and deposits in Corpus Christi Bay]

That there may be taken and appropriated from beneath the waters of Corpus Christi Bay and Nueces Bay, sand and other deposits having on [no] commercial value for filling and raising the grade of the salt flats in the northern portion of the City of Corpus Christi and the lowlands lying north of the north boundary line of the City of Corpus Christi, in Nueces County, Texas, and South of the south boundary line of the town of Portland in San Patricio County, Texas, without making payment therefor to the Game, Fish and Oyster Commissioner or to the State of Texas. [Acts 1929, 41st Leg., p. 692, ch. 311, § 1.]

Acts 1929, 41st Leg., p. 692, ch. 311, added this article as art. 4054a conflicting with a previous article of the same number.

Art. 4056a. [Lease of part of Brazos Island]

The Game, Fish and Oyster Commissioner is hereby authorized to lease the South 216.4 acres more or less of Brazos Island for the sole purpose of erecting and maintaining hunting, fishing and bathing resorts thereon.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Leases of such lands shall, at the discretion of the Commissioner, run for any term of years not more than ten, at a fixed annual rental of not less than ten cents nor more than 50 cents per acre, at the discretion of the Commissioner, for each acre of land so leased, and before entering into any such lease the Commissioner in his discretion, may require such survey of the leased premises to be made at the expense of the applicant therefor, as may be necessary to determine the exact acreage of the lease. Lessees shall have, during the terms of their respective leases, the exclusive right to the use, occupation and enjoyment of such leased premises during the term and for the purposes of such lease only, but such use shall not be inconsistent with any other use of such leased premises as shall have been or may be granted by law or authority of law. All leases shall provide that the annual rentals therefor shall be paid to the Commissioner, annually in advance; and failure to pay any installment of annual rental therefor, when due, shall, at the option of the Commissioner, forfeit such lease. Lessees, under the terms of this Article shall have the right to remove from the leased premises, within one month after the termination of the lease, any and all improvements erected thereon by them. All rentals collected by the Commissioner under the provisions of this Act shall be placed in the State Treasury to the credit of the "Fish and Oyster Fund" as provided by Article 4030 of this Title. [Acts 1929, 41st Leg., 1st C. S., p. 240, ch. 99, § 1.]

## TITLE 69—GUARDIAN AND WARD

### Art. 4111. [4056-60] Venue

A proceeding for the appointment of a guardian shall be begun:

1. For the estate of a minor in the county where the parents of such minor reside, or in the county where the parent having custody of the minor resides when the parents do not reside in the same county, and both are living.

2. For the person and estate (or of either) of a minor, in the county where the surviving parent resides, if only one is living, or in the county where the last surviving parent of such minor resided at the time of the death of such parent, if both parents are dead, or in the county where such minor is found, or in the county where the principal estate of such minor may be.

3. For the person and estate, or of either, of a person of unsound mind or an habitual drunkard, in the county where such person resides, or where the principal estate of such person may be.

4. Where a guardian has been appointed by will, proceedings for letters of guardianship shall be begun in the county where the will has been admitted to probate.

5. For the estate of a person requiring the appointment of a guardian to receive funds or money from the Federal Government, in the county where such person resides.

6. Providing no guardian shall be a non-resident of Texas. [As amended Acts 1929, 41st Leg., p. 65, ch. 31, § 1.]

### Art. 4115. [4064-5] [2571-2] [2490-1] Service and return

Acts 1929, 41st Leg., p. 479, ch. 225, § 1 effective March 19, 1929, read as follows:

In all cases where guardians have been appointed by probate courts of the several counties of this State after citation was published as provided in chapter 179, Acts, Regular Session, 1917, being now Article 28 of the Revised Civil Statutes of Texas, 1925, and without service of citation or notice by posting as provided in Article 4115, Revised Civil Statutes of Texas, 1925, such service of citation and ap-

pointment of guardian by any probate court in this State are hereby validated, and any such guardianship heretofore granted and closed or now pending are held to be legal guardianships, and the order appointing any guardian made on an application and after notice published as provided in said Chapter 179, Acts Regular Session, 1917, are hereby declared to be legal guardianships and valid for all purposes.

**Art. 4142. [4100] [2601] [2520] Sureties**

Amended by omitting comma after "guardian" and before "and at least" in the third line and adding after "bonds" in the final line "; provided that the county judge may, if in his opinion it would be to the best interest of the estate so to do, require the guardian of the estate to give a bond with one or more corporations authorized to execute surety bonds in this State as surety." [Acts 1929, 41st Leg., p. 289, ch. 133, § 1.]

**Art. 4143. [4101] [2601] [2520] Bond premiums**

If such bond is made by a corporation authorized to issue and execute guaranty or indemnity bonds, the premium on such bond shall be paid by the guardian, and shall be paid out of the estate of his ward, unless the court shall otherwise direct. [As amended Acts 1929, 41st Leg., p. 283, ch. 128, §§ 1, 2.]

**Art. 4148. [4107] [2606] [2525] New bond**

The county judge shall have power to require new bonds of guardians in any case where he has the power to require new bonds of executors or administrators and under the same rules and regulations, and with like effect. The county judge shall also have power and authority to decrease the amount of any guardian's bond upon the submission of proof showing that a smaller bond than the one in effect would be adequate to meet the requirements of the law and to protect the estate of the ward. [As amended Acts 1929, 41st Leg., p. 285, ch. 130, §§ 1, 2.]

**Art. 4180. [4140] [2639] [2558] Investments**

If, at any time, the guardian of the estate shall have on hand money belonging to the ward beyond what may be necessary for the education and maintenance of such ward, he shall invest such money in bonds of the United States, of the State of Texas, of any county or of any district or subdivision in Texas, or of any incorporated city or town in Texas, or collateral bonds of companies incorporated under the Laws of the State of Texas having a paid in capital of \$1,000,000.00 or more, when such bonds are a direct obligation of the company issuing them, and are specifically secured by first mortgage real estate notes and other securities pledged with a trustee, or loan the same for the highest rate of interest that can be obtained therefor, secured as provided in Article 4181, Revised Statutes, 1925.

Sec. 2. When the estate of a ward shall consist of real estate or of personal property or both, and such property is owned by said ward in common with other heirs, legatees, or devisees, and it appears to be to the best interest of said ward's estate, to convey, along with some or all of the other heirs, legatees or devisees, such real or personal estate or a part thereof to a corporation chartered under the Laws of the State of Texas with capital stock not exceeding the value of all such property owned in common, in exchange for stock in said corporation, on the basis of par and equal value, it shall be lawful for the guardian of said ward to subscribe for and to purchase said corporate stock in an amount not exceeding the value of the undivided interest of said ward and convey such real or personal property of said ward to such corporation in payment therefor; provided that said guardian shall first apply to the Probate Court having jurisdiction of said estate and obtain therefrom an order approving said sale or conveyance by said guardian on behalf of said ward; and said order approving said sale or conveyance shall not be granted unless in the opinion of the Court such sale or conveyance to such corporation for its said stock is to the best interests of said ward, considering the nature of the corporation and the actual value of its assets. [As amended Acts 1929, 41st Leg., p. 684, ch. 305.]

Section 3 of said Acts 1929, 41st Leg., p. 684, ch. 305, repeals all conflicting laws and parts of laws.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

**Art. 4200. [4161] [2659] [2578] Terms of sale**

A sale of real estate may be made for cash, or for part cash and part credit, or the equity in land securing an indebtedness may be sold subject to such indebtedness, or with an assumption of such indebtedness, at public auction or private sale, as may appear to the Court to be for the best interest of the estate. [As amended Acts 1931, 42nd Leg., p. 392, ch. 237, § 1.]

Effective 90 days after May 23, 1931, date of adjournment. Section 2 repeals all conflicting laws and parts of laws.

**[Art. 4227a. Notices to United States Veterans' Bureau]**

Sec. 1. Whenever an annual or other account, or an application for the expenditure of funds or for the investment of funds is filed by any guardian whose ward is a beneficiary of the United States Veterans' Bureau, or when a claim against the estate of such a ward shall be filed, the court shall thereupon fix a date for the hearing of such account, application, petition, or claim, as the case may be, not less than twenty days from the date of the filing thereof. The clerk of the court in which such account, application, petition, or claim shall be filed shall give notice thereof not less than fifteen days prior to the date fixed for such hearing to the United States Veterans' Bureau in whose territory the court may be located by mailing a certified copy of such account, application, petition, or claim to said office of the United States Veteran's Bureau; provided that said Bureau may through its attorney waive the service of such notice and also the time within which a hearing may be had in such cases.

Sec. 2. Such account, application, petition, or claim shall be filed in duplicate, and the clerk of the court shall be entitled to a fee of twenty-five cents, taxable against the estate, for certifying to the copy thereof, which he shall forthwith mail to said Bureau as provided in Section 1 hereof. If not filed in duplicate, the clerk shall be entitled to a further fee of fifteen cents per one hundred words for making a copy thereof. Such additional cost of copying shall be taxed and collected from the guardian, individually, and shall not be chargeable to the ward's estate. [Acts 1929, 41st Leg., p. 281, ch. 126.]

**Art. 4233. [4199] [2696] [2614] Removal without notice**

Amended by omitting a comma after "qualification" in the first line of subdivision 1, and adding subdivision "4. When notices or other process of the court cannot be served upon them on account of their whereabouts being unknown." [Acts 1929, 41st Leg., p. 282, ch. 127, §§ 1, 2.]

**Art. 4234. [4200] [2697] [2615] Removal after citation**

Amended by omitting commas after "motion" in the second line, after "state" in the third line, of the third subdivision and inserting a comma after "embezzled" in the second line of the third subdivision and adding additional subdivisions.

"4. When he is proved to have been guilty of gross neglect or mismanagement in the performance of any of his duties as guardian.

"5. When he becomes of unsound mind or becomes an habitual drunkard or is sentenced to imprisonment for a term of years.

"6. When, if he be the guardian of the person, he cruelly treats the ward or neglects to educate and maintain the ward as liberally as the means of such ward and the circumstances of the case demand." [Acts 1929, 41st Leg., p. 284, ch. 129, §§ 1, 2.]

**Art. 4282. [4253] [2750] [2668] Restoration**

If any person shall allege in writing and under oath that a person who has been adjudged to be of unsound mind or an habitual drunkard has been restored to his right mind or to sober habits, the guardian of the person and of the estate of such ward shall be cited to appear before the

county judge on a day and at a place named in such citation, either in term time or in vacation, and show cause why such ward should not be adjudged to be of sound mind or no longer an habitual drunkard and discharged from further guardianship, or the guardian may appear without such citation. Provided further that all judgments of the Courts of Texas heretofore declaring persons to be of unsound mind or an habitual drunkard, and which have since been set aside, are hereby validated and recognized as valid judgments of restoration of sanity and sobriety. [As amended Acts 1929, 41st Leg., p. 286, ch. 131, §§ 1, 2.]

**Art. 4283. [4254] [2751] [2669] Trial**

If the facts of such alleged restoration be doubtful, the court shall, either in term time or in vacation, cause a qualified jury to be impaneled to try the issue as in the first instance, and if such just [jury] finds that the ward has been restored to his right mind, or has reformed, he shall be adjudged a person of sound mind or no longer an habitual drunkard and discharged from guardianship by an order to that effect; and the guardian shall immediately settle his accounts and deliver all the property remaining in his hands to such ward. [As amended Acts 1929, 41st Leg., p. 286, ch. 131, §§ 3, 4.]

Bracketed [jury] inserted by compiler.

**Art. 4284. [4255] [2752] [2670] Order of discharge**

If the fact of such alleged restoration be not doubtful, the court may, without the intervention of a jury, make the order adjudging a person to be of sound mind or no longer an habitual drunkard and discharging the ward from guardianship, as provided in the preceding article. [As amended Acts 1929, 41st Leg., p. 286, ch. 131, §§ 5, 6.]

## TITLE 70—HEADS OF DEPARTMENTS

**Art. 4343. [4322] Bond**

Within twenty days after receipt of notice of his election or appointment and before he enters upon the duties of his office, the Comptroller shall give a bond with a good and solvent surety company, authorized to do business in this state, in the sum of seventy-five thousand dollars, payable to and to be approved by the Governor, conditioned that he will faithfully execute the duties of his office. All expense necessary and incident to the execution of such bond shall be paid by the State by appropriation.

If the Comptroller shall willfully neglect or refuse to perform any duty of the Comptroller as set out in this Chapter or elsewhere in the Statutes of Texas he shall forfeit to the State a sum not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) for each day that he shall so neglect or refuse to perform such duty; and it is hereby expressly provided that the surety company executing the Comptroller's bond, as herein provided for, shall be jointly and separately liable with the Comptroller for such sums to be forfeited.

The penalties provided for in this chapter shall be recovered by the Attorney General in a suit brought by him in the name of the State of Texas; and venue and jurisdiction of such suit is hereby conferred upon the courts of Travis County. [As amended Acts 1930, 41st Leg., 5th C. S., p. 230, ch. 73, § 1.]

See note to art. 4388, post.

**Art. 4350. [4332] Warrants on Treasurer**

No warrant shall be issued to any person indebted to the State, or to his agent or assignee, until such debt is paid. [As amended Acts 1931, 42nd Leg., p. 400, ch. 243, § 1.]



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

**Art. 4353. [4344] Deposit warrants**

The Comptroller shall have printed uniform deposit warrants, which shall be of four (4) classes: "State Revenue," "Available School," "Permanent School," and "Miscellaneous"; and which shall be prepared in triplicate and marked "original," "duplicate," and "triplicate," respectively. Each class shall be separately serially numbered, and shall be on paper of a different color from the other classes. He shall provide for the use of his department a warrant register in which to enter such deposit warrants in consecutive order. When a deposit warrant is prepared, it shall be registered in the deposit warrant register. A distribution of the amount stated in each deposit warrant shall be entered on the revenue analysis record containing accounts for each source of revenue. The triplicate deposit warrant shall be, on receipt by the Treasurer of the amount stated therein, receipted by the Treasurer and delivered to the person making the deposit, the original shall be retained by the Treasurer, who shall file the same numerically; and the duplicate shall be, on the receipt of the amount stated therein, receipted by the Treasurer, and by him returned to the Comptroller, who shall file the same numerically. The printed forms for these warrants shall be so prepared and arranged that the original, duplicate and triplicate may, by use of carbon sheets, all be prepared at one and the same writing. No deposit shall be received into the State Treasury on any account, except upon a deposit warrant issued as herein provided. The Comptroller shall furnish the Treasurer with a copy of the deposit warrant register for deposits made each day, which shall constitute the Treasurer's deposit warrant register. [As amended Acts 1931, 42nd Leg., p. 400, ch. 243, § 1.]

**Art. 4354. [4345] Deposit receipts**

The Comptroller shall have printed uniform deposit receipts, to be issued by the Comptroller to cover moneys and other securities received and held by the State Treasurer for Bond Investment Surety and Insurance Companies, State Depository Banks and all others for which no deposit warrant is issued, or the issuance of a deposit warrant which is deferred. Such receipts shall be prepared in triplicate and marked "original," "duplicate," and "triplicate," respectively, and shall be serially numbered. The printed form for these receipts shall be so prepared and arranged that the original, duplicate and triplicate may, by the use of carbon sheets, be prepared at one and the same writing. The triplicate deposit receipt shall be, on receipt by the Treasurer of the items stated therein, receipted by the Treasurer and delivered to the person making the deposit, the original retained by the Treasurer, and the duplicate receipted by the Treasurer and by him returned to the Comptroller, who shall file the same numerically. The Comptroller shall provide his office with appropriate registers, in which he shall register the deposit receipts issued in like manner as is provided for the registration of deposit warrants, and shall provide a separate ledger in which shall be kept appropriate accounts for all matters for which such deposit receipts are issued. The Comptroller shall also provide separate series of deposit receipts or authorization certificates for the receiving of bonds or securities purchased for the permanent funds of the State, and relinquishment of bonds sold or redeemed. [As amended Acts 1931, 42nd Leg., p. 400, ch. 243, § 1.]

**Art. 4355. [4346] Claims and accounts**

All claims and accounts against the State shall be submitted on forms prescribed by the Comptroller and in duplicate, when required by him, except claims for pensions, and shall be so prepared as to provide for the entering thereon, for the use of the Comptroller's Department, as well as other appropriate matters, the following:

1. Signature of the head of the department or other person responsible for incurring the expenditure.

2. Appropriation number, account number and fund to be charged.
3. Initials of the person ascertaining if there are funds available.
4. Initials of the person auditing the claim.
5. Number and date of warrant issued.
6. Initials of the person comparing the claim and warrant. [As amended Acts 1931, 42nd Leg., p. 400, ch. 243, § 1.]

**Art. 4357. [4348] List of claims to be kept**

When claims and accounts are received, it shall be ascertained if there are funds available therefor; and the person making the examination shall indicate such fact by marking his initials upon such claim; and if there are no funds available, that fact shall be written or stamped upon such claim; and the same shall be held to await the authority to issue a proper warrant therefor. No claims shall be paid from appropriations unless presented to the Comptroller for payment within two (2) years from the close of the fiscal year for which such appropriations were made, but any claims not presented for payment within such period may be presented to the Legislature as other claims for which no appropriations are available. When a claim has been audited and warrant drawn therefor, the claim shall be numbered with the same number as the warrant; and such claim shall be filed numerically according to class, "general," "special," "pension," respectively. There shall be kept an alphabetical index of claimants, either by filing the duplicate warrants in alphabetical order, or by such other method of indexing as may be found most advisable. After the expiration of two years, such claims shall be removed from the files and otherwise securely stored and preserved as records. [As amended Acts 1931, 42nd Leg., p. 400, ch. 243, § 1.]

**Art. 4358. [4349] Pay warrants**

The Comptroller shall have printed uniform pay warrants, which shall be of three classes, "general," "special," and "pension." Such warrants shall be prepared in duplicate, and shall be marked "original" and "duplicate" respectively; and each class shall be serially numbered and shall be of a color of paper different from the other class. A separate series of numbers may be used for warrants issued for payrolls to be paid from the General Revenue Fund, and for warrants issued for claims to be paid from "highway" or other special funds, when the Comptroller deems such special-series of numbers advisable. Such warrants shall be prepared so as to provide for entering thereon, in addition to other appropriate matter, the following:

1. Initials of the person in the Comptroller's Department, comparing the warrant with the claim.
2. Designation of the fund against which the warrant is drawn.
3. Appropriation against which disbursement is to be charged. [As amended Acts 1931, 42nd Leg., p. 400, ch. 243, § 1.]

**Art. 4359. [4350] Pay warrants register**

The Comptroller shall provide a pay warrant register for each class of pay warrants, each volume of which shall be appropriately designated by class, number or otherwise. When a pay warrant is prepared, it shall be registered in the pay warrant register for the class to which it belongs; and such registry shall consist of an entry of the amount of the warrant, name of the payee, appropriation to which charged, and such other information as may be deemed advisable by the Comptroller. If a warrant is erroneously prepared, lost or destroyed, such fact shall be noted in the register opposite the number of such warrant in the register. One person shall be designated by the Comptroller as Chief of the Claims Division and such person shall prepare or be responsible for the preparation of all pay warrants, and shall be accountable to the Comptroller for warrants coming into his possession. No warrant shall be prepared except on presenta-

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tion to the Warrant Clerk of a properly audited claim verified by affidavit to its correctness, the proper auditing of which claim shall be evidenced by the initials written thereon by the person auditing the same; and such claim so verified and audited shall be sufficient and the only authority for the preparation of a warrant or warrants. When a warrant has been properly prepared such warrant shall be registered as herein provided, and shall be checked against the claim, and the warrant number shall be entered on the claim papers. The initials of the person checking the warrant with the claim shall be shown on both the warrant and the claim papers. When a warrant is properly prepared, it shall be, with the claim upon which it is based, passed to the Comptroller for his signature or the signature of such person as may be authorized by law to sign the same in his stead. Such warrant shall then be passed to the Treasurer's Department, together with a copy of the warrant register, and registered in the Treasurer's Department and signed by the State Treasurer, or some person authorized by law to sign for him, and returned to the Comptroller's Department. Such warrant shall then be delivered by the Comptroller to the person entitled to receive it; and he shall at his option take a receipt from such person therefor and file it in his office. The printed forms for these warrants shall be so prepared and arranged that the original and duplicate shall by the use of carbon sheets be prepared at one writing. The Comptroller shall also keep a "warrants cancelled register" in which shall be entered the details of all warrants cancelled. [As amended Acts 1931, 42nd Leg., p. 400, ch. 243, § 1.]

**Art. 4363. [4353] Account by funds kept separate**

The Comptroller shall keep appropriate accounts by funds, showing a short description of the essential features of each, of each bond or of each purchase of similar or like bonds, or other securities purchased by and belonging to the permanent school and other funds of the State; each of which accounts shall be charged with the principal of such bond or purchase; and with each separate item of interest payments to accrue thereon, and shall be credited with payments as made. He shall also keep controlling or total accounts of such bonds or other securities; which accounts shall be kept with respect to the total amount of bonds, or other securities belonging to each separate fund; and also controlling accounts for interest to accrue on such bonds, to be set up at the beginning of each fiscal year, on bonds or other securities owned at that time, for interest to accrue for the fiscal year, and for interest on subsequent purchases during the year to be set up when such bonds or securities are purchased; each of which controlling accounts shall be balanced monthly and shall correspond with the like accounts kept by the State Treasurer. [As amended Acts 1931, 42nd Leg., p. 400, ch. 243, § 1.]

**Art. 4364. [4354-5-6-7] Ledgers**

The Comptroller shall maintain a double entry system of bookkeeping and shall keep such ledgers and accounts as may be necessary to show the sources of the State's revenues and the purposes for which expenditures are made, and shall provide proper accounting controls for the protection of the finances of the State.

1. The Comptroller shall keep the following ledgers: State General Ledger, Tax Collectors Control Ledger, Tax Collectors Ledger for Cash Accounts, Tax Collectors Ledger for Current Year Assessments, Tax Collectors Ledger for Occupation Taxes, Tax Collectors Ledgers for Insolvent Taxes, Tax Collectors Ledger for Delinquent Taxes, Departmental Suspense Ledger, General Land Office Suspense Ledger, Bond Ledgers for State Owned Bonds, Securities Ledgers, Appropriation Ledgers, or other ledgers as may be found necessary.

2. The Comptroller shall also keep supporting and analysis records as follows: General Journal, Deposit Warrant Registers, Pay Warrants

Registers, Warrants Cancelled Register, Suspense Cash Book, Bond Authorization Register, Securities Register, Tax Collectors Journal, Tax Collectors Report Register, Occupation Tax Register, Revenue Analysis, Expense Analysis, or other records as may be found necessary.

3. The State General Ledger shall contain controlling and fund accounts. All accounts in the General Ledger shall be kept on a double entry basis. All entries to the General Ledger shall be journalized and postings made from the General Journal. The following accounts shall be kept in the General Ledger: State Treasurer Cash Account, State Treasurer Bond Account, State Treasurer Securities in Trust, Warrants Payable, Departmental Suspense, General Land Office Suspense, Securities in Trust, Fund Accounts Showing Net Balances, separate account for each fund, Fund Accounts for Bonds Owned, separate account for each fund, or other accounts as may be found necessary.

The accounts with the State Treasurer shall be charged with the cash on hand and in depository banks, and with all bonds and securities held for the funds of the State or in trust. The Comptroller shall charge the State Treasurer in totals of all deposit warrants and deposit receipts as issued, and credit him with warrants paid, so that the balance in the Treasurer's hands, together with the balance in the State Depositories, shall agree with the balance shown by the accounts.

Accounts shall be kept for the purpose of showing the amounts of outstanding pay warrants of each class, which shall be credited with the warrants issued and charged with the warrants paid so that the balances shall represent the aggregate amount of outstanding warrants.

Accounts shall be kept for funds, a separate account for each fund, which shall be credited with deposit warrants and charged with pay warrants issued. Balances of such accounts shall represent balances in the funds after taking into consideration all warrants issued. Accounts shall also be kept showing the bonds or securities owned by each fund.

4. Revenue analysis.—A revenue analysis record shall be kept in which a distribution shall be made of the revenues derived by the State from all sources, and the amounts derived from each source. The sources of revenue received as represented by the deposit warrants issued therefor by the Comptroller shall be posted to this record.

5. Expense analysis. An expense analysis record shall be kept in which a distribution shall be made of the disbursements made from State funds, which shall be classified by departments or institutions; by objects of expenditure; or other classifications as may be deemed advisable.

6. Accounts of Tax Collectors. A ledger shall be kept which shall contain controlling accounts against which the individual accounts with Tax Collectors shall be balanced. This ledger shall be kept on a double entry basis; shall be self-balancing and shall be balanced at the close of each month. Individual accounts shall be kept with Tax Collectors which shall be charged with all amounts of taxes due the State, and which are to be collected by the Tax Collectors, or which have been collected by the Tax Collectors and have not been paid over to the State Treasurer; and credited with all payments, commissions, cancellations and other adjustments of such taxes allowed by law; which accounts shall be balanced monthly with the controlling accounts. Separate accounts shall be kept for current taxes and for delinquent taxes, or other accounts as may be necessary.

7. Suspense ledger. A suspense ledger shall be kept in which the accounts of the State Treasurer shall be stated in respect to moneys held by him pending the issuance of deposit warrants and moneys and securities held other than those for State purposes, for all which the Comptroller shall issue deposit receipts, posting the same to this ledger. It shall also include the accounts with heads of departments for all moneys received by them and deposited with the State Treasurer in suspense.

8. Appropriation ledgers. The Comptroller shall keep accounts with

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all appropriations made by the Legislature, an account being kept for each appropriation, which shall be credited with the amount of the appropriation and charged with all pay warrants issued under the authority of appropriations. Each account shall show the law authorizing the appropriation. The total of all appropriations so credited shall be credited to a control accounts called "appropriations voted." The daily totals of the warrants issued shall be charged to this control account, so that the balance shall represent the amount of unused appropriations. The individual appropriation accounts shall be balanced monthly against the "appropriations voted" account. The heads of all State Departments, Institutions, Boards and Commissions or other officials or employees of the State who are or may be authorized to make purchases or incur any indebtedness to be paid from appropriated funds shall keep accounts for such appropriations as apply to their respective Departments, Institutions, Boards or Commissions, and shall balance such accounts monthly against the like accounts kept by the Comptroller. [As amended Acts 1931, 42nd Leg., p. 400, ch. 243, § 1.]

**Art. 4368. [4364] [2850] Bond.**

The State Treasurer shall, within twenty days after he shall have received notice of his election or appointment, and before he enters upon the duties of his office, give a bond payable to and to be approved by the Governor, in the sum of seventy thousand dollars with a good and solvent surety company authorized to do business in this State, conditioned that he will faithfully execute the duties of his office. All expense necessary and incident to the execution of such bond shall be paid by the State by appropriation.

If the Treasurer shall willfully neglect or refuse to perform any duty of the Treasurer as set out in this Chapter or elsewhere in the Statutes of Texas he shall forfeit to the State a sum not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) for each day that he shall so neglect or refuse to perform such duty, and it is hereby expressly provided that the surety company executing the Treasurer's bond, as herein provided for, shall be jointly and separately liable with the Treasurer for such sums to be forfeited.

The penalties provided for in this Chapter shall be recovered by the Attorney General in a suit brought by him in the name of the State of Texas; and venue and jurisdiction of such suit is hereby conferred upon the courts of Travis County. [As amended Acts 1930, 41st Leg., 5th C. S., p. 230, ch. 73, § 2.]

**Art. 4371. [4368] [2855] Money paid out, how**

The Treasurer shall countersign and pay all warrants drawn by the Comptroller on the Treasury which are authorized by law. No money shall be paid out of the Treasury except on the warrants of the Comptroller and no warrant shall be paid by the Treasurer unless presented for payment within two years from the close of the fiscal year in which such warrant was issued, but claims for the payment of such warrants may be presented to the Legislature for appropriations to be made from which such claims may be paid. [As amended Acts 1931, 42nd Leg., p. 396, ch. 242, § 1.]

**Art. 4372. [4369-70] To keep accounts**

The Treasurer shall keep true accounts of the receipts and expenditures of the public moneys of the Treasury, and close his accounts annually on the 31st day of August, with the proper legal vouchers for the same, distinguishing between the receipts and disbursements of each fiscal year. [As amended Acts 1931, 42nd Leg., p. 396, ch. 242, § 1.]

**Art. 4380. [4379] Deposit warrant register**

The Treasurer shall keep a deposit warrant register, designed with columns for State revenue, available school fund, miscellaneous, and such other columns as may be found necessary; all warrants to be entered consecutively and distributed to the proper columns. The deposit warrant register shall be prepared by the Comptroller as a carbon copy of the deposit warrant register kept by him and shall be furnished to the Treasurer together with the deposit warrants for moneys deposited each day. [As amended Acts 1931, 42nd Leg., p. 396, ch. 242, § 1.]

**Art. 4381. [4380] Shall post daily totals**

The State Treasurer shall cause the daily totals of deposit warrants to be posted to the proper fund and control accounts in the general ledger. The Treasurer shall keep a "transit record" in which he shall record the essential details of all cash, checks, money orders, drafts or other items deposited or cashed each day, showing the items deposited in each depository bank or otherwise disposed of. The totals of deposits shall be charged to the accounts of the respective depositories on the books of the Treasury. The Treasurer shall keep a journal in which to enter all journal vouchers or other memoranda of transfers between funds or accounts. Postings shall be made from this journal to the proper accounts on the books of the Treasury. [As amended Acts 1931, 42nd Leg., p. 396, ch. 242, § 1.]

**Art. 4382. [4381] Register of warrants issued**

The Treasurer shall keep registers of warrants issued, one for each class of warrants. The Comptroller shall furnish lists of warrants issued; which lists shall be compared with the warrants and shall constitute the Treasurer's registers of warrants issued. The amounts of warrants issued shall be added by the Treasurer and proved against the totals of the warrant registers. The date of payment of all warrants shall be stamped on the above registers. The Treasurer shall keep a "warrants paid register." In this register the warrants shall be entered each day when paid; the number and amount of each warrant paid being entered. Warrants shall be grouped by classes and separate totals of warrants paid from each fund shall be shown, as well as the grand total of all warrants paid each day. The Treasurer shall furnish to the Comptroller each day a copy of the warrants paid register showing the warrants paid. The Treasurer shall keep a register of warrants cancelled on which shall be entered the details of all warrants cancelled. [As amended Acts 1931, 42nd Leg., p. 396, ch. 242, § 1.]

**Art. 4385. [4384] General ledger accounts**

The Treasurer shall charge the daily totals of the general warrants, pension warrants, special warrants, and all other classes of warrants to the respective fund and control accounts in the general ledger to which they apply. [As amended Acts 1931, 42nd Leg., p. 396, ch. 242, § 1.]

**Art. 4387. [Repealed by Acts 1931, 42nd Leg., p. 396, ch. 242, § 2]****Art. 4388. [4386] Daily statement from Departments.**

The State Treasurer shall receive daily from the head of each Department, each of whom is specifically charged with the duty of making same daily, a detailed list of all persons remitting money the status of which is undetermined or which is awaiting the time when it can finally be taken into the Treasury together with the actual remittances which the Treasurer shall cash and place in his vaults or in legally authorized depository banks, if the necessity arises. The report from the General Land Office shall include all money for interest, principal and leases of school, university, asylum, and other lands. A deposit receipt shall be issued by the Comp-

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troller for the daily total of such remittances from each Department; and the cashier of the Treasurer's Department shall keep a cash book, to be called "suspense cash book," in which to enter these deposit receipts, and any others issued for cash received for which no deposit warrants can be issued, or when their issuance is delayed. As soon as the status of money so placed with the Treasurer on a deposit receipt is determined it shall be transferred from the suspense account by placing the portion of it belonging to the State in the Treasury by the issuance of a deposit warrant, and the part found not to belong to the State shall be refunded. When deposit warrants are issued, they shall be entered in this cash book, as well as any refunds, and the balance shall represent the aggregate of the items still in suspense. Refunds shall be made in a manner similar to that in present use, except that separate series of warrants shall be used for making such refunds, to be called "refund warrants," and such warrants shall be written and signed by the Comptroller and countersigned by the Treasurer, and charged against the suspense funds to which they apply. Such warrants shall then be returned to the Comptroller and delivered by him to the person entitled to receive them. [As amended Acts 1931, 42nd Leg., p. 396, ch. 242, § 1.]

**Art. 4390. [4388] Cash balancing book**

The Treasurer shall keep a book, to be called "cash balancing book," for the purpose of arriving at the daily cash balance, in which shall be entered the daily totals of all receipts and disbursements. The amount of cash on hand and in depository banks shall also be shown. A copy of the cash balancing sheet shall be furnished to the comptroller each day. [As amended Acts 1931, 42nd Leg., p. 396, ch. 242, § 1.]

**Art. 4391. [4389] Ledger**

The general ledger kept by the Treasurer shall contain accounts for each fund, which shall be credited with the existing balances and with the daily totals of deposit warrants. The pay warrants issued, shall be charged to the several fund accounts from the warrants issued registers in daily totals. The ledger shall also contain control accounts for cash, depository banks, bonds, interest, securities, warrants payable and such other accounts as may be necessary. Postings shall be made to the ledger daily from the deposit warrant register, warrants issued registers, warrants paid register and other supporting records. The ledger shall be balanced daily. [As amended Acts 1931, 42nd Leg., p. 396, ch. 242, § 1.]

**Art. 4392. [4390] Bond book**

The Treasurer shall keep a bond book, in which to enter all warrants or authorizations to receive or relinquish bonds held by him and belonging to any State fund. The Treasurer shall also keep appropriate ledger accounts showing a short description of the essential features of each, of each bond or of each purchase of similar or like bonds, or other securities purchased by and belonging to the permanent school and other funds of the State; each of which accounts shall be charged with the principal of such bond or purchase, and with each separate item of interest payments to accrue thereon, and shall be credited with payments as made. He shall also keep controlling or total accounts of such bonds or other securities in the general ledger; which accounts shall be kept with respect to the total amount of bonds or other securities belonging to each separate fund; and also controlling accounts for interest to accrue on such bonds, to be set up at the beginning of each fiscal year, on bonds or other securities owned at that time, for interest to accrue for the fiscal year, and for interest on subsequent purchases during the year to be set up when such bonds or securities are purchased; each of which controlling accounts shall be balanced monthly with the sum of the individual accounts for bonds or securities; which accounts shall be balanced monthly and shall cor-

respond with the like accounts kept by the Comptroller. [As amended Acts 1931, 42nd Leg., p. 396, ch. 242, § 1.]

**Art. 4393. [4391] Securities register**

The Treasurer shall keep a suitable register in which to enter all bonds, cash and other securities lodged with him by bond investment, surety and insurance companies, and State depository banks, and all other bonds or securities lodged with him under the provisions of the Statutes, the registration of which is not otherwise provided for by law; in which he shall enter the deposit receipts or other authorizations to receive or relinquish such bonds or securities. The receiving and relinquishment of these securities shall be on the authority of the Comptroller. He shall also keep a "securities ledger" in which shall be kept appropriate accounts for all matters for which such deposit receipts or authorizations are issued; which ledger shall be balanced monthly against control account to be kept in the "general ledger" and with like accounts to be kept by the Comptroller. [As amended Acts 1931, 42nd Leg., p. 396, ch. 242, § 1.]

**Art. 4413a—1. Appointment**

The Governor shall, immediately on the taking effect of this Act, [Arts. 4413a—1 to 4413a—7; P. C. art. 422a] appoint an investigator of all custodians of public funds and disbursing officers of this State and personnel of departments, the title of said officer to be State Auditor and Efficiency Expert, who shall be a certified public accountant and such appointment shall be for a term of two years or until his successor is appointed and qualified, and shall be subject to confirmation by the Senate. Said Auditor to have at least five years experience as a certified public accountant immediately preceding his appointment. [Acts 1929, 41st Leg., 1st C. S., p. 222, ch. 91, § 1.]

Section 8 of Acts 1929, 41st Leg., 1st C. S., p. 222, ch. 91, being the penal provision is printed as Pen. Code, art. 422a.

**Art. 4413a—2. Qualifications**

Said Auditor shall be a man of unquestioned intelligence and moral character, who is experienced in auditing and efficiency details of Governmental departments and business. He shall qualify by taking the oath required of other State officials and shall execute a bond to be approved by the appointing power, payable to the Governor of the State of Texas and his successors in office in the sum of Twenty Five Thousand (\$25,000.00) Dollars, conditioned upon the faithful performance of the duties of his office, with a solvent surety company as surety, and the premium due the surety company for such execution shall be paid by the State. [Acts 1929, 41st Leg., 1st C. S., p. 222, ch. 91, § 2.]

**Art. 4413a—3. Duties**

Said Auditor is hereby granted the authority to inspect all the books and records of all the officers, departments and institutions of the State Government and shall make a complete and thorough investigation of all custodians of public funds and disbursing officers of this State and shall have continual access to and shall examine all the books, accounts, reports, vouchers and other records of any office, department, Institution, Board or Bureau of the State, and shall investigate the efficiency of the personnel and clerical forces thereof, and shall keep a proper record of his investigations. All present auditors of each and every department and institution are hereby required to furnish assistance to said Auditor and to permit an inspection of their several reports, at all times. [Acts 1929, 41st Leg., 1st C. S., p. 222, ch. 91, § 3.]

**Art. 4413a—4. [Additional duties]**

In addition to the other duties provided for said Auditor, he shall thoroughly examine all departments of the State Government with special



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regard to their activities and the duplication of efforts between departments, and the efficiency of the subordinate employees in each of such several departments. He shall examine into the work done by the subordinate employees in the several departments of the State Government.

Upon completing the examination of any department he shall furnish the head of said department with a report on (a) the efficiency of the subordinate employees; (b) the status and condition of all public funds in charge of said department; (c) the amount of duplication between work done by the department so examined and other departments of the State Government; (d) such a system of auditing, bookkeeping, and system of accounts as will provide for a uniform system of auditing, bookkeeping and system of accounts for every department of State. He shall also make recommendations to the said head of the departments for the elimination of duplication and inefficiency. A copy of each such report submitted by said officer to the head of the department shall be forthwith furnished to the Governor, the Speaker of the House, and the President of the Senate. Nothing contained herein shall be construed as authorizing the State Auditor to employ or discharge any state employee other than those herein authorized to be appointed by him for his department. [Acts 1929, 41st Leg., 1st C. S., p. 222, ch. 91, § 4.]

#### Art. 4413a—5. Reports

The audits herein provided for shall be made and concluded as directed by the Governor, however, same in any event shall be concluded and reports thereof made not later than thirty days before the convening of each regular session of the Legislature, and reports thereof furnished, one to the Governor, and one to the Senate and one to the House of Representatives, of his audits and investigations and said report shall show the status of the public funds of this state, the expense of operation of all departments, Institutions, Boards and Bureaus, separately of this State, all breaches of trust and duty, if any, by any officer, department, Institution, Board, Bureau or other custodian of public funds and disbursing officers and shall recommend to the Legislature such changes as he deems necessary to provide uniform, adequate and efficient systems of records and accounting in each department, Institution, Board and Bureau, and in making such recommendation shall take into consideration the present system of keeping books, records, accounts and reports in order that the transition may be gradual in any changes suggested and in order that past and present records will dovetail into the new system. Said reports shall also show all salaries fixed by Constitution, by law and by other authority and show all special funds and other funds and the law authorizing same, and said suggested changes to be for economy and for the purpose of reducing clerical forces. Said Auditor and efficiency expert shall file an annual report with the Governor, and he shall also furnish the Governor with a copy of the biennial report prepared for the Legislature. In all reports furnished to the Legislature said Auditor and Efficiency Expert shall embrace copies of any reports or recommendations furnished to the head of any department since the last preceding report made to the Legislature. [Acts 1929, 41st Leg., 1st C. S., p. 222, ch. 91, § 5.]

#### Art. 4413a—6. Assistants

In the event said Auditor shall find it necessary to have assistance in the discharge of the duties herein imposed upon him, he may apply to the Governor for such assistance and the Governor is hereby authorized, in his discretion, to appoint such assistant or assistants, including stenographic and clerical assistance, as he may consider necessary, in order to accomplish the purposes of this Act. [Arts. 4413a—1 to 4413a—7; P. C. art. 422a.] [Acts 1929, 41st Leg., 1st C. S., p. 222, ch. 91, § 6.]

**Art. 4413a—7. Compensation and Removal**

The said Auditor shall devote his entire time to the discharge of the duties herein imposed upon him, shall maintain his office in the Capitol and the Board of Control is directed to furnish suitable quarters, supplies and stationery for said Auditor and said Auditor shall receive for his services not to exceed the sum of Seven Thousand Five Hundred (\$7,500.00) Dollars per annum, and necessary traveling expenses payable monthly in the same manner as other State officials are paid; and in the event of the appointment of an assistant or assistants, he, or they, shall each be paid not to exceed the sum of Four Thousand Two Hundred (\$4,200.00) Dollars per annum, payable monthly in the same manner as other State officials are paid, all salaries to be in the discretion of the appointing power, including compensation of stenographic and clerical assistance, subject only to the limitation herein imposed. Said Auditor or any assistant or employee under this Act [Arts. 4413a—1 to 4413a—7; P. C. art. 422a] may be removed or discharged at any time by the appointing power and their respective positions filled by other appointments. [Acts 1929, 41st Leg., 1st C. S., p. 222, ch. 91, § 7.]

**TITLE 71—HEALTH—PUBLIC****[Art. 4415a.] Composition of State Board of Health, appointment, term of office**

The State Board of Health shall consist of nine (9) members, who shall be appointed by the Governor, and confirmed by the Senate and who shall have the following qualifications: Six (6) of the members shall be legally qualified, practicing physicians, who shall have had not less than five (5) years experience in the actual practice of medicine within the State of Texas, of good professional standing, and graduates of recognized medical colleges. Of the six (6) members of the Board first appointed under the provisions of this Act, two (2) shall serve for a period of two (2) years, two (2) for a period of four (4) years, and two (2) for a period of six (6) years, or until their successors shall be appointed and shall have qualified, unless sooner removed for cause. Upon the passage of this Act, the Governor shall appoint three (3) members of the Board in addition to the six (6) members now constituting the State Board of Health. One (1) such new member shall be a Doctor of Dentistry, of reputable character, licensed under the laws of this State to practice his profession, and who has had at least five (5) years practical experience in the actual practice of Dentistry in this State; one (1) such member shall be a Pharmacist, of reputable character, licensed under the laws of this State to practice his profession and who has had at least five (5) years practical experience in the actual practice of Pharmacy in this State; and one (1) such member shall be a graduate of some reputable engineering school upon whom such school has conferred the degree of Civil Engineering, and who, since graduation for at least five (5) years, has specialized in sanitary engineering in actual work in this State. The terms of office of the six (6) present members of the Board shall not be affected by this Act, and the terms of office of the three (3) additional members shall be so arranged that one (1) shall serve for two (2) years, one (1) for four (4) years and one (1) for six (6) years. After the expiration of the terms of the first appointees to the Board the terms of all members shall be for six (6) years. The additional members shall be allowed the same compensation in attending meetings of the Board, as well as traveling expenses as provided by this Chapter. The State Health Officer shall be a member ex-officio of the Board but shall not have the right to vote. The Board shall elect a Chairman from among the nine (9) members of the Board who shall serve for a period of two (2) years or until his successor is elected. [As amended Acts 1931, 42nd Leg., p. 445, ch. 266, § 1.]

[Art. 4419a. Cooperation with United States Public Health Service for eradication of malaria]

The State Board of Health is hereby authorized, empowered and directed to co-operate with the United States Public Health Service in instituting an intense campaign toward the control and eradication of malaria in Texas. The work shall first be begun in such sections as may be deemed by said Board and Health Service as sufficiently affected to need immediate relief and attention. Efforts shall be made immediately to suppress and remedy the conditions existing in the rural areas of Texas, shown to exist by the recent survey to be acutely infested with malaria, where the greatest need for control and eradication of this impoverishing disease exists. [Acts 1931, 42nd Leg., p. 61, ch. 41, § 1.]

Effective April 3, 1931. Section 2 makes certain appropriations for the purposes of the act.

[Art. 4437b. Tax for county hospitals]

That in all counties in Texas having a population of at least 202,000 inhabitants and less than 210,000 inhabitants as shown by the Census of 1920, in which are established hospitals jointly owned or operated by any city and county in which said hospital is located, a direct tax of not over ten cents on the valuation of One Hundred Dollars may be authorized and levied by the Commissioners' Court of such county for the purpose of erecting buildings and other improvements, and for maintaining such hospitals, provided that all such levy of taxes shall be submitted to the qualified taxpaying voters of the county and a majority vote shall be necessary to levy the taxes. [Acts 1929, 41st Leg., 2nd C. S., p. 5, ch. 4, § 1.]

[Art. 4437c. Lease of city and county hospitals]

Sec. 1. Any county in this State having a population of not less than 38,000 and not more than 39,000 according to the United States Census of 1920, shall have authority to lease any county hospital belonging to said county to be operated as a hospital by the lessee of same under such terms and conditions as may be satisfactory to the Commissioners' Court and the lessee. The action of the Commissioners' Court in leasing such hospital shall be evidenced by order of the Commissioners' Court, which order shall be recorded in the minutes of said Court.

Sec. 2. The authority herein granted to certain counties shall also extend to cities in such counties owning a joint interest with any such counties in a hospital. Any such hospital may be leased to be operated by the lessee as a hospital upon such terms and conditions as may be agreed upon by the Commissioners' Court, the proper authorities of such cities and the lessee. The action of such cities in leasing such hospital shall be evidenced by order of the proper authorities of such cities, which order shall be recorded in the minutes of said authorities. [Acts 1930, 41st Leg., 5th C. S., p. 198, ch. 55.]

[Art. 4442a. Day nursery for care and custody of children]

Sec. 1. Every person, association or corporation, whether operating for charity or revenue, who shall own, conduct or manage a day nursery, children's boarding home, or child placing agency, or other place for the care or custody of children under fifteen years of age, or who shall solicit funds in this State for any such place or institution, shall obtain an annual license from the State Board of Health, which license shall be issued without fee, and under such reasonable and uniform rules and regulations as said Board shall prescribe. Provided that if said funds are solicited by said associations or corporations through any agent or agents thereof, only one such license shall be required by each said association or corporation for each county of the State of Texas in which county said funds are solicited.

Sec. 2. The State Board of Health shall have authority to visit and inspect all such places and institutions embraced within this Act at all reasonable times to ascertain if the same are being conducted in conformity with law or if any conditions exist which need correction.

Sec. 3. Any person, association or corporation licensed to keep and care for children, as provided in Section 1 of this Act, who shall place out or give to any person the care and custody of any child, shall keep and preserve a record of the full name of such child, the actual or apparent age of such child, the names and residence of its parents so far as known, and name and residence of the person with whom such child is placed; and if the child is removed from the care or custody of the person with whom it was placed the fact of such removal and the disposition of such child shall be entered on the record.

Sec. 4. Such person, association or corporation shall report to the State Board of Health quarterly and at such times as said Board shall direct, specifying the matters and things required in the record mentioned in the next preceding Section.

Sec. 5. The State Board of Health, or such person as it may authorize, may visit any child so placed, who has not been legally adopted, with a view to ascertaining whether such child is being properly cared for and living in moral surroundings.

Sec. 6. Whenever the State Department of Health has reason to believe that any person having the care or custody of a child placed out and not legally adopted, is an improper person for such care or custody, or subjects such child to cruel treatment, or neglect, or immoral surroundings, it shall cause complaint to be filed in the proper Juvenile Court. [Acts 1929, 41st Leg., p. 444, ch. 204.]

Section 8 of said Acts 1929, 41st Leg., p. 444, ch. 204, repeals all conflicting laws or parts of laws except Rev. St. 1925, art. 4442 and Pen. Code, art. 701. Section 9 pro-

vides that if any provision shall be held invalid, the remainder shall remain in force. Section 7 is a penal provision classified as Pen. Code, art. 701a.

#### Art. 4469. Registration

All manufacturers of foods and drugs doing business in the State of Texas and all such persons, firms, corporations, who import or bring into the State of Texas, for sale or distribution, from any place not a part or possession of the United States any article of food, drug or chemical, shall annually register with the Director and pay him a fee of One (\$1.00) Dollar for such registration on or before the 1st day of September. Where a person, firm or corporation operates more than one establishment, then a separate registration and fee shall be required for each establishment operated.

The term "manufacture" as used in this Article shall mean the process of combining or purifying articles of food or drugs and packaging same for sale to the consumer, either by wholesale or retail, provided however, that a pharmacist, registered under the laws of this State, shall not be deemed a manufacturer, when he fills a regular licensed physician's prescription, or when such pharmacist compounds or mixes drugs or medicines in his professional capacity. Any person, firm or corporation who represent themselves as responsible for the purity and the proper branding of any article of food or drug, by placing or having placed their name or names and address upon the label of any food or drug, shall be deemed a manufacturer and included within the meaning of this Article. Any person, firm or corporation, who imports into this State from any place not within the continental limits of the United States, any article of food or drug, shall be importers within the meaning of this Article.

This Article shall be cumulative of all other laws on the subject matter, but where any other law is inconsistent with the provisions hereof, this Article shall control. [As amended Acts 1931, 42nd Leg., p. 265, ch. 159, § 1.]

## Art. 4477. Sanitary code

[Rule 36a. Registration districts.] For the purposes of this Act [Rules 34a-55a; P. C., art. 781a] the State shall be divided into Primary Registration Districts as follows:

Each Justice of the Peace Precinct and each incorporated town of 2,500 or more population, according to the United States Census, shall constitute a Primary Registration District, provided the State Board of Health may combine two or more Registration Districts, or may divide a Primary Registration District into two or more parts, so as to facilitate registration, and in cities of 2,500 or more, according to the last United States Census Report, where births and deaths are registered in accordance with a City Ordinance not in conflict with this Act, the City Clerk shall be the Local Registrar of Births and Deaths.

It is hereby declared to be the duty of the Justice of the Peace in the Justice of the Peace Precinct, and the City Clerk or City Secretary in the city of 2,500 or more population, to secure a complete record of each birth and death that occurs within their respective jurisdictions, and is required by this Act [Rules 34a-55a; P. C. art. 781a]. [As amended Acts 1929, 41st Leg., 1st C. S., p. 7, ch. 4, § 1.]

[Rule 37a. Local registrar.] Every Local Registrar shall select a Deputy-Registrar to the end that at all times a Registrar may be available for the registration of births and deaths, and all reports made to the Bureau of Vital Statistics shall be over the signature of the Local Registrar.

In any district where the Local Registrar fails or refuses to secure the registration of all births and deaths in his district, or neglects to discharge the duties of his office as set forth in this Act [Rules 34a-55a; P. C., art. 781a], the State Board of Health shall declare that district to be without a Local Registrar of Births and Deaths, and shall, with the confirmation of the County Judge or the City Mayor, as the case may be, appoint a Local Registrar of Births and Deaths for that District. [As amended Acts 1929, 41st Leg., 1st C. S., p. 7, ch. 4, § 2.]

(21) That if the deceased shall have rendered service, or shall at the time of the death, be in the service of the United States of America in any war, campaign [campaign] or expedition, that the following facts shall be shown on the reverse side of the death certificate:

(1) The Organization in which service is or was rendered; (2) the Serial Number taken from the discharge papers, if discharged, or the number from the Adjusted Service Certificate; (3) the name and post-office address or [of] the next of kin or next friend of the deceased.

And provided that when such a death certificate is filed, the Local Registrar shall immediately notify the nearest American Legion Post.

And provided further, that the State Registrar, when such certificate is filed with the State Bureau of Vital Statistics, shall notify the State Service Officer of the Adjutant General's Department and the State Adjutant of the American Legion. [Acts 1929, 41st Leg., 1st C. S., p. 7, ch. 4, § 5.]

See note to Rule 53a.

(25) And provided that the name of the father or any information by which he might be identified, shall not be written into the birth or death certificate of any illegitimate child, and provided further, that any statement the father of an illegitimate child wishes to make as to its parentage, may, when placed in the form of an affidavit, be attached to the original birth record.

Neither the State Registrar nor any Local Registrar shall issue a certified copy of any birth or death certificate wherein a child or an adult is stated to be illegitimate, unless such certified copy is ordered by a Court of competent jurisdiction. [Acts 1929, 41st Leg., 1st C. S., p. 7, ch. 4, § 3.]

See note to Rule 53a.

[Rule 53a. Fees.] That each Local Registrar shall be paid the sum of Fifty cents for each birth and death certificate properly and completely made out and registered with him, and correctly recorded and promptly returned by him to the State Bureau of Vital Statistics, as required by this Act [Rules 34a-55a; P. C. art. 781a] unless such Local Registrar shall be acting as Registrar of Births and Deaths in an incorporated city where the compensation of the Registrar is otherwise fixed by City Ordinance.

The State Registrar shall annually certify to the County Commissioners Court or County Auditor, as the case may be, the number of birth and death certificates filed by each Local Registrar at the rates fixed herein, and provided that the State Registrar may render such statements monthly or quarterly, at the discretion of the State Board of Health, and the Commissioners Court or County Auditor, as the case may be, shall audit such statement and the County Treasurer shall pay such fees as are approved by the Commissioners Court or the County Auditor, at the time such statement is issued.

And provided further, that the Local Registrar shall submit to the Commissioners Court or the County Auditor, as the case may be, a true and accurate copy of each birth and each death certificate filed with him, and such copies shall be deposited in the County Clerk's office, and the County Clerk shall be paid for indexing and preserving such records, such compensation as may be decided upon by the Commissioners Court. [As amended Acts 1929, 41st Leg., 1st C. S., p. 7, ch. 4, § 4.]

Section 6 of Acts 1929, 41st Leg., 1st C. S., p. 7, ch. 4, provides that if any section or provision of this Act be declared unconstitutional that such decision or opinion shall not affect any of the other sections or provisions.

[Art. 4494a. Lease of county hospital]

Any county in this State having a population of not less than 46,600 and not more than 48,000 according to the United States Census of 1920, shall have authority to lease any county hospital belonging to said county to be operated as a county hospital by the lessee of same under such terms and conditions as may be satisfactory to the Commissioners' Court and the lessee. The action of the Commissioners' Court in leasing such hospital shall be evidenced by order of the Commissioners' Court, which order shall be recorded in the minutes of said Court. [Acts 1929, 41st Leg., 2nd C. S., p. 170, ch. 86, § 1.]

Art. 4495. [5733] Medical board

The Texas State Board of Medical Examiners shall consist of twelve men, learned in medicine, legal and active practitioners in the State of Texas, who shall have resided and practiced medicine in this State, under a diploma from a legal and reputable college of medicine of the school to which said practitioner shall belong, for more than three years prior to their appointment on said Board. No school shall have a majority representation on said Board. Within thirty days after this Act becomes effective, the members of the first Board, as provided in this Act, shall be appointed by the Governor of the State. Of the members first appointed, four shall serve for a term of two years, or until their successors shall be appointed and qualified; four shall serve for a term of four years, or until their successors shall be appointed and qualified; and the remaining four members shall serve for a term of six years, or until their successors shall be appointed and qualified. Thereafter, at the expiration of the term of each member of the Board first appointed, his successor shall be appointed by the Governor of the State, and shall serve for a term of six years, or until his successor shall be appointed and qualified. The present members of the State Board of Medical Examiners, as created by Article 4495, Revised Statutes of 1925, shall remain in office until the members of the Texas State Board of Medical Examiners provided for in this Act shall have been appointed by the Governor and shall have qualified. No member of said Texas State Board of Medical Exami-

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ners shall be a stockholder or a member of the faculty or a board of trustees of any medical school. Vacancies occurring in the Board shall be filled by the Governor. The word "medicine," as used in this Article, shall have the same meaning and scope as is given to it in Article 4510, Revised Civil Statutes of 1925. [As amended Acts 1931, 42nd Leg., p. 74, ch. 49, § 1.]

Approved April 13, 1931. Section 3 of said Acts 1931, 42nd Leg., p. 74, ch. 49, being a penal provision is published as Penal Code, art. 739. Section 4 provides that the provisions of the act shall not affect pending prosecutions for the unlawful practice of medicine and further provides that the act is intended as an amendment of the articles specified and shall be construed in

connection with other articles constituting part of the same chapters of the Revised Civil Statutes and the Penal Code, and shall not have the effect of repealing or in any way affecting Rev. Civ. Sts. 1925, Title 71, ch. 11.

Section 5 provides that if any provision is held invalid such holding shall not affect the remainder.

#### Art. 4498. [5736] Physicians to register

It shall be unlawful for any one to practice medicine, in any of its branches, upon human beings within the limits of this State who has not registered in the District Clerk's office of every County in which he may reside, and in each and every County in which he may maintain an office or may designate a place for meeting, advising with, treating in any manner, or prescribing for patients, the certificate evidencing his right to practice medicine, as issued to him by the Texas State Board of Medical Examiners, together with his age, post office address, place of birth, name of medical college from which he graduated, and date of graduation, subscribed and verified by oath, when, if willfully false, shall subject the affiant to conviction and punishment for false swearing, as provided by law. The fact of such oath and record shall be endorsed by the District Clerk upon the certificate. The holder of every such certificate must have the same recorded upon each change of residence to another county, as well as in each and every County in which he may maintain an office, or in which he may designate a place for meeting, advising with, treating in any manner or prescribing for patients; and the absence of such record in any place where such record is hereby required shall be prima facie evidence of the want of possession of such certificate. [As amended Acts 1931, 42nd Leg., p. 74, ch. 49, § 2.]

Approved April 13, 1931. See, also, note to art. 4495.

#### [Art. 4498a. Registration of practitioners with State Board of Medical Examiners; disposition of fees]

It shall be the duty of all persons now lawfully qualified and engaged in the practice of medicine in this State as defined in Article 4510, Revised Statutes of 1925, or who shall hereafter be licensed for such practice by the Texas State Board of Medical Examiners, to be registered as such practitioners with the Texas State Board of Medical Examiners on or before the 1st day of January, A. D. 1932, and thereafter to register in like manner annually, on or before the 1st day of January of each succeeding year. Each person so registering with the Texas State Board of Medical Examiners shall pay, in connection with each annual registration and for the receipt hereinafter provided for, a fee of Two (\$2.00) Dollars, which fee shall accompany the application of every such person for such registration. Such payment shall be made to the Texas State Board of Medical Examiners. Every person so registering shall file with the Texas State Board of Medical Examiners a written application for annual registration, setting forth his full name, his age, his Post Office address, his place of residence, the county or counties in which his certificate entitling him to practice medicine has been registered, and the place or places where he is engaged in the practice of medicine, as well as the school of medicine to which he professes to belong and the number and date of his license certificate.

Upon receipt of such application, accompanied by the registration fee of Two (\$2.00) Dollars, the Texas State Board of Medical Examiners, after ascertaining, either from the records of the Board or from other sources

deemed by it to be reliable, that the applicant is a licensed practitioner of medicine in this State, shall issue to the applicant an annual registration receipt, certifying that the applicant has filed such application and has paid the registration fee mentioned for the year in question; provided, that the filing of such application, the payment of the registration fee, and the issuance of such receipt shall not entitle the holder thereof to lawfully practice medicine within the State of Texas, unless he has in fact been previously licensed as such practitioner by the Texas State Board of Medical Examiners, as prescribed by law, and has recorded his license certificate entitling him to practice, as issued by said Board, in the District Clerk's Office of the several counties in which the same may be required by law to be recorded, and unless his license to practice medicine is in full force and effect; and provided further that, in any prosecution for the unlawful practice of medicine as denounced in Chapter 6, Title 12, of the Penal Code of Texas, such receipt showing payment of the annual registration fee required by this Act shall not be treated as evidence that the holder thereof is lawfully entitled to practice medicine. [Acts 1931, 42nd Leg., p. 55, ch. 37, § 1.]

All annual registration fees collected by the Texas State Board of Medical Examiners under this Act shall be placed in the State Treasury, to the credit of a special fund to be known as the "Medical Registration Fund," and all of the current revenues to be derived and placed to the credit of said fund during the two years ending August 31, 1933, are hereby appropriated and shall be used by the Texas State Board of Medical Examiners, and under its direction, in the enforcement of the laws of this State prohibiting the unlawful practice of medicine, and in the dissemination of information to prevent the violation of such laws and to aid in the prosecution of those who violate such laws. The Texas State Board of Medical Examiners shall be authorized to employ and to compensate from such special fund employees and such other persons as may be found necessary to assist the local prosecuting officers of any county in the enforcement of all the laws of the State prohibiting the unlawful practice of medicine, and to carry out the other purposes for which said fund is hereby appropriated. Provided that all such prosecutions shall be subject to the direction and control of the regularly and duly constituted prosecuting officers, and nothing in this Act shall be construed as depriving them of any authority vested in them by law.

In performing the duties devolved by this Act upon the Board of Medical Examiners, said Board shall act through the Secretary-Treasurer of the Board of Medical Examiners. The Secretary-Treasurer shall receive a salary to be fixed by the Legislature in its General Appropriation Bill for the performance of such duties under this Act, and shall make and file a surety bond in favor of the Texas State Board of Medical Examiners in the sum of not less than Ten Thousand (\$10,000.00) Dollars, conditioned that he will faithfully discharge the duties of his office. Such salary shall be paid out of said "Medical Registration Fund" and shall not be, in any way, a charge upon the general revenue of the State. The Texas State Board of Medical Examiners shall employ and provide such clerks and employees as may be necessary to assist the Secretary-Treasurer in performing his duties and in carrying out the purposes of this Act; provided, that the compensation of all persons authorized to be employed under this chapter, shall be paid only out of said "Medical Registration Fund." All disbursements from said fund shall be made only upon written approval of the President and Secretary-Treasurer of the State Board of Medical Examiners and upon warrants drawn by the Comptroller to be paid out of said fund. [Acts 1931, 42nd Leg., p. 55, ch. 37, § 3.]

Approved March 27, 1931. Section 2 of said Acts 1931, 42nd Leg., p. 55, ch. 37, being a penal provision is published as Penal Code art. 743. Section 4 provides

that the act shall not be construed as repealing any part of Rev. Civ. St. 1925, Title 71, Ch. 6 or Pen. Code 1925, Title 12, Ch. 6.



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

### Article 4513. Board of Examiners

The Governor shall biennially appoint a Board of Nurse Examiners to consist of six members, and the term of office of those so appointed shall be two for six years; two for four years; and two for two years. Each member of said Board shall be a registered, graduate nurse at least twenty-five years of age, of good moral character and a graduate of a School of Nursing connected with a general hospital or sanitarium of good standing presided over by a graduate nurse, where a two or more years' training with a systematic course of instruction is given, and shall have at least three years' teaching experience in educational work among nurses. The members of the Board and the Educational Secretary shall each make and subscribe to the official oath, and the same shall, within thirty days after their appointment, be filed with the Secretary of State. [As amended Acts 1931, 42nd Leg., p. 35, ch. 28, § 1.]

Effective March 17, 1931. Section 2 repeals all conflicting laws and parts of laws. This article was also amended by Acts 1929, 41st Leg., p. 261, ch. 115, § 1 (effective 90 days after March 14, 1929, date of adjournment.)

### Art. 4514. Organization of board

The members of the board shall elect from their number a president, and a secretary who shall also act as treasurer. Special meetings of said board shall be called by the president and secretary, acting jointly, upon the written request of any two members. The board may make such by-laws and rules as may be necessary to govern its proceedings and to carry into effect the purpose of this law. The secretary shall be required to keep a record of each meeting of said board, including a register of the names of all nurses registered under this law, which shall be at all times open to public inspection. Said board shall assist the proper legal authorities in the prosecution of all persons violating any provision of this law. [Acts 1929, 41st Leg., p. 261, ch. 115, § 2.]

### Art. 4516. Educational secretary

Amended by changing the clause in the second line "and shall have had at least five years experience" to "and who shall have had at least five years teaching experience." [Acts 1929, 41st Leg., p. 261, ch. 115, § 3.]

### Art. 4523. Temporary permit

Any graduate registered nurse from an accredited school of nursing, who is actually engaged in the pursuit of her profession, coming to this State to remain three months or less, shall be permitted to practice under a permit issued by the board of nurse examiners, upon the payment of a fee of two dollars.

(a) Any graduate nurse from an accredited school of nursing coming to this State, before registering in the State in which she graduated, may practice under a permit until the time of the next State Board Examination. A fee of Fifteen Dollars shall be sent with the application for such permit, which shall constitute her registration fee.

(b) All nurses graduating from an accredited school of nursing between the time of regular examinations, may practice under a permit until the time of the next regular examination. A fee of Fifteen Dollars shall be sent with the application for such permit, which shall constitute her registration fee. [As amended Acts 1929, 41st Leg., p. 261, ch. 115, § 4.]

[Arts. 4529-4542. Repealed by Acts 1929, 41st Leg., p. 242, ch. 107, § 18]

[Art. 4542a. State Board of Pharmacy to regulate practice of Pharmacy, powers and duties]

Sec. 1. There is hereby created a Board to be known as the State Board of Pharmacy, consisting of six (6) members, to be appointed by

the Governor, each of whom shall have been a registered pharmacist, under the provisions of the law, for a period of five (5) years next preceding the appointment, and shall at the time of his appointment be in good standing and engaged in retail pharmacy, and the majority of the board shall be graduates of a recognized college of pharmacy, and shall not be connected in any capacity with any school or college of pharmacy. The term of office of each member of said board shall be six years.

Sec. 2. In making the first appointment the Governor shall appoint two members of said board for two years, two for four years and two for six years, and thereafter the term of each member shall be six years so that the terms of two members shall expire every two years. Vacancies on the board shall be filled by the Governor for the unexpired term only.

Sec. 3. Each member of the Board shall be paid \$5.00 per day for each day he attends meetings of the Board, not to exceed five days for each thirty applicants on [or]\* less examined at any regular session and not to exceed five days for a special session, and time going to and returning from meetings shall be included in computing said time, and in addition to said per diem each member shall receive expenses incurred while actually engaged in the performance of the duties of the Board. Appointees and the secretary to the Board shall within (30) days after their appointment take, subscribe and file with the Secretary of State the constitutional oath of office.

\*Bracketed [or] by compiler.

Sec. 4. Said Board with [within] thirty (30) days after appointment shall meet and organize by electing a president and vice-president and treasurer from its membership, and a secretary who may or may not be a member of the Board, whose salary shall be fixed by the Board not to exceed \$300.00 per month. The secretary and Treasurer shall each be required to execute a bond in the sum of \$10,000.00 for the faithful performance of his duties, payable to the State of Texas. The Board shall have the power to make by-laws and regulations, not inconsistent with the law, for the proper performance of its duties and the duties of its officers and employes, and shall have the power to employ the necessary employes to carry out the provisions of this Act.

Sec. 5. The Board shall fix the standards for pharmaceutical registration, except as otherwise specified herein. The compensation of the members, officers and employees of the Board shall be paid out of funds procured under this Act, provided that the State of Texas shall never be liable for the salary or expense of any member of the Board, or its officers or employes, or any other expense thereof. The books and registers as made and kept by the secretary or under his supervision, subject to the direction of the Board, shall be prima facie evidence of the matter therein recorded in any judicial proceedings in this State.

Sec. 6. The State Board of Pharmacy shall hold regular meetings for the examination of applicants for registration and for the transaction of such other business as may legally come before it twice a year, and may hold such additional special meetings as may be necessary, not to exceed four in any calendar year. The date and place of the regular meetings shall be designated at a regular session, and the additional meetings to be held at such places and on such dates as may be designated by the President of the Board. The members and officers, including the secretary of the Board, shall be empowered to administer oaths in connection with duties of the Board. The Board shall make annually to the Governor of the State a written report of its proceedings and an itemized account of its receipts and disbursements under this act; also the names of all pharmacists duly registered under this Act during the fiscal year for which the report is made; and the name of all pharmacists

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whose license or permits have been canceled, with a memorandum of the grounds upon which such license was cancelled, during the fiscal year.

Sec. 7. It shall be the duty of the State Board of Pharmacy to see that all laws which pertain to the practice of pharmacy are enforced, and it shall be their duty to present to the prosecuting officers of the State all violations of the provisions of this law.

Sec. 8. It shall be unlawful for any person who is not a registered pharmacist under the provisions of this Act, or who is not under the direct supervision of one so registered to compound, mix or manufacture, or sell or distribute at retail to the consumer any drugs or medicines, except in original packages, provided that all persons now registered in this State as pharmacists shall have all the rights which are granted to pharmacists under this Act and provided further that nothing contained in this Act shall be construed to prevent the administration or compounding of drugs and medicines carried or kept by licensed physicians, dentists, veterinarians and Chiropodists in order to supply the needs of their patients; not to prevent the sale of patent or proprietary medicines in original packages only and insecticides and fungicides, and harmless chemicals used in the arts, when properly labeled; not to prevent licensed physicians, dentists, veterinarians and chiropodists from compounding, manufacturing and selling any medicines of their own formula.

Sec. 9. Every applicant for license as a registered Pharmacist shall be not less than twenty-one years of age, of good moral character, and a graduate of a school or college of pharmacy recognized by the Board. Such applicant, in addition to the time required to graduate from school or college of pharmacy, and exclusive of the portion of the year spent in attendance at school or college, shall have had at least one year of practical experience in retail pharmacy under the direct supervision of a registered pharmacist, which experience shall be principally work directly related to selling drugs and poisons, compounding of pharmaceutical preparations and physicians' prescriptions, and keeping of records and making reports required under the State and Federal statutes; and to obtain a license shall pass a theoretical and practical examination satisfactory to the Board of pharmacy. Provided that the Board may at its discretion grant license as pharmacist to persons who furnish proof that they have been registered as such in some other State, and that they are of good moral character, provided such other State in its examination required the same general degree of fitness required by this State and grants the same reciprocal privileges to pharmacists of this State; and provided that exemption from the graduate in pharmacy requirement for entrance to examination for registration as pharmacist shall be allowed to persons who before this Act becomes effective have been employed for at least six months in a retail pharmacy under the supervision of a registered pharmacist, and who register with the Board for such examination within one year after this Act becomes effective and who, within not more than five years from date on which this Act becomes effective, produce satisfactory evidence to the Board of Pharmacy of having had four years of pharmaceutical training under the supervision of a registered pharmacist and shall successfully pass the examination required by the Board of Pharmacy.

Sec. 10. It shall be unlawful for any person to impersonate before the Board an applicant applying for registration or license under this Act, or to fraudulently acquire a license in any other manner than provided for in this Act.

Sec. 11. Every applicant for examination for registration as pharmacist shall pay an examination fee of ten dollars (\$10.00); every applicant for reciprocal registration shall pay a registration fee of twenty-five dollars (\$25.00).

Sec. 12. The registration of any pharmacist shall be revoked by the Board after the registrant has been convicted of having violated any of the provisions of this law, or shall have been convicted of a felony, or shall have been convicted of drunkenness, or of any offense, in either State or Federal Court, involving the illegal use, sale or transportation of intoxicating liquor, or narcotic drugs. Revocation of registration shall only be after ten (10) day's notice and a full hearing. Any person feeling himself aggrieved on account of the action of the Board may institute proceedings in the District Court of Travis County, Texas, for the purpose of having the license reinstated.

Sec. 13. All certificates and current renewal receipts for pharmacists as herein provided shall be at all times conspicuously displayed in the place of business where registrant is engaged as such. Any certificate to practice pharmacy in Texas, which be found displayed in any place of business where the person to whom said certificate was originally issued is not regularly employed as a pharmacist and actually engaged in the service of filling prescriptions may be cancelled by the Board, and any inspector, member or officer of the Board is hereby empowered to take charge of such certificate pending final hearing before the Board as to revocation of same.

Sec. 14. Every registered pharmacist who desires to continue the practice of pharmacy in this State shall annually, on or before the second day of January of each year, pay to the Secretary of the Board of Pharmacy a renewal fee of three dollars (\$3.00). If any person fails or neglects to procure his renewal registration before March first of each year his name shall be erased from the register of licensed pharmacists and such person, in order to regain registration, shall be required to pay one annual renewal fee in addition to the sum of all fees such person may be in arrears. Provided, also, that the Board shall each year turn over to the State Pharmaceutical Association for the advancement of science and art of pharmacy, out of the annual fees collected by it, the sum of two dollars (\$2.00) for each pharmacist actively engaged and one dollar (\$1.00) for each pharmacist inactively engaged in pharmacy in this State. Provided further that a pharmacist not actively engaged in the practice of pharmacy in this State shall be issued a renewal certificate upon the payment of a fee of two dollars (\$2.00) annually or in lieu of such annual fee, said inactive pharmacist, after passing the age of 45 years at his option shall be issued a lifetime certificate upon the payment of fifteen dollars (\$15.00).

Sec. 15. In all stores in which a registered pharmacist is continuously employed, and where the provisions of this Act have been fully complied with, there shall be displayed in a prominent place in or on the front of said store the word "Pharmacy."

Sec. 16. It shall be unlawful for any person to display in or on any store or place of business the word "Pharmacy" either in the English or any foreign language, unless there is continuously employed therein a registered pharmacist under the provisions of this Act. The provisions of this Section shall not apply to towns or villages of a population of five hundred (500) inhabitants or less.

Sec. 17. Every person, firm or corporation desiring to continue operating a retail pharmacy in this State, as same is defined herein, and every manufacturer of drugs and medicines as defined herein, after the passage of this Act shall procure from the Board a permit for each store or factory to be operated, by making within six months, application to the Board upon a form to be furnished by the Board, setting forth under oath ownership and location, and the name, with the certificate number, of the pharmacist, registered in this State, or physician, dentist, veterinarian or chiropractist who is to be continuously employed in the pharmacy factory; this permit to be issued annually by the Board upon receipt of proper application accompanied by fee of two dollars (\$2.00); this permit to be displayed conspicuously at all times in the store or

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factory of original issue. Every person, firm or corporation desiring to open a new drug store or factory shall procure permit aforementioned before commencing [commencing] business. Not more than one store or factory may be operated under one permit. In case of change of personnel of registered pharmacist the Board shall be notified of such change within ten days.

Sec. 18. Chapter 8 of Title 71 of the Revised Civil Statutes of 1925 and all other laws and parts of laws in conflict with this Act are hereby repealed, provided that nothing herein contained shall be construed to amend or repeal any acts or sections of Acts which govern the manufacture, sale or distribution of narcotics or spirituous liquors.

Sec. 19. "Pharmacy" as used in this Act is any store or place where drugs or medicines are sold or furnished at retail to the consumer wherein a registered pharmacist is continuously employed.

Sec. 20. A "pharmacist" as used in this Act, means a person licensed by the State Board of Pharmacy, to prepare, compound and dispense physicians' prescriptions, drugs and medicines and poisons. [Acts 1929, 41st Leg., p. 242, ch. 107.]

Section 22 of said Acts 1929, 41st Leg., p. 242, ch. 107, provides that if any section is held invalid, such decision shall not affect the remainder. Section 21 being a penal provision is published as Art. 758a, Penal Code.

#### Art. 4552. "Optometry"

Amended by inserting "lenses or" after "fitting" in the fifth line, and by adding at the end of the article "Nothing herein shall be construed to prevent selling ready-to wear spectacles or eye glasses as merchandise at retail, nor to prevent simple repair jobs." [Acts 1929, 41st Leg., p. 276, ch. 122, § 1.]

#### Art. 4553. Board of Examiners

The Texas State Board of Examiners in Optometry shall be composed of six (6) members who shall possess the necessary qualifications to practice optometry and who shall have been residents of this State, actually engaged in the practice of optometry for at least five years immediately preceding their appointment. The Board may prescribe rules, regulations and by-laws in harmony with the provisions of this chapter for its own proceedings and government and for the examination of applicants for license to practice optometry. [As amended Acts 1931, 42nd Leg., 1st C. S., p. 11, ch. 7, § 1.]

#### Art. 4554. Term of office

The members of the Board, to be appointed by the Governor, shall be divided into three classes; one, two and three, and their term of office shall be determined by lot at the first meeting of the Board. Two members shall hold their offices for two years, two members for four years, and two members for six years, respectively, from the time of their appointment. The members of one of the above classes of said Board shall thereafter be appointed biennially by the Governor and shall hold office for six years. Only optometrists licensed under the laws of Texas and actively engaged in the practice of optometry shall be eligible for appointment on said Board. (As amended Acts 1931, 42nd Leg., 1st C. S., p. 11, ch. 7, § 2.)

#### Art. 4584. [5757] Regulations for delivering bodies

All public officers, agents, and servants, and all officers, agents and servants of any county, city, town, district or other municipality, and of any and every almshouse, prison, morgue, hospital, or any other public institution, having charge or control of dead human bodies required to be buried at public expense are hereby required, after notification in writing by said board or its duly authorized officers, or persons designated by the authorities of said board, then and thereafter to announce to

said board, its authorized officer or agent, whenever such body or bodies come into his or their possession, charge or control, and shall without fee or reward greater than the value of such fee as was paid in any county, city, town, or municipality on the third day of April 1907, for the burial of pauper bodies, deliver such body or bodies, and permit the said board and its agents and the physicians and surgeons, from time to time designated by them who may comply with the provisions of this law, to take and remove all such bodies as are not desired for post mortem examination by the medical staff of public hospitals or institutions for the insane, to be used within this State for the advancement of medical science, but no such notice need be given, nor any such body be delivered, if any [person need be given, nor any such body be delivered, if any] person claiming to be and satisfying the authorities in charge of such body that he or she is of a kindred or is related by marriage to the deceased, or is a bona fide friend or representative of an organization of which the deceased was a member, shall claim the said body for burial, but it shall be surrendered without cost to such claimant for interment, or shall upon such claimant's request, be interred in the manner provided for the interment of bodies not coming within the operation of this law. No notice shall be given for the body to be delivered, if the deceased died of contagious disease, save tuberculosis, or syphilis, nor shall notice be given if such deceased person were a traveler who died suddenly, in which cases the body shall be buried. It is further required that due effort be made by those in charge of such almshouse, prison, morgue, hospital or other public institution having charge or control of such dead human bodies, to find kindred or relatives of such deceased and notify him or her of the death; and failure to claim such body by kindred or relation within twenty-four hours after receipt of such notification shall be recognized as bringing such body under the provisions of this law, and delivery shall be made as soon thereafter to said board, its officers, or agents as may be possible. Such person in charge of such public institution shall file with the county judge an affidavit that he has made diligent inquiry to find the kindred or relatives of the deceased stating such inquiry as he has made. In case a body is claimed by relatives within ten days after it has been delivered to an institution or persons entitled to receive the same under the provisions of this law, it shall be delivered to them for burial and without cost. [As amended Acts 1929, 41st Leg., p. 328, ch. 152, § 1.]

Bracketed matter should be omitted.

[Art. 4585A. Delivery of bodies to State Board of Embalming and to Schools of Embalming]

The Board, or their duly authorized agents, may, upon receiving such bodies, deliver to the State Board of Embalming such number of the same as may be necessary for the use of said State Board of Embalming in conducting its semiannual examinations; and may further deliver to any School of Embalming in this State that is recognized and certified by the State Board of Embalming such number of said bodies as the Board may in its judgment think necessary for use in instruction given in such School. [Acts 1931, Leg., p. 310, ch. 184, § 1.]

## TITLE 72—HOLIDAYS—LEGAL

Art. 4591. [4606] [2939] Enumeration

The 1st day of January, the 19th of January, the 22nd day of February, the 2nd day of March, the 21st day of April, the 3rd day of June, the 4th day of July, the 1st Monday in September, the 12th day of October, the 11th day of November, and the 25th day of December, of each year, and all days appointed by the President of the United States or by the Governor, as

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days of fasting and thanksgiving, and every day on which an election is held throughout the State, are declared legal holidays, on which all the public offices of the State may be closed and shall be considered and treated as Sunday or the Christian Sabbath for all purposes regarding the presenting for payment or acceptance and of protesting for and giving notice of the dishonor of bills of exchange, bank checks and promissory notes placed by the law upon the footing of bills of exchange. [As amended Acts 1931, 42nd Leg., p. 9, ch. 8, § 1.]

## TITLE 75—HUSBAND AND WIFE

### Art. 4604. [4610] [2956] [2840] License

Amended by omitting after "matrimony" "which shall be sufficient authority to celebrate such marriage." [Acts 1929, 41st Leg., p. 260, ch. 114, § 1.]

#### [Art. 4604a. Examination of applicants]

For the purpose of ascertaining all the facts required under the Statutes, the County Clerk, at the time the license is applied for shall examine the applicant or applicants for the license under oath as to age and residence, which shall be reduced to writing by the County Clerk and subscribed to by the applicant or applicants. In case either party is absent when application is made, an affidavit shall be made by a person other than the contracting party as to the age and residence of the absent party. Said affidavit to be filed in the County Clerk's office. [Acts 1929, 41st Leg., p. 260, ch. 114, § 1.]

#### [Art. 4604b. Time of application]

Application for license shall be made, at least three and not more than thirty days before the license shall be issued. Immediately upon receipt of an application for a license the County Clerk shall have recorded in a book kept for that purpose and marked "Notice of Intention to Marry," and after the expiration of three and not more than thirty days after the signing the notice of intention to marry, the County Clerk may issue said license. [Acts 1929, 41st Leg., p. 260, ch. 114, § 1.]

#### [Art. 4604c. Medical certificate]

Before the County Clerk shall issue any marriage license the man shall produce a certificate from a reputable licensed physician to show that he is free from all venereal diseases. [Acts 1929, 41st Leg., p. 260, ch. 114, § 1.]

### Art. 4613. [4621] [2967] [2851] Husband's separate property

Amended by omitting "and the rents and revenues derived therefrom" after "thus acquired." [Acts 1929, 41st Leg., p. 66, ch. 32, § 1.]

Section 2 of said Acts 1929, 41st Leg., p. 66, ch. 32, repeals all conflicting laws and parts of laws.

### Art. 4614. [4621] [2967] [2851] Wife's separate property

Amended by omitting "and the rents and revenues derived therefrom, the interest on bonds and notes belonging to her and dividends on stocks owned by her," after "thus acquired." [Acts 1929, 41st Leg., p. 66, ch. 32, § 1.]

Section 2 of said Acts 1929, 41st Leg., p. 66, ch. 32, repeals all conflicting laws and parts of laws.

## TITLE 76—INJUNCTIONS

[Art. 4646a. Prohibiting injunction against closing streets]

No injunction shall be granted to stay or prevent the vacating, abandonment or closing, by the City Council or governing body of any incorporated city of this State, of any street or alley in any such incorporated city of this State, except at the suit of the owner or lessee of real property actually abutting on that part of such street or alley actually vacated, abandoned or closed, and then only in the event that the damages of said owner or lessee shall not have been released or shall not have been ascertained and paid in a condemnation suit by such city.

Sec. 2. Provided that any person, who under existing laws has the right to enjoin a city from vacating, abandoning or closing any street or alley of such city and whose right to such injunction is denied by this Act, shall have the right to an action for damages for any injury that he may sustain by reason of the vacating, abandoning or closing of any street or alley by such city. [Acts 1930, 41st Leg., 5th C. S., p. 257, ch. 84.]

Art. 4655. [4662] [3005] Citation on independent writ

Amended by inserting a comma in the fourth line after "defendant," and adding "provided however that when any writ of injunction is accompanied with a true and correct copy of plaintiff's petition, it shall not be necessary for the citation in the original suit to be accompanied with a copy of plaintiff's petition, nor contain any statement of the nature of plaintiff's demand; but it shall be sufficient for said citation to refer to plaintiff's cause of action as set forth in a true and correct copy of plaintiff's petition which accompanies the writ of injunction." [Acts 1929, 41st Leg., p. 234, ch. 99, § 1.]

## TITLE 78—INSURANCE

Art. 4690. [4500] To examine companies

The Chairman of the Board of Insurance Commissioners shall, once in each two years, or oftener if he deems necessary, in person or by one or more examiners commissioned by him in writing, visit each company organized under the laws of this State and examine its financial condition and its ability to meet its liabilities, as well as its compliance with the laws of Texas affecting the conduct of its business; and he may similarly, in person or by one or more commissioned examiners, visit and examine, either alone or jointly with representatives of the insurance supervising departments of other States, each Insurance Company not organized under the laws of this State but authorized to transact business in this State. He or his commissioner examiners shall have free access to all the books and papers of the company or agents thereof relating to the business and affairs of such company, and shall have power to summon and examine under oath the officers, agents and employees of such company and any other person within the State relative to the affairs of such company. He may revoke or modify any certificate of authority issued by him or by any predecessor in office when any condition or requirement prescribed by Law for granting it no longer exists. He shall give such company at least ten days' written notice of his intention to revoke or modify such certificate of authority, stating specifically the reasons for the action he proposes to take. [As amended Acts 1931, 42nd Leg., p. 252, ch. 152, § 2.]

[Art. 4690a. Expenses of examinations; disposition of sums collected]

The expenses of all examinations made on behalf of the State of Texas by the Chairman of the Board of Insurance Commissioners or under his



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authority shall be paid by the corporations examined in such amount as the Chairman of the Board of Insurance Commissioners shall certify to be just and reasonable. In the case of an examination made jointly with the representatives of the Insurance Supervising Department of any other State or States, the corporation examined shall pay the share of the cost of such examination to be borne by the State of Texas as shall be certified to be just and reasonable by the Chairman of the Board of Insurance Commissioners.

Assessments for the expenses of such examination which shall be sufficient to meet all of the expenses and disbursements necessary to comply with the provisions of the laws of Texas relating to the examination of insurance companies and to comply with the provisions of this Act, shall be made by the Chairman of the Board of Insurance Commissioners upon the corporations or associations to be examined taking into consideration annual premium receipts, and/or admitted assets, and/or insurance in force; provided such assessments shall be made and collected only at the time such examinations are made.

All sums collected by the Chairman of the Board of Insurance Commissioners, or under his authority, on account of the cost of examinations assessed as herein provided for shall be paid into the State Treasury to the credit of the Insurance Examination Fund; and the salaries and expenses of the actuary of the Board of Insurance Commissioners and of the examiners and assistants, and all other expenses of such examinations, shall be paid upon the certificate of the Chairman of the Board of Insurance Commissioners by warrant of the Comptroller drawn upon such fund in the State Treasury.

If at any time it shall appear that additional pro rata assessments are necessary to cover all of the expenses and disbursements required by law and necessary to comply with this Act, the same shall be made, and any surplus arising from any and all such assessments, over and above such expenses and disbursements, shall be applied in reduction of subsequent assessments in the proportion assessed so that there shall be so assessed and collected the funds necessary to meet such expenses and disbursements and no more. [Acts 1931, 42nd Leg., p. 252, ch. 152, § 3.]

Effective 90 days after May 23, 1931, date 252, ch. 152, contains two sections 3 (arts. of adjournment. Act 1931, 42nd Leg., p. 4690a, 4690b).

[Art. 4690b. Appointment of examiners and assistants and actuary by Board of Insurance Commissioners; salaries]

On or before January 1, 1932, the Chairman of the Board of Insurance Commissioners shall appoint such number of examiners, one of whom shall be the chief examiner, and such number of assistants as he may deem necessary for the purpose of making on behalf of the State of Texas and of the Board of Insurance Commissioners all such examinations of insurance companies or other corporations, at the expense of such companies or corporations, as are required to be made or provided for by Law; and, after this Act shall take effect he shall also appoint an actuary to the Board of Insurance Commissioners to advise the Board in connection with the performance of its duties and for aid and advice and counsel in connection with all such examinations required by Law. Such examiners and assistants shall, as directed by the Chairman of the Board of Insurance Commissioners, perform all the duties relative to all examinations provided by Law to be made by the Board of Insurance Commissioners of the State of Texas; and it is the purpose of this Act to provide for the examination hereunder by the Chairman of the Board of Insurance Commissioners of all corporations, firms or persons engaged in the business of writing insurance of any kind in this State whether now subject to the supervision of the Insurance Department or not.

All such examiners and assistants and such actuary shall hold office subject to the will of the Chairman of the Board of Insurance Commis-

sioners and the number of such examiners and assistants may be increased or decreased from time to time to suit the needs of the examining work. The actuary and all such examiners and assistants shall be paid out of the Insurance Examination fund, such salaries as shall be fixed from time to time by the Chairman of the Board of Insurance Commissioners; provided, that the salaries of the actuary and of the chief examiner shall not exceed \$6000.00 per annum; and the salaries of other examiners shall not exceed \$333.33 per month, and the salaries of assistant examiners shall not exceed \$250.00 per month; and their necessary traveling expenses shall be paid out of said fund upon sworn, itemized accounts thereof, to be rendered monthly and approved by the Chairman of the Board of Insurance Commissioners before payment.

Neither the actuary to the Board of Insurance Commissioners nor any examiner or assistant shall continue to serve as such if, while holding such position, he shall directly or indirectly accept from any Insurance Company any employment or pay or compensation or gratuity on account of any service rendered or to be rendered or on any account whatsoever. [Act 1931, 42nd Leg., p. 252, ch. 152, § 3.]

Effective 90 days after May 23, 1931, date of adjournment. Act 1931, 42nd Leg., p. 252, ch. 152, contains two sections 3 (arts. 4690a, 4690b).

[Art. 4690c. Oath and bond of examiners and assistants; action on bond for false reports]

Each examiner and assistant examiner, before entering upon the duties of his appointment shall take and file in the office of the Secretary of State an oath to support the Constitution of this State, to faithfully demean himself in office, to make fair and impartial examinations, and that he will not accept as presents or emoluments any pay, directly or indirectly, for the discharge of his duty, other than the remuneration fixed and accorded to him by law; and that he will not reveal the condition of, nor any information secured in the course of any examination of any corporation, firm or person examined by him, to anyone except the Members of the Board of Insurance Commissioners, or their authorized representative, or when required as witness in Court.

Every such examiner shall enter into a bond payable to the State in the sum of \$10,000.00 and every assistant examiner shall enter into a bond in the sum of \$5,000.00, to be approved by the Commissioner and deposited in the office of the State Comptroller, conditioned that he will faithfully perform his duties as such examiner.

In case any such examiner or assistant examiner shall knowingly make any false report or give any information in violation of law relative to any such examination of any corporation, firm or person so examined, any such corporation, firm or person shall have a right of action on such bond for his injuries, in a suit brought in the name of the State at the relation of the injured party. [Acts 1931, 42nd Leg., p. 252, ch. 152, § 3—A.]

Effective 90 days after May 23, 1931, date of adjournment. See, also, note to art. 3920.

Art. 4725. [4734] May invest in what securities

A Life Insurance Company organized under the Laws of this State may invest in or loan upon the following securities, and none others, viz:

1. It may invest any of its funds and accumulations in the bonds of the United States or of any State, county or city of the United States; or in any bonds or interest bearing warrants issued by authority of law by any county, city, town, school district or other municipality or subdivision which is now or hereafter may be constituted or organized under the Laws of this State, and is authorized to issue such bonds and warrants under the Constitution and Laws of this State, provided legal provision has been made by a tax to meet said obligations; or in any paving certificates issued by any city in the State of Texas and secured by a first lien on real

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estate; or in bonds issued under and by virtue of the Federal Farm Loan Act approved July 17, 1916, when such bonds are issued against and secured by promissory notes or other obligations, the payment of which is secured by mortgage, deed of trust or other valid lien upon unincumbered real estate situated in this State; or in first mortgage bonds on real or personal property of any solvent corporation, and which has not at any time defaulted in the payment of interest on any of its obligations, but in no event shall the amount of such investment in the bonds of any one such corporation exceed five per cent. of the admitted assets of the Insurance Company making the investment.

2. It may loan any of its funds and accumulations, taking as security therefor such collateral as under the previous subdivision it may invest in. It may also make loans upon first liens upon real estate, the title to which is valid and the value of which is forty per cent more than the amount loaned thereon; or upon first liens upon lease hold estates in real property and improvements situated thereon, the title to which is valid, and the lease hold is not less than thirty years to run before expiration; provided that the duration of any loan upon such leasehold estates shall not exceed a period of ten years; or on any obligation secured collaterally by any such first liens. If any part of the value of such real estate is in buildings, such buildings shall be insured against loss by fire for at least fifty per cent of the value thereof with loss clause payable to such Company. It may also make loans upon the security of or purchase of its own policies. No loans on any policy shall exceed the reserve value thereof. No investment or loan, except policy loans, shall be made by any such Insurance Company, unless the same shall first have been authorized by the Board of Directors or by a committee charged with the duty of supervising such investments or loans. No such Company shall subscribe to, or participate in, any underwriting of the purchase or sale of securities or property, or enter into any such transaction for such purpose, or sell on account of such Company jointly with any other person, firm or corporation; nor shall any such Company enter into any agreement to withhold from sale any of its property; but the disposition of its property shall be at all times within the control of its Board of Directors.

3. Any Life Insurance Company of the State, for the purpose of investing its capital and surplus, or any part thereof, over and above the amount of its reserves, may purchase and hold as collateral security, or otherwise, and sell and convey the capital stock, bonds, bills of exchange or other commercial notes or bills and securities of any solvent dividend paying corporation which has not defaulted in the payment of any of its obligations for a period of five years, the current market value of which such stock, bonds, bills of exchange, or other commercial notes or bills and securities shall be at all times during the continuance of such loan at least fifty per cent more than the sum loaned thereon; provided that no such company shall loan upon or invest in its own stock, nor more than five per centum of its capital and surplus in the stock of any corporation, and provided further that no such company shall invest any of its funds in any stock on account of which the holders or owners thereof may in any event, be or become liable to any assessment except for taxes, or in the stock of mining or oil companies or in the stock of manufacturing companies commonly known as industrials.

Sec. 2. That in any case in which a Life Insurance Company organized under the Laws of this State, shall reinsure the business and take over the assets of another Life Insurance Company, either domestic or foreign, all investments of such reinsured company that were authorized, when made, by the Laws of the State in which it was organized, as proper securities for investment of the funds of a Life Insurance Company, and which are taken over by such reinsuring company, shall be considered as valid securities of such reinsuring company under the Laws of this State, provided such investments are approved by the Board of Insurance Commis-

sioners of this State, and same are taken over on terms satisfactory to said Board; and upon the condition that the Board of Insurance Commissioners shall have the power to require the reinsuring company to dispose of such investments upon such notice as it may deem reasonable. [As amended Acts 1931, 42nd Leg., p. 256, ch. 153.]

Effective 90 days after May 23, 1931, date of adjournment. Section 3 of said act provides that it shall not affect investments already made nor renewals thereof. This article was also amended by Acts 1929, 41st Leg., p. 497, ch. 237 (effective March 21, 1929).

#### Art. 4726. [4735] May hold real estate

Every such insurance company may secure, hold and convey real property only for the following purposes and in the following manner:

1. One building site and office building for its accomodation in the transaction of its business and for lease and rental; and such office building may be on ground on which the Company owns a lease having not less than fifty years to run from the date of its acquisition by the Company, provided that the Company shall own, or be entitled to the use of, all the improvements thereon, and that the value of such improvements shall at least equal the value of the ground, and shall be not less than twenty times the annual average ground rental payable under such lease; and provided, such office building shall have an annual average net rental of at least twice such annual ground rental; and, provided, further, that such Company shall be liable for and shall pay all State and local taxes levied and assessed against such ground and the improvements thereon which for purposes of taxation, shall be deemed real estate owned by the Company. Provided, that an acquisition of such an office building on leased ground shall be approved by the Board of Insurance Commissioners of the State of Texas before such investment.

2. Such as have been acquired in good faith by way of security for loans previously contracted or for moneys due.

3. Such as have been conveyed to it in the satisfaction of debts previously contracted in the course of its dealings.

4. Such as have been purchased at sales under judgment or decrees of court, or mortgage or other liens held by such companies.

All such real property specified in sub-divisions 2, 3 and 4 of this Article which shall not be necessary for its accomodation in the convenient transaction of its business shall be sold and disposed of within five years after the Company shall have acquired title to the same, or within five years after the same shall have ceased to be necessary for the accomodation of its business. It shall not hold such property for a longer period, unless it shall procure a certificate from the Commissioner that its interests will suffer materially by the forced sale thereof; in which event the time for the sale may be extended to such time as the Commissioner shall direct in such certificate. [As amended Acts 1931, 42nd Leg., p. 96, ch. 62, § 1.]

#### Art. 4736. [4746] Losses shall be paid promptly

In all cases where a loss occurs and the life insurance company, or accident insurance company, or life and accident, health and accident, or life, health and accident insurance company liable therefor shall fail to pay the same within thirty days after demand therefor, such company shall be liable to pay the holder of such policy, in addition to the amount of the loss, twelve per cent damages on the amount of such loss together with reasonable attorney fees for the prosecution and collection of such loss. Such attorney fee shall be taxed as a part of the costs in the case. The Court in fixing such fees shall take into consideration all benefits to the insured incident to the prosecution of the suit, accrued and to accrue on account of such policy. [As amended Acts 1931, 42nd Leg., p. 135, ch. 91, § 1.]

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

[Art. 4736a. Payments to designated beneficiaries]

Sec. 1. Whenever any person shall procure the issuance of a policy of insurance on his or her life in any legal reserve life insurance company, and designate in writing filed with the company the beneficiary to receive the proceeds thereof, the company issuing such policy shall, in the absence of the receipt by it of notice of an adverse claim to the proceeds of the policy from one having a bona fide legal claim to such proceeds or a part thereof, pay such proceeds becoming due on the death of the insured to the person so designated as beneficiary, and such payment so made, in the absence of such notice received by the insurance company prior to the date of the payment of the proceeds, shall discharge the company from all liability under the policy.

Sec. 2. The provisions of this Act shall apply to all policies now in existence as well as to all policies hereafter written. [Acts 1931, 42nd Leg., p. 328, ch. 195.]

[Art. 4764a. Group life insurance; regulations]

Sec. 1. Group Life Insurance is hereby declared to be that form of Life Insurance covering not less than twenty-five employees written under a policy issued to the employer, the premium for which is to be paid by the employer or by the employer and employees jointly and insuring all of his employees, or all of any class or classes thereof determined by conditions pertaining to the employment, for amounts of insurance based upon some plan which will preclude individual selection, and for the benefit of persons other than the employer; provided, however, that when the premium is to be paid by the employer and employees jointly and the benefits of the policy are offered to all eligible employees, not less than seventy-five per centum of such employees may be so insured. For the purposes of this act the members of any labor union who are actively engaged in the same occupation shall be considered employees of such union. The provisions of this Section, however, shall not apply to Group Insurance now in effect, or to any renewals thereof.

Sec. 2. No policy of Group Life Insurance shall be issued or delivered in this State unless and until a copy of the form thereof has been filed with the Life Insurance Commissioner of the State of Texas and formally approved by him, nor shall such policy be so issued or delivered unless it contains provisions substantially as follows:

(1). A provision that the policy shall be incontestable as to any individual employee not later than two years from the date of the issuance to such employee of the certificate hereinafter provided for, except for the nonpayment of premiums on the policy, and which provision may or may not, at the option of the company, contain exceptions for violations of the conditions of the policy relating to naval and military service in time of war.

(2). A provision that the policy, the application of the employer and the individual applications, if any, of the employees insured, shall constitute the entire contract between the parties, and that all statements made by the employer or by individual employees shall, in the absence of fraud, be deemed representations and not warranties, and that no such statement shall be used in defense of a claim under the policy, unless it is contained in a written application.

(3). A provision for the equitable adjustment of the premium or the amount of insurance payable in the event of a misstatement of the age of an employee.

(4). A provision that the company will issue to the employer for delivery to the employee, whose life is insured under such policy, an individual certificate setting forth a statement as to the insurance protection to which he is entitled, to whom payable, together with provision to the effect that in case of the termination of the employment for any reason

whatsoever the employee shall be entitled to have issued to him by the company, without evidence of insurability, and upon application made to the company within thirty-one days after such termination, and upon the payment of the premium applicable to the class of risk to which he belongs and to the form and amount of the policy at his then attained age, a policy of Life Insurance in any one of the forms customarily issued by the company, except term insurance, in an amount equal to the amount of his protection under such group insurance policy at the time of such termination which policy may or may not contain provisions for disability benefits and provisions for accidental death benefits, at the option of the Company.

(5). A provision that to the group or class thereof originally insured shall be added from time to time all new employees of the employer eligible to insurance in such group or class who file applications and comply with conditions as to insurability as required by the terms of the policy.

Sec. 3. Any such policy may be issued or delivered in this State which in the opinion of the Life Insurance Commissioner contains provisions on any one or more of the several requirements set forth in Section 2 hereof more favorable to the employer or employee than by said section required, and any such policy may contain any other provisions which meet the approval of the Life Insurance Commissioner, provided, such provisions are not in conflict with any of the provisions required by Section 2 hereof to be contained in the policy.

Sec. 4. The proceeds of the insurance on any employee under any such group policy may be paid by the insurance company either to the employer in trust for the beneficiary designated by the employee to receive such proceeds, or to the beneficiary so designated, and any payment so made by the insurance company in the absence of the receipt by it, prior to the time of such payment, of notice of an adverse claim to the proceeds from one having a bona fide legal claim to such proceeds, or a part thereof, shall fully discharge such company from all liability on the insurance of such employee.

Sec. 5. The reserve values of all policies of group life insurance shall be computed upon the basis of the American Men Ultimate Table of Mortality, with interest at the rate of three per cent or three and one-half per cent per annum, as provided in such policies.

Sec. 6. Except as may be provided in this Act, it shall be unlawful to make a contract of life insurance covering a group in this State. [Acts 1931, 42nd Leg., p. 172, ch. 101.]

#### Art. 4766. [4776] "Texas securities"

The term "Texas Securities," as used in this chapter, shall be held to include all bonds issued under and by virtue of the Federal Farm Loan Act approved July 17, 1916, when such bonds are issued against and secured by promissory notes or other obligations, the payment of which is secured by mortgage, deed of trust or other valid lien upon unincumbered real estate situated in this State; bonds of the State of Texas; bonds or interest bearing warrants of any county, city, town, school district, or other municipality or subdivision, which is now or may hereafter be constituted or organized and authorized to issue such bonds or warrants under the constitution and laws of this State; promissory notes and other obligations, the payment of which is secured by a mortgage, deed of trust or other valid lien upon unincumbered real estate situated in this State, the title to which real estate is valid and the market value of which is double the amount loaned thereon, exclusive of buildings, unless such buildings are insured against fire and kept insured in some company authorized to transact business in this State, and the policy or policies transferred to the company taking such mortgage or lien; obligations secured collaterally by such first lien notes; first mortgage bonds of any solvent corporation incorporated under the laws of

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this State and doing business in this State, and which has paid, out of its actual earning, dividends of an average of at least five per cent per annum on the par value of all of its par value stock outstanding and on the sale value of all of its no par value stock outstanding for a period of at least five years next preceding the date of such investment, and which has not at any time defaulted in the payment of interest on any of its obligations, any such investment in the bonds of any one such corporation not to exceed five per cent of the admitted assets of the insurance company making the investment; and loans made to policy holders on the sole security of the reserve values of their policies. The investments required by this chapter may be made by the purchase of not more than one building site, and in the erection thereon of not more than one office building, or in the purchase, at its reasonable market value, of such office building already constructed and the ground upon which the same is located, in any city of the State of more than four thousand inhabitants. All real estate owned by life insurance companies in this State, on December 31, 1909, and all thereafter acquired under the provisions of this chapter, or by foreclosure of a lien thereon, shall be treated, to the extent of its reasonable market value, as a part of the investment required by this chapter. And "Texas Securities" shall be held to include every character of investment authorized by the terms of this article. [As amended Acts 1929, 41st Leg., p. 497, ch. 237.]

Arts. 4781-4783. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, § 18]

Arts. 4784-4799. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, § 18]

#### Art. 4820. [Fraternal Benefit Societies Defined]

Any corporation, society, order or voluntary association, without capital stock, organized and carried on solely for the mutual benefit of its members and their beneficiaries, and not for profit, and having a lodge system and representative form of government, or which limits its membership to a secret fraternity having a lodge system and representative form of government, and which shall make provision for the payment of benefits in accordance with Section 4 hereof, is hereby declared to be a Fraternal Benefit Society. [As amended Acts 1931, 42nd Leg., p. 71, ch. 48, § 1.]

Articles 4820-4822 effective 90 days after May 23, 1931, date of adjournment. Section 7 repeals all conflicting laws and parts of laws.

#### Art. 4821. [Lodge System Defined]

Any society having a supreme governing or legislative body and subordinate lodges or branches by whatever name known into which members shall be admitted in accordance with its constitution, laws, ritual, rules and regulations, and which shall be required by the laws of such society to hold periodical meetings, shall be deemed to be operating on the lodge system. [As amended Acts 1931, 42nd Leg., p. 71, ch. 48, § 2.]

#### Art. 4822 [Representative Form of Government Defined]

Any society shall be deemed to have a representative form of government when it shall provide in its constitution and laws for a supreme legislative or governing body, composed of representatives elected either by the members or by delegates elected directly or indirectly by the members, together with such other members as may be prescribed by its constitution and laws; provided, that the elective members shall constitute a majority in number and not less than the number of votes required to amend its constitution and laws; and provided, further, that the meetings of the supreme or governing body, and the election of officers, repre-

sentatives or delegates shall be held as often as once in four calendar years. No member under age sixteen shall have voice or vote in the management of the society. No member, officer, representative or delegate shall vote by proxy. [As amended Acts 1931, 42nd Leg., p. 71, ch. 48, § 3.]

#### Art. 4824. Benefits

Subsec. 1. Every society transacting business under this Act shall provide for the payments of benefits upon the death of its members either within a term of years or at any time, and may provide for benefits payable upon its members reaching seventy years of age, and may also provide for the payment of benefits in case of total and permanent disability, and may provide also for the payment of benefits in the event of temporary disability and for monuments or tombstones to the memory of its deceased members, and for the payment of funeral benefits.

Subsec. 2. Any society may also enter into contracts in such other forms and granting such benefits as its laws may authorize when it shall provide for the accumulation and maintenance of assets required for the payment of such benefits when valued upon an interest basis not exceeding four (4%) per cent per annum and mortality standards adopted by it within the limitations provided in the statutes relating to Fraternal Benefit Societies, or at the option of the society in the statutes relating to life insurance companies. [As amended Acts 1931, 42nd Leg., p. 71, ch. 48, § 4.]

#### Art. 4825. Benefits upon life of child

That any Fraternal Benefit Society authorized to do business in this State may provide in its laws, in addition to other benefits provided for therein, for insurance, annuities, or for insurance and annuities, upon the lives of children at any age, upon the application of some adult person related to or interested in said child as the laws of such society may provide. Any such society may at its option organize and operate branches for such children and membership in local lodges, and initiation therein shall not be required of such children, nor shall they have any voice in the management of the society. [As amended Acts 1929, 41st Leg., 2nd C. S., p. 28, ch. 16, § 1.]

Section 6 of Acts 1929, 41st Leg., 2nd C. S., p. 28, ch. 16, repeals all conflicting laws and parts of laws.

#### Art. 4826. Certificates as to child

The contributions to be made upon such certificate shall be based upon the "Standard Industrial Mortality Table Three and one-half per cent" or the "English Life Table Number Six," or such other mortality table as may be approved by the Chairman of Board of Insurance Commissioners. [As amended Acts 1929, 41st Leg., 2nd C. S., p. 28, ch. 16, § 2.]

See note to art. 4825.

#### Art. 4827. Reserve and rights of child

Any society issuing such benefit certificates shall maintain on all such certificates the reserve required by the standard mortality and interest tables adopted by the society for computing contributions, same to be first approved by the Chairman of the Board of Insurance Commissioners. [As amended Acts 1929, 41st Leg., 2nd C. S., p. 28, ch. 16, § 3.]

See note to art. 4825.

#### Art. 4828. Statement as to children

Any society shall have the full power to provide for means of enforcing payment of contribution, designations, and in all other respects for the regulation, government and control of such certificate and all rights, obligations and liabilities incident thereto and connected therewith not



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at variance with the provisions of this Act. [As amended Acts 1929, 41st Leg., 2nd C. S., p. 28, ch. 16, § 4.]

See note to art. 4825.

#### Art. 4831. [Members and Beneficiaries]

Any person may be admitted to beneficial, or general, or social membership in any society in such manner and upon such showing of eligibility as the laws of the society may provide, and any beneficial member may direct any benefit to be paid to such person or persons, entity, or interest as may be permitted by the laws of the society; provided, that no beneficiary shall have or obtain any vested interest in the said benefit until the same has become due and payable in conformity with the provisions of the contract of membership, and the member shall have full right to change his beneficiary, or beneficiaries, in accordance with the laws, rules, and regulations of the society. Nothing contained in this Act shall be construed to affect or apply to societies which admit to membership only persons engaged in one or more hazardous occupations, in the same or similar lines of business. [As amended Acts 1931, 42nd Leg., p. 71, ch. 48, § 5.]

Effective 90 days after May 23, 1931, date of adjournment. This art. was also amended by Acts 1929, 41st Leg., 2nd C. S., p. 28, ch. 16, § 6 (effective 90 days after July 2, 1929, date of adjournment).

#### [Art. 4831a. Liability for damages and attorney's fees on failure to pay within sixty days after demand]

Provided that when a Fraternal Benefit Society operates under the provisions of this Act, and in all cases where a loss occurs and the society liable therefor shall fail to pay the same within sixty (60) days after the demand therefor, such society shall be liable to pay the holder of such policy, in addition to the amount of the loss, twelve (12%) per cent damages on the amount of such loss together with reasonable attorney's fees for the prosecution and collection of such loss. [Acts 1931, 42nd Leg., p. 71, ch. 48, § 5a.]

Art. 4833. [Repealed by Acts 1931, 42nd Leg., p. 71, ch. 48, § 6]

Art. 4859. [Repealed by Acts 1929, 41st Leg., p. 563, ch. 274, § 31]

Art. 4859a. [Repealed by Acts 1929, 41st Leg., p. 563, ch. 274, § 31]

Art. 4859b. [Repealed by Acts 1929, 41st Leg., p. 563, ch. 274, § 31]

Art. 4859c. [Repealed by Acts 1929, 41st Leg., p. 563, ch. 274, § 31]

Art. 4859d. [Repealed by Acts 1929, 41st Leg., p. 563, ch. 274, § 31]

#### [Art. 4859e. Conversion of fraternal benefit society into mutual or stock company]

Sec. 1. Any Fraternal Benefit Society with a lodge system and representative form of government, doing business in the State of Texas, may convert itself into a Mutual Benefit Company, or into an incorporated Stock Company by conforming to the provisions of this Act. [Art. 4859e.]

Sec. 2. When it shall be determined by the governing body of a Fraternal Benefit Society to submit the proposed change to the members of the Society, a meeting shall be called not less than ninety days hence, and notice of such purpose with a general plan of the changes shall be mailed to each member or policy holder of the Society to their post office address as shown by the Society records, and all the subordinate lodges or branches of the Society, which notice shall be mailed at least forty (40) days prior to the day named in the call by the governing body. Within twenty (20) days after the receipt of such notice, each lodge or subor-

dinate branch shall in Regular or Called Session pass upon the proposal and choose a representative or delegate, by whatever name the representative may be known, to the governing body for the State (if such Society be operating in more than one State). When the delegates or representatives so chosen to the State body shall have assembled they shall choose the requisite number of representatives or delegates to which the State may be entitled to the Supreme or Grand Lodge, if same be located in the State of Texas. Provided that no such society shall convert itself into a mutual benefit or incorporated stock company except upon such terms and conditions as in the opinion of the Board of Insurance Commissioners of Texas shall fully protect the rights and interests of its members and policy holders; and the plan of such change shall be submitted to and approved by the Board of Insurance Commissioners before it shall be submitted to the members or policy holders and the subordinate lodges or branches as hereinbefore provided.

Sec. 3. Pursuant to said notice and convening of the Supreme governing body, there shall be adopted a resolution by delegates representing lodges which comprise not less than sixty per cent of the total membership of the association, authorizing the conversion of the said Fraternal Benefit Society into a Mutual or Stock Life Insurance Company, and shall set forth or ratify a certificate of incorporation, amending the Society's charter, and shall set forth:

(a) The name of the Society, and the name of the new corporation by which it shall thereafter be known, which shall preferably be a continuation of the same name. Provided that if the new corporation shall change from the former name of the Society it shall not adopt the same name as that of any other such Society doing business in this State nor a name similar to that of any other such Society doing business in this State.

(b) The object of the corporation.

(c) The location of its principal offices, which must be within the State of Texas, and the names of the principal officers of such corporation, who shall serve until their successors are elected and qualified.

(d) The period, if any, for the duration of the corporation.

(e) The amount of the capital stock authorized, if any, and the number of shares into which it is divided, and the amount of capital stock to be immediately paid in, which shall not be less than \$100,000.00 and generally comply with laws of Texas governing the organizations of Insurance Companies.

(f) Any other provisions which the supreme or governing body may choose to insert to protect the membership of the retiring Society and insure the business and the conduct of the affairs of the new corporation.

Sec. 4. The certificate of incorporation so adopted or amended shall be filed with the Commissioner of Insurance for the State of Texas, and be incorporated in the charter of the proposed Company.

Sec. 5. A report of said meeting certified to by the presiding officers under the corporate seal of such Society shall also be filed with the Commissioner of Insurance for the State of Texas.

Sec. 6. If such Fraternal Benefit Society be converted into a Stock Life Insurance Company, each and every policy holder, certificate holder, or other member of such Society, shall have a preference right for ninety days after such determination to subscribe for the proportion of the total capital stock offered for sale, which the amount of his insurance bears to the Society's total insurance in force at the time of the conversion, which time shall be that at which the supreme governing body authorize the change. Provided, further, that before any of the stock shall be offered for public sale and the membership of the Society shall have a preference in the purchase thereof, but that no one member shall be allowed to subscribe or purchase more than twenty-five per cent of the capital stock of the new company, nor shall he subscribe or be allowed to purchase more

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than ten per cent of the capital stock of the new company if there be other members applying in writing for the purchase of stock whose subscriptions are not filled. If the membership shall not have subscribed for the total capital stock authorized, then others who were not members of the Society at the time of the conversion may be permitted to subscribe for stock and be allowed equal rights in the ownership thereof with all other stockholders. It shall be the duty of such Fraternal Benefit Society desiring to be converted into a Stock Company to advise every member or policy holder of his right to subscribe for and purchase the stock of such Stock Life Insurance Company and of the amount of such stock for which he is entitled to subscribe and all other terms and conditions, in a form to be approved by the Board of Insurance Commissioners within ten days after such Society shall be voted to so convert itself into a Stock Company. Proof of depositing a letter addressed to all members or policy holders, conveying the advice, in the approved form as herein provided for, shall be deemed proof of compliance with the foregoing requirement.

Sec. 7. When such Fraternal Benefit Societies shall have complied with the provisions of this Act [Art. 4859e] and the other laws of this State regulating the incorporation of Life Insurance Companies, and shall have received from the Commissioner of Insurance its charter or certificate of authority to transact business as a Stock Life Insurance Company, its reorganization and conversion into such Stock Company shall be complete. Such reorganization and converted corporation shall be deemed in law to have all the rights, privileges, powers, and authority of any other Stock corporation organized for doing a Life Insurance business in the State of Texas, and controlled by the laws applying thereto. The new corporation shall be deemed in law to be a continuation of the business of the Fraternal Benefit Society when the reorganization and conversion shall have been accomplished by the formation of a new Company or by amendment to its former charter, and such reorganized corporation shall succeed to and become invested with all and singular the rights, privileges, franchises, and all property, real, personal, or mixed, of the former Society, and all debts due on any account and all other things and choses in action theretofore belonging to such Fraternal Benefit Society, and all property rights, privileges, franchises, and all other interest, shall thereafter be as effectually the property of such organized and converted corporation as they were the property of the former Fraternal Benefit Society, and the title to any real estate by deed or otherwise vested in the former Fraternal Benefit Society shall forthwith vest in such organized converted corporation, and the title thereto shall not in any way be impaired by reason of such change or reincorporation.

Sec. 8. The rights of all members, policy holders, creditors, and the standing of all claims under the former Fraternal Benefit Society shall be preserved unimpaired under the new corporation, and all debts, liabilities, and duties of the former Fraternal Benefit Society shall thenceforth attach to the reorganized corporation, and may be enforced against it to the same extent as if said debts and liabilities had been incurred or contracted by the new corporation, and all outstanding benefit certificates or policies issued by the said Fraternal Benefit Society shall be valid obligations of the new incorporation, without the issuance of new policies.

Sec. 9. Such organized and converted corporation shall be obliged to carry out and perform all of the obligations of every kind and character owing by the former Fraternal Benefit Society to the holders of its policies or beneficial certificates, and the same may be enforced against it to the extent as if said policies and beneficial certificates had been issued by it after conversion. Any pending suits wherein the former Fraternal Benefit Society was a party shall be unaffected by the conversion thereof and shall be prosecuted by or against such reorganized and converted corporation the same as if the conversion had not taken place.

Sec. 10. The members of such Fraternal Benefit Society, or the policy holders in the chartered incorporated Company, may form local clubs for social and charitable purposes, but the same shall have no connection with the management of the affairs of the corporation or affect its liability or the insurance in effect. [Acts 1929, 41st Leg., 1st C. S., p. 189, ch. 75.]

Arts. 4860-4875. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, § 18]

[Art. 4860a—1. Who may incorporate]

Any number of persons, not less than twenty, a majority of whom shall be bona fide residents of this state, by complying with the provisions of this Act [Arts. 4860a—1 to 4860a—19; P. C. art. 1117a] may become, together with others who may hereafter be associated with them or their successors, a body corporate for the purpose of carrying on the business of mutual insurance as herein provided. [Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, § 1.]

Section 21 of Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, directs that if any part of the act is held invalid, no other part shall be affected, and if any exception or limitation on any general provision is held in-

valid, the general provision shall stand effective and valid.

Section 20 being a penal provision is published as Pen. Code, art. 1117a.

[Art. 4860a—2. Articles of incorporation]

Any person proposing to form any such company shall subscribe and acknowledge articles of incorporation specifying:

(a) The name, the purpose for which formed, and the location of its principal or home office, which shall be within this State;

(b) The names and addresses of those composing the board of directors in which management shall be vested until the first meeting of members;

(c) The names of places of residence of the incorporators. [Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, § 2.]

[Art. 4860a—3. Name of company]

No name shall be adopted by such company [in] which does not contain the word "mutual," or which is so similar to any name already in use by any such existing corporation, company or association, organized or doing business in the United States, as to be confusing or misleading. [Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, § 3.]

[Art. 4860a—4. Certificate of incorporation]

Such articles of incorporation shall be submitted to the Board of Insurance Commissioners, herein called "The Board," who shall submit them to the Attorney General for examination, and if such Articles are prepared in accordance with this Act [Arts. 4860a—1 to 4860a—19; P. C. art. 1117a] the Attorney General shall so certify and deliver such articles of incorporation, together with his certificate of approval attached thereto, to the Board, who shall upon receipt thereof issue a certificate of incorporation to the company which shall constitute its authority to commence business and issue policies as hereinafter provided. Such articles of incorporation may be amended in the manner provided for other corporation[s] or as may be provided in said certificate. [Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, § 4.]

[Art. 4860a—5. Powers and by-laws]

The company shall have legal existence from and after the date of issuance of said certificate. The company shall have such powers as are necessary or incident of [to] the transaction of its business. The Board of Directors named in such articles may thereupon adopt by-laws, accept applications for insurance, and proceed to transact the business of such

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company; provided, that no insurance shall be put into force until the company has been licensed to transact insurance as provided by this Act [Arts. 4860a—1 to 4860a—19; P. C. art. 1117a]. [Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, § 5.]

[Art. 4860a—6. Kinds of insurance]

Any company organized under the provisions of this Act is empowered and authorized to write any kinds of insurance, which may lawfully be written in Texas, except life insurance. Provided no such Company shall write Fidelity or Surety Bonds. [Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, § 6.]

[Art. 4860a—7. Conditions for obtaining license]

No company organized under this Act [Arts. 4860a—1 to 4860a—19; P. C. art. 1117a] shall issue policies or transact any business of insurance unless it shall comply with the conditions following, or until the Board has, by formal license authorized it to do so, which license he shall not issue until the corporation has complied with the following conditions:

(a) It shall hold bona fide applications for insurance upon which it shall issue simultaneously, or it shall have in force, at least twenty policies to at least twenty members for the same kind of insurance upon not less than three hundred separate risks each within the maximum single risk described herein;

(b) The "maximum single risk" shall not exceed twenty per cent of the admitted assets, or three times the average risk or one per cent of the insurance in force, whichever is the greater, and reinsurance taking effect simultaneously with the policy being deducted in determining such maximum single risk;

(c) For the purpose of transacting workmen's compensation insurance such company shall have applications from at least fifty employers for insurance on which policies are to be issued covering not less than two thousand employees, each such employee being considered a separate risk; and the provisions with regard to maximum single risk shall not apply;

(d) It shall have collected a premium in advance upon each application the total of which premium shall be held in cash or securities in which stock fire and casualty insurance companies are under the Texas law authorized to invest. It shall have and at all times maintain cash and invested assets of not less than fifty thousand dollars, if it be a casualty insurance company and not less than twenty thousand dollars if it shall be other than casualty insurance company. If at any time the company shall have assets or surplus in less amount than is required for the insurance of policies and the transaction of business upon organization, the company shall cease writing new business and shall immediately report such condition to the Board of Insurance Commissioners, which may in its discretion order a reinsurance of the outstanding liabilities of the company in some other company transacting business in this State or proceed to a liquidation of the same. [Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, § 7.]

[Art. 4860a—8. Corporations may contract with company]

Any public or private corporation, board or association in this State or elsewhere may make application, enter into agreements for and hold policies in any such mutual insurance company. Any officer, stockholder, trustee, or legal representative of any such corporation, board, association or estate may be recognized as acting for or on its behalf for the purpose of such membership, but shall not be personally liable upon such contract of insurance by reason of acting in such representative capacity. The right of any corporation organized under the laws of this State to participate as a member of any such mutual insurance company is hereby

declared to be incidental to the purpose for which such corporation is organized and as much granted as the rights and powers expressly conferred. [Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, § 8.]

[Art. 4860a—9. Votes of members]

Every member of the company shall be entitled to one vote, or to a number of votes based upon the insurance in force, the number of policies held, or the amount of premium paid, as may be provided in the by-laws. [Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, § 9.]

[Art. 4860a—10. Policy provisions]

The policies shall provide for a premium or premium deposit payable in cash, and except as herein provided for a contingent premium at least equal to the premium or premium deposit. Such a mutual company may issue a policy without a contingent premium while, but only while, it has a surplus equal to the capital required of a domestic stock insurance company transacting the same kinds of insurance, but any such company may issue a policy providing that the holder of any such policy shall be liable for no greater amount than the premium or premium deposit expressed in the policy. If at any time the admitted assets are less than the unearned premium reserve, other liabilities and the required surplus, the company shall immediately collect upon policies with a contingent premium a sufficient proportionate part thereof to restore such assets, provided no member shall be liable for any part of such contingent premium in excess of the amount demanded within one year after the termination of the policy. The Board may, by written order, direct that proceedings to restore such assets be deferred during the time fixed in such order. [Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, § 10.]

[Art. 4860a—11. Advancements by directors or officers]

Any director, officer or member of such company, or any other person, may advance to such company, any sum or sums of money necessary for the purpose of its business or to enable it to comply with any requirements of the law and such moneys and interest thereon as may have been agreed upon, not exceeding ten per cent per annum shall be payable only out of the surplus remaining after providing for all reserve, other liabilities and lawful surplus, and shall not otherwise be a liability or claim against the company or any of its assets. No commission or promotion expenses shall be paid in connection with the advance of any such money to the company, and the amount of such advances shall be reported in each annual statement. [Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, § 11.]

[Art. 4860a—12. Reserves]

Such company shall maintain unearned premium and other reserves separately for each kind of insurance, upon the same basis as that required of domestic stock insurance companies transacting the same kind of insurance. [Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, § 12.]

[Art. 4860a—13. Foreign mutual company]

Any such mutual insurance company organized outside of this State and authorized to transact the business of insurance on the mutual plan in any state, district or territory, shall be admitted and licensed to transact the kinds of insurance authorized by its charter or articles to the extent and with the powers and privileges specified in this Act [Arts. 4860a—1 to 4860a—19; P. C. art. 1117a] when it shall be solvent under this Act [Arts. 4860a—1 to 4860a—19; P. C. art. 1117a], and shall have complied with the following requirement:

(a) Filed with the Board of Insurance Commissioners a copy of its by-laws certified to by its secretary;

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(b) Filed with the said Board a certified copy of its charter or articles of incorporation;

(c) Appointed the Chairman of the said Board its agent for the service of process, in any action, suit or proceedings in any court of this State, which authority shall continue as long as any liability shall remain outstanding in this State;

(d) Filed a financial statement under oath, in such form as the Board may require, and have complied with the other provisions of law applicable to the filing of papers and furnishing information by stock companies on application for authority to transact the same kind of insurance;

(e) Its name shall not be so similar to any name already in use by any such existing corporation, company or association organized or licensed in this State as to be confusing or misleading. [Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, § 13.]

#### [Art. 4860a—14. Subject to general laws]

Every such mutual insurance company, whether organized within or without the State, shall be subject, except as otherwise provided by law, to all general provisions of law applicable to stock insurance companies transacting the same kinds of insurance, investments, valued policies, policy forms and rates reciprocal or retaliatory laws, insolvency and liquidation, publication and defamatory statements, and shall make its annual report in such form and submit to such examination and furnish such information as may be required by the Board. As far as practicable such examinations of mutual insurance companies organized outside of this State shall be made in co-operation with the insurance departments of other states and the forms of annual report shall be such as are in general use throughout the United States. [Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, § 14.]

#### [Art. 4860a—15. No exemption from general laws]

That nothing in this Act [Arts. 4860a—1 to 4860a—19; P. C. art. 1117a] shall be construed to mean that any company or association incorporated or organized hereunder shall be exempt from the provisions of the General Laws of this State, heretofore or hereafter enacted governing the incorporation, organization, regulation and operation of companies or organizations writing insurance in this State. [Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, § 15.]

#### [Art. 4860a—16. Re-insurance]

Any such mutual insurance company organized or admitted to transact insurance in this State may by policy, treaty or other agreement cede to or accept from any insurance company or insurer reinsurance upon the whole or any part of any risk which reinsurance shall be without contingent liability or participation or membership unless the contract provides otherwise and shall not be affected with any company or insurer disapproved therefor by written order of the Board of Insurance Commissioners filed in his office. [Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, § 16.]

#### [Art. 4860a—17. Taxes and fees]

Every such company whether organized within or without this State shall be subject to such fees as are now provided by law for stock companies doing the same kind of business and to such taxes as may be provided by law for such mutual companies. The tax shall be paid upon the gross premium received for direct insurance upon property or risks located in this State, deducting amounts paid for reinsurance in admitted companies, premiums upon policies not taken, premiums returned on cancelled policies and any refund or return made to the policy holders other than for losses. [Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, § 17.]

**[Art. 4860a—18. Repeals and effect]**

Chapters 5, 6, 9, 12, 13, 14 and 15 of Title 78 of the Revised Civil Statutes of 1925, and all other laws or parts of laws in conflict with the provisions of this Act [Arts. 4860a-1 to 4860a-19; P. C. Art. 1117a], are hereby repealed; provided that such repeals and the provisions of this Act shall not apply to or effect [affect] any Company or Association of this State now doing business under the laws repealed, and they shall continue to be governed by the regulatory provisions of such laws. Any Company organized and transacting business under any of the laws repealed by this Act, or any general law of this State other than Article 8308 or any other article under Title 130, Revised Civil Statutes of Texas, 1925, may, however, by resolution of its Board of Directors, duly approved by the majority of the members, at a meeting specially called for that purpose, and duly certified to by the President and Secretary, and filed with the Board of Insurance Commissioners elect to adopt and become subject to the provisions of this Act, in lieu of any Act or Acts theretofore governing such Company or Association.

Any Company or Association so electing and fully complying with this Act, may thereafter effect such kinds of Insurance as is authorized by this Act, and specified in its Articles of Association then in force, or as then or thereafter amended, together with such additional kinds of insurance as are specified in such resolution and authorized by this Act. [Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, § 18; as amended Acts 1929, 41st Leg., 2nd C. S., p. 99, ch. 60, § 1.]

**[Art. 4860a—18a. Death benefits by mutual assessment health and accident associations]**

Mutual Assessment Health and Accident Associations organized under the provisions of Chapter 6, Revised Statutes 1925 which are in existence when this Act [Arts. 4860a—1 to 4860a—19; P. C. art. 1117a] shall take effect, may pay to beneficiaries of their deceased members a funeral benefit which shall not exceed the sum of Three Hundred (\$300.00) Dollars, in event of the death of any such member resulting from sickness or disease. [Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, § 18a.]

**[Art. 4860a—19. Provisions controlling as to mutual insurance]**

No sort of mutual insurance, other than life insurance, may be conducted in this State except under the provisions of this law, or under some law remaining on the Statutes authorizing the same. [Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, § 19.]

**[Art. 4871a. Plan for changing Stock Insurance Company to Mutual Insurance Company]**

Sec. 1. Any Stock Insurance Company which is a home or domestic company, as defined by Law, may become a Mutual Company owned and controlled by its policyholders, and to that end may carry out a plan for the acquisition of shares of its capital stock; provided, however, that such plan:

(1) Shall enable each stockholder to dispose of the same proportion of his holdings at the same price per share and on the same terms.

(2) Shall have been adopted by a vote of a majority of the directors of such corporation;

(3) Shall have been approved by a vote of stockholders representing a majority of the capital stock at a meeting of stockholders called for the purpose;

(4) Shall have been approved by a majority vote of the policyholders voting at a meeting, called for the purpose of policyholders, each insured in at least One Thousand (\$1,000.00) Dollars and whose insurance shall then be in force and shall have been in force for at least one year prior



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to such meeting; but no such meeting shall be called for such purpose nor shall such plan be submitted to the policy holders unless and until the plan shall first have been approved and adopted by a majority of the directors of such corporation and approved and adopted by its stockholders representing at least a majority of the capital stock of the corporation at meetings of the directors and stockholders, respectively, duly called and held for the purpose of considering the adoption of such plan, notice of such meeting shall be given by mailing such notice from the home office of such corporation at least thirty days prior to such meeting in a sealed envelope, postage prepaid, addressed to such policyholders at their last known postoffice addresses, and such meeting shall be otherwise provided for and conducted in such manner as shall be provided in such plan; provided, however, that policyholders may vote in person, by proxy or by mail; that all votes shall be cast by ballot and the Chairman of the Board of Insurance Commissioners shall supervise and direct the methods and procedure of said meeting and appoint an adequate number of inspectors to conduct the voting at said meeting who shall have power to determine all questions concerning the verification of the ballots, the ascertainment of the validity thereof, the qualification of the voters, and the canvass of the vote, and who shall certify to the Chairman of the Board of Insurance Commissioners and to the corporation the result thereof, and with respect thereto shall act under such rules and regulations as shall be prescribed by the Chairman of the Board of Insurance Commissioners; that all necessary expenses incurred by the Chairman of the Board of Insurance Commissioners shall be paid by the corporation as certified to by him; and

(5) Shall have been submitted to the Chairman of the Board of Insurance Commissioners and shall have been approved by him in writing, provided that every payment for the acquisition of any shares of the capital stock of such corporation, the purchase price of which is not fixed by such plan, shall be subject to the approval of the Chairman of the Board of Insurance Commissioners and provided that neither such plan, nor any such payment, shall be approved by the Chairman of the Board of Insurance Commissioners, unless at the time of such approvals respectively the corporation, after deducting the aggregate sum appropriated by such plan, to be paid in cash or other assets of the corporation, for the acquisition of any part or all of its capital stock, and in the case of any payment not fixed by such plan and subject to separate approval as aforesaid after the approval of such plan, after deducting also the amount of such payment, shall be possessed of assets sufficient to equal the entire liability of the corporation, including the net values of its outstanding contracts computed as required by law, and also all funds, contingent reserves, and a surplus over and above all liabilities of not less than Five Hundred Thousand (\$500,000.00) Dollars.

Sec. 2. If any Insurance Corporation shall determine to become a Mutual Insurance Corporation in accordance with the provisions of Section 1 of this Act, it may, in carrying out any plan to that end under such provisions, acquire any shares of its own stock by gift, bequest or purchase; and until all of such shares are acquired, any shares so acquired shall be acquired in trust for the policyholders of the corporation as hereinafter provided, and shall be assigned and transferred on the books of the corporation to three trustees and be held by them in trust and be voted by such trustees at all corporate meetings at which stockholders have the right to vote, until all the capital stock of such corporation is acquired, and the purchase price therefor, including all annuity bonds issued on account thereof shall be fully paid off, whereupon the entire capital stock shall be retired and cancelled, and thereupon the corporation shall be and become a Mutual Insurance Corporation without capital stock, and shall thereafter be controlled by the Laws of Texas governing such Mutual

Companies. Said trustees shall be appointed and vacancies shall be filled as provided in the plan adopted under Section 1 of this Act. Said trustees shall file with the corporation a verified acceptance of their appointments and declaration that they will faithfully discharge their duty as such trustees. All dividends and other sums received on said shares of stock so acquired, after paying the necessary expenses of executing said trust, shall be immediately repaid to said corporation for the benefit of all who are, or may become, policyholders of said corporation, and entitled to participate in the profits thereof, and shall be added to and become a part of the surplus earned by said corporation and be apportionable accordingly, as a part of said surplus among said policyholders.

Sec. 3. The plan provided for in Section 1 of this Act may provide that part or all of the purchase price of any part or all of the shares of stock of the corporation acquired by the corporation under the provisions of such plan may be paid by the corporation issuing its annuity bonds to be payable in such annual amounts, and to run for such number of years as may be provided for in said plan, provided that such annuity bonds issued by any such Company shall expressly provide, on the face thereof, that they shall be payable only out of the surplus of the Company remaining after providing for all reserves and other liabilities, and shall not otherwise be a liability or claim against the Company or any of its assets, as is provided by Art. 4816 of the Revised Civil Statutes of Texas with respect to advances made to Mutual Life Insurance Companies; and provided that not more than three-fourths of the net earnings of the corporation during any Calendar year shall be used or applied to the payment of such annuities.

With the approval of the Chairman of the Board of Insurance Commissioners, the corporation issuing such annuity bonds, or any Life Insurance Company may invest its funds in such annuity bonds, provided that no such Company shall have so invested at any one time an amount in excess of 10% of its total admitted assets.

Sec. 4. All dividends or earnings accruing to the corporation as the result of the acquisition of any or all of the shares of its stock under the provisions of this Act, shall be annually distributed among the policyholders of the corporation under terms and conditions to be approved by the Chairman of the Board of Insurance Commissioners. [Acts 1931, 42nd Leg., p. 200, ch. 118.]

Effective 90 days after May 23, 1931, date of adjournment. Section 5 repeals all conflicting laws and parts of laws.

## CHAPTER 9A

### LOCAL MUTUAL AID ASSOCIATIONS

#### [Art. 4875a-1] Scope of Act

This Act shall apply to and regulate the business of local mutual aid associations operating for the purpose of providing benefit for members and death benefit for the beneficiaries of deceased members, and shall comprehend and include all societies and associations of any sort operating an insurance business and paying such benefits where funds are provided by assessments upon the members as needed, except those hereinafter exempted. [Acts 1929, 41st Leg., p. 563, ch. 274, § 1.]

Section 32 of said Acts 1929, 41st Leg., p. 563, ch. 274, provides that if any section is held to be unconstitutional, such decision shall not affect the remaining portions of the act. Section 31 expressly repeals articles 4859, 4859-a, 4859-b, 4859-c, 4859-d, and all conflicting laws and parts of laws.

#### [Art. 4875a-2] Definition

Any person or persons desiring to organize a local mutual aid association to be operated upon the assessment as needed or similar plan shall

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be permitted to do so upon the terms and conditions hereinafter set forth. No person, firm or corporation shall hereafter operate in this State any sort of a local mutual aid society or association paying a death benefit or other benefits and providing its funds by assessments as needed, except under the provisions hereof, or under other specific provisions of the laws of this State. [Acts 1929, 41st Leg., p. 563, ch. 274, § 2.]

#### [Art. 4875a-3] Territorial limitation of association

No local mutual aid association shall be permitted to operate in this State except it confine its operations in the writing of business to one county, or to a territory embraced within a radius of fifty (50) miles of the city or town of the association including counties traversed by said radius or to all the counties adjoining that in which the home office is situated or where the home office of an association is located within less than fifty (50) miles of border line of the State to a limited number of connecting counties whose total area does not exceed that allowed under the law to any other local mutual aid association of Texas. [Acts 1929, 41st Leg., p. 563, ch. 274, § 3.]

#### [Art. 4875a-4] Independent associations

There shall be no connection between any two associations operating under this law and no one association shall contribute anything by way of salary or compensation to any executive officer for the purposes of such other association. [Acts 1929, 41st Leg., p. 563, ch. 274, § 4.]

#### [Art. 4875a-5] Organization

Any number of persons not less than five, all of whom must be citizens of the United States and residents of the territory to be embraced within their field of operation may organize a local mutual aid association in the following manner:

(1) They shall draw up Articles of association which shall be executed in triplicate, acknowledged as required for instruments intended to be recorded, and which shall state:

(a) The name of the association, which must be distinctly different from associations operating in the same radius.

(b) The location of the principal office and the territory to which its operation shall be confined.

(c) The object for which the association is created, including the upper and lower age limits of persons to whom benefit certificates may be issued.

(d) Titles of the officers of the association and the number of directors, and the names of the persons who will, pending permanent organizations, fill such offices.

(2) The said Articles of association so executed shall be presented to the Board of Insurance Commissioners of the State of Texas, together with the application for a permit to solicit members, and together with the bond in a sum of five thousand (\$5,000.00) dollars which said bond shall be payable to the Board of Insurance Commissioners, executed by the organizers as principals and one surety company, acceptable to the Commissioners as surety, conditioned that if the persons organizing the association shall fail to secure the requisite number of members, or for any other reason shall not consummate the organization of the association within six months from its date, then the advance membership dues and assessments shall be returned to the parties paying same.

(3) The constitution and by-laws under which the association will operate pending permanent organization together with the certificate of membership which the association proposes to issue shall be submitted to the Board for approval.

(4) The Board shall make an investigation of the individuals who shall make such application, and when the Board shall be satisfied that the organizers are responsible persons, and of the probability that territory to

be served can support such association and that the Articles of association, constitution, by-laws and certificates are in proper form and the bond shall have been approved, it shall issue a permit to the organizers authorizing them to solicit membership in the association and to collect the membership fee and one death assessment.

(5) When such permit to solicit membership has been issued by the Commissioners, the organizers may solicit members, and when they shall have received not less than five hundred (500) bonafide applications for membership in the association in all classes and when they shall have collected from such members the membership fees and one advance assessment, they shall make a showing to the Board of Insurance Commissioners of Texas in such form as required, setting forth the facts. Such membership must be completed within six months from date of filing application. Thereupon the Board shall require, and the officer of the association designated to have charge of the funds of the association shall make and file a bond with a surety company, satisfactory to the Board, as surety, in the sum of not less than five thousand (\$5,000.00) Dollars, payable to the Board of Insurance Commissioners of Texas, and which shall at all times be equal to the amount of mortuary fund on hand, which said bond shall be conditioned upon the faithful performance of the duties of the said officer and of the care and custody of the funds in his hands and the disbursements thereof according to the laws of the State and the constitution and by-laws of the association, provided, however, that the provisions of this section shall not apply to any local mutual aid association now organized and operating whose total membership shall at no time exceed one thousand members and which shall never charge for annual dues or assessments in excess of \$1.00 each, and whose membership fee shall at no time exceed \$2.50. However, such association thus exempted shall file a bond in the amount of \$1,000.00 with the board of Insurance Commissioners' of Texas.

(6) The Board shall then issue to such association a certificate of authority to do business in Texas, which shall expire on March 1, following, together with a certified copy of the charter. [Acts 1929, 41st Leg., p. 563, ch. 274, § 5.]

[Art. 4875a-6] Failure to consummate organization

If the organizers shall not complete the membership within the time required, the money collected shall be returned and the temporary permit issued shall be revoked. [Acts 1929, 41st Leg., p. 563, ch. 274, § 6.]

[Art. 4875a-7] Recovery of bond

When the Board is informed that any officer of any such association has violated the terms of either of said bonds it shall demand a written explanation of such officer as to such charge, and if after such explanation the Board is not satisfied as to the existing facts in controversy it shall notify such officer to be and appear in Travis County with such records, writings, and other correspondence and facts as the Board deems proper, not earlier than ten days or later than fifteen days from service of notice, and it shall there conduct an examination into such affair, and if upon such examination the Board shall become satisfied that the terms of said bond has been violated by said officer the Board shall prepare a written statement covering said facts and deliver same to the Attorney General of Texas, whose duty it shall be to investigate said charges and if satisfied that the terms of said bond have been violated he shall file suit on said bond in the name of the Board of Insurance Commissioners of Texas for the benefit of the beneficiaries thereof against said officer as principal and the sureties of his bond for the recovery of said amounts due by said officer, and all costs of suit in some court of competent jurisdiction, in Travis County, Texas. [Acts 1929, 41st Leg., p. 563, ch. 274, § 7.]

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[Art. 4875a-8] Shall be mutual in operation

All associations operating under this law shall be mutual in character, but no liability shall rest upon any officer, director or member in an individual capacity by virtue of any policy issued or claims arising thereon. [Acts 1929, 41st Leg., p. 563, ch. 274, § 8.]

[Art. 4875a-9] By-laws

The Constitution, by-laws and form of certificates of each association submitted to the Board and approved before writing of business is commenced, shall be effective until the first annual meeting of the association, at which time they must be confirmed by such meeting, with or without amendments as the association may decide. The constitution and by-laws of such association shall not violate any of the provisions of this law, but shall be in harmony herewith.

By-laws of any association may be amended by a majority of the members of the association present when ratified by the Board of Directors at any meeting called by the Secretary, but shall not be effective until approved by the Board of Insurance Commissioners. [Acts 1929, 41st Leg., p. 563, ch. 274, § 9.]

[Art. 4875a-10] Membership

Membership in the association shall be confined to persons qualified under the provisions of the by-laws. [Acts 1929, 41st Leg., p. 563, ch. 274, § 10.]

[Art. 4875a-11] Groups or class of members

The constitution and by-laws of each association shall state the number of members to be admitted in a class or group of the association. Accounts of the mortuary assessments of the several classes shall be kept separately, and the funds of one group or class shall not be used to pay claims for any other classes. [Acts 1929, 41st Leg., p. 563, ch. 274, § 11.]

[Art. 4875a-12] Kinds of benefits

Any association hereafter organized under the provisions of this Act shall provide for the payment of death benefits only and may not provide for old age benefits and benefits in case of accidental injuries or sickness. Any association heretofore organized and paying death, old age and accident benefits may continue to pay same. Anyone or all of said benefits and the benefits to be provided shall be clearly set out in the policy issued by the association. [Acts 1929, 41st Leg., p. 563, ch. 274, § 12.]

[Art. 4875a-13] Amount of benefits

The benefits to be paid by such association shall be dependent upon the amount realized from assessments upon the membership, and the certificates issued shall so provide; and the certificates shall also state the maximum to be paid. [Acts 1929, 41st Leg., p. 563, ch. 274, § 13.]

[Art. 4875a-14] May not issue guaranteed certificates

An association shall not issue certificates providing for a level premium or guaranteed benefits, nor for surrender of loan values. [Acts 1929, 41st Leg., p. 563, ch. 274, § 14.]

[Art. 4875a-15] Certificates

Certificates issued by an association shall state that said certificate is issued subject to all the terms of the constitution and by-laws of the association then in force and as the same might thereafter be amended and that said certificate shall be governed by such by-laws and constitutional provisions that the Board of Insurance Commissioners shall theretofore and thereafter approve. [Acts 1929, 41st Leg., p. 563, ch. 274, § 15.]

**[Art. 4875a-16] Beneficiaries**

The payment of death benefits shall be confined to the wife or husband of a member, or relatives by blood to the fourth degrees, or by marriage to the third degree, or to persons actually dependent upon the member, and creditor, estate or any one having an insurable interest or any purely charitable or religious institution. [Acts 1929, 41st Leg., p. 563, ch. 274, § 16.]

**[Art. 4875a-17] Revenues**

The funds of the association shall be derived from membership fees and assessments. Assessments shall be made upon the membership to meet benefit claims and for surplus funds and for expenses. Calls for assessments must specify the purpose for which made. Before suspending any member from membership it shall be necessary for the Association to mail a notice, by first class mail, to the member which notice shall state the final date of payment. All funds collected that belong to the Association shall be deposited within five days in a state or national bank. [Acts 1929, 41st Leg., p. 563, ch. 274, § 17.]

**[Art. 4875a-18] Investments**

Any surplus funds on hand belonging to any such association must be invested if at all, in such securities as the funds of life insurance companies may be invested in. [Acts 1929, 41st Leg., p. 563, ch. 274, § 18.]

**[Art. 4875a-19] Reports**

Annually, not later than March first in every year, the associations operating under this statute shall make a report to the Board of Insurance Commissioners showing the business transacted during the calendar year preceding, which report shall be on forms which shall be prescribed by the Board. [Acts 1929, 41st Leg., p. 563, ch. 274, § 19.]

**[Art. 4875a-20] Renewal of certificates of authority**

After the annual report of an association shall have been filed and examined by the Board, if said business has been conducted fairly and honestly and in conformity with the provisions of the law, the Board shall issue a renewal of the certificate of authority to do business for one year ending on March first following. [Acts 1929, 41st Leg., p. 563, ch. 274, § 20.]

**[Art. 4875a-21] Examination**

The Board in addition to the annual report shall once in every two years or oftener, if deemed advisable, require the books and affairs of such associations examined and audited by an accountant designated and commissioned by the Board of Insurance Commissioners. For the purposes of any examinations the Board and the auditor shall have free access to all books, papers and accounts of the association. The cost of the audit shall be paid by the association and said cost not to exceed \$50.00 for each one thousand members in the Association, and which cost shall be based on a fee not exceeding \$25.00 per day for time required in making examination and audit. Provided, however that the provisions of this section shall not apply to any local mutual aid association now organized and operating whose total membership shall at no time exceed one thousand members and which shall never charge for annual dues or assessments in excess of \$1.00 each, and whose membership fee shall at no time exceed \$2.50. However, such association thus exempted shall be relieved only from the cost incident to such audit. [Acts 1929, 41st Leg., p. 563, ch. 274, § 21.]

**[Art. 4875a-22] Dissolution**

The Board shall not revoke the right of any association to do business in this State except upon the judgment of a court of competent jurisdiction or upon the filing of Articles of dissolution by the members of said as-

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sociation or the officers for them or upon a statement being filed with said Board showing that said membership had been merged and taken over by another society or association. [Acts 1929, 41st Leg., p. 563, ch. 274, § 22.]

[Art. 4875a—23] Acceptance of existing associations

Any local mutual aid association now doing business in this State may avail itself of the provision of this Act by filing its articles of Incorporation, its constitution, by-laws and form of certificates with the Board of Insurance Commissioners of Texas, together with an application for authority to continue business as such, and if such documents, when submitted, are in conformity with the law, the Board shall file the same and issue certificates of authority. Such application must be made by associations now in existence not later than six months after effective date of this Act. Any association which fails to take advantage of the provisions of this Act shall immediately begin winding up its affairs and shall dissolve itself not later than six months after the Act takes effect. [Acts 1929, 41st Leg., p. 563, ch. 274, § 23.]

[Art. 4875a—24] Corporation existence

Any association organized under the provisions hereof or accepting the provisions hereof shall for the purposes of operation be and become a body corporate with authority to sue and be sued in its own name and to exercise the other powers and functions specifically herein granted, but not otherwise. Except as herein provided, such association shall be governed by this law and shall be exempted from all provisions of the insurance laws of this State. No law hereafter enacted shall apply to them unless they be expressly designated therein. [Acts 1929, 41st Leg., p. 563, ch. 274, § 24.]

[Art. 4875a—25] Service of process

In any lawsuit brought against an association operating under this Act, it shall be deemed sufficient service of citation if the same shall be served upon the Chairman of the Board of Insurance Commissioners of this State within the time required for service upon individuals. The Board when served with citation upon such association shall forthwith transmit the same by registered mail to the association at the postoffice address as designated in the records on file with the Board of Insurance Commissioners of Texas. [Acts 1929, 41st Leg., p. 563, ch. 274, § 25.]

[Art. 4875a—26] Dissolution and forfeitures

Associations may dissolve at any time by vote of the majority of the members at a regular meeting called by the Secretary or a Special meeting called for the purpose of considering dissolution; any class or group which has been in existence for six months or more shall also be dissolved automatically and shall forfeit its right to do business at any time the membership shall fall below fifty per cent of the maximum value of the policy issued, or when any class or group shall cease to operate for a period of one year and no action by any supervisory officer of the State shall be necessary to such dissolution or forfeiture. In the event of said membership becoming less than fifty per cent of the maximum amount provided in said class or group, said members by a majority vote of said officers for them shall have the right to transfer and merge said members with any other Society or Association after obtaining the approval of the Board of Insurance Commissioners; provided, however, that if any such association or society shall have engaged in business continuously for a period of ten (10) years, then it shall not automatically be dissolved nor forfeit its right to do business, at any time the membership shall fall below fifty per cent of the maximum value of the policy issued, but it shall become dissolved only in the event the membership shall fall below twenty-five per cent of the maximum value of the policy issued. Provided, further, that when membership becomes less than fifty per cent, the association

will be dissolved automatically in event it fails to notify each member when assessment is made of the amount paid on the next preceding death claim. [Acts 1929, 41st Leg., p. 563, ch. 274, § 26, as amended Acts 1931, 42nd Leg., p. 334, ch. 201, § 1.]

[Art. 4875a-27] Winding up affairs

If any association heretofore or hereafter doing a local mutual aid business as herein defined shall cease to operate, or shall fall below the requirements of this Act, or shall undertake to operate without a permit or certificate of authority, or shall fail or refuse to make the reports as and when herein required, or shall refuse to submit to examination or pay the cost thereof, or shall conduct its business in a fraudulent, illegal or dishonest manner, or shall violate any of the terms of this Act, shall, in addition to any other penalties imposed on it or on its members or officers, subject itself to forfeiture of its right to do business and to dissolution; and the Attorney General shall at the request of the Board of Insurance Commissioners file such suit as may be necessary to wind up the affairs of such association and if necessary have a receiver appointed for that purpose, the venue of all of which suits shall be laid in Travis County, Texas. [Acts 1929, 41st Leg., p. 563, ch. 274, § 27.]

[Art. 4875a-28] Penalty

Any person or persons who shall violate any of the provisions of this law shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not more than five hundred (\$500.00) dollars. [Acts 1929, 41st Leg., p. 563, ch. 274, § 28.]

[Art. 4875a-29] Exemptions

The provisions of this Act shall not apply to labor unions, domestic orders or associations which do not provide a death benefit of more than one hundred and fifty (\$150.00) dollars, nor to the associations which are now described in Article 4857 Revised Statutes 1925 nor any society or association if any, heretofore legally operating state wide on an assessment basis under any charter heretofore granted under any valid statute of this State. [Acts 1929, 41st Leg., p. 563, ch. 274, § 29. ]

[Art. 4875a-30] Fraternal law not applicable

The provision of the Fraternal Society Act, which is Chapter 8 of Title 78 Revised Statute 1925, and Chapter 3 of Title 78, Revised Statutes of 1925, shall not apply to associations coming within purview of this Act. [Acts 1929, 41st Leg., p. 563, ch. 274, § 30.]

[Art. 4875a-31] Fees

For filing Articles of association and approval of constitution, by-laws and certificates prior to organization, the Board shall charge a filing fee of twenty (\$20.00) dollars for filing of each annual report it shall charge a fee of five (\$5.00) dollars, and it shall also charge a fee of one (\$1.00) dollar for issuance of a certificate of authority to do business, which amount shall be paid into the general fund. Article 4859, 4859-A, 4859-B, 4859-C and 4859-D of the Revised Civil Statutes of Texas, 1925, is hereby repealed and all laws and parts of laws in conflict herewith. [Acts 1929, 41st Leg., p. 563, ch. 274, § 31.]

Art. 4891. Co-insurance clauses

No company subject to the provisions of this law may issue any policy or contract of insurance covering property in this State, which shall contain any clause or provision requiring the assured to take out or maintain a larger amount of insurance than that expressed in such policy, nor in any way providing that the assured shall be liable as a co-insurer with the company issuing the policy for any part of the loss or damage which may be caused by fire to the property described in such policy and any such



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clause or provision, except as herein provided shall be null and void, and of no effect; provided, coinsurance clauses and provisions may be inserted in policies written upon cotton, grain, or other products in process of marketing, shipping, storing or manufacturing.

Provided, Further: It shall be optional with an insured to accept a policy or contract of insurance containing such clause or provision covering other classes of property, except private dwellings, and except stocks of merchandise offered for sale at retail when of a value less than ten thousand dollars, when a reduction in the rate is allowed for such policy, and said clause in such policy shall be valid and binding; and the Board of Insurance Commissioners shall have power to name the rates to apply, when such co-insurance clause or provision shall be used. [As amended Acts 1929, 41st Leg., 1st C. S., p. 84, ch. 37, § 1.]

#### Art. 4902. Tax on premiums

The State of Texas shall assess and collect an additional one and one-fourth per cent of the gross fire and/or lightning and/or tornado and/or windstorm and/or hail insurance premiums of all companies doing the business of fire or lightning or tornado or windstorm or hail insurance in this State according to the reports made to the Commissioner as required by Law; and said taxes when collected shall be placed in a separate fund with the State Treasurer to be expended during the current year, or so much thereof as may be necessary in carrying out the provisions of this Chapter, and should there be an unexpended balance at the end of any year, the State Insurance Commission shall reduce the assessment for the succeeding year so that the amount produced and paid into the State Treasury, together with said unexpended balance in the Treasury, will not exceed the amount appropriated for the current year, to pay all necessary expenses of maintaining the Commission, which funds shall be paid out upon requisition made out and filed by a majority of the Commission, when the Comptroller shall issue warrants therefor. [As amended Acts 1931, 42nd Leg., p. 306, ch. 180, § 2.]

#### [Art. 4905A. Provisions governing lightning, tornado, windstorms or hail insurance; rates; exceptions]

The writing of insurance against loss by lightning or tornado or windstorm or hail, and the rates to be collected therefor in this State, and all matters pertaining to such insurance, shall be governed and controlled by the provisions of Articles 4876 to 4901, inclusive, and also Articles 4903 to 4905, inclusive, of this Chapter, in the same manner and to the same extent as fire insurance and fire insurance rates are now affected by the provisions of said Articles of said Chapter, provided, that insurance against loss by hail on farm crops, flood or rising water, is excepted herefrom. [Acts 1931, 42nd Leg., p. 306, ch. 180, § 1.]

#### Art. 4907. Workmen's compensation rates

The said Commission shall make, establish and promulgate all classifications of hazards and rates of premium respectively applicable to each, contemplated and provided for by Title 130, known as the Workmen's Compensation Law and/or by the "Longshoremen's and Harbor Workers' Compensation Act" as enacted by the Congress of the United States. Said Commission shall publish all rates promulgated by it as affecting Compensation Insurance in this State, and said rates, or any change therein, shall be published fifteen days before they become effective and in force. [As amended Acts 1931, 42nd Leg., p. 290, ch. 171, § 1.]

Arts. 4933-4949. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, § 18]

Arts. 4950-4959. [Repealed by Acts 1929, 41st Leg., p. 90, ch. 40, § 18]

Arts. 4960-4962. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, § 18]

Arts. 4963-4968. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, § 18]

**Article 5013. "Underwriters" defined**

Individuals, partnerships, or associations of individuals, hereby designated "underwriters," are authorized to make any insurance, except life insurance, on the Lloyd's Plan by executing articles of agreement expressing their purpose so to do and complying with the requirements set forth in this chapter [Arts 5013-5023a.]. [As amended Acts 1929, 41st Leg., 1st C. S., p. 32, ch. 11, § 1.]

**Art. 5014. "Attorneys" defined**

Policies of insurance may be executed by an attorney or by attorneys in fact or other representative, hereby designated "attorney" authorized by and acting for such underwriters under power of attorney. The principal office of such attorney shall be maintained at such place as may be designated by the underwriters in their articles of an agreement; provided that no license shall be issued to any attorney at Lloyd's to bind risks or insurance in Texas, or with citizens of Texas or covering property in Texas, unless their attorneys in fact be residents of this State and maintain their office in this State, except as may be hereinafter specifically provided. [As amended Acts 1929, 41st Leg., 1st C. S., p. 32, ch. 11, § 1.]

**Art. 5015. Application for license**

The attorney shall file with the Board of Insurance Commissioners, a verified application for license setting forth and accompanied by:

(a) The name of the attorney and the title [under] which the business is to be conducted, which title shall contain the name Lloyd's and shall not be so similar to any name or title in use in this State as to be likely to confuse or deceive.

(b) The location of the principal office.

(c) The kinds of insurance to be affected, which kinds of insurance may be as follows:

1. Fire insurance, which term shall be construed to include tornado, hail, crop and floater insurance.

2. Automobile insurance, which term shall be construed to include fire, theft, transportation, property damage, collision liability and tornado insurance.

3. Liability insurance.

4. Marine insurance.

5. Accident and health insurance.

6. Burglary and plate glass insurance.

7. Fidelity and surety bonds insurance.

8. Any other kinds of insurance not above specified, the making of which is not otherwise unlawful in this State, except life insurance.

(d) A copy of each form of policy or contract by which such insurance is to be affected.

(e) A copy of the form of power of attorney by virtue of which the attorney is to act for and bind the several underwriters and a copy of the articles of agreement entered into between the underwriters themselves and the attorney.

(f) The names and addresses of all underwriters, whose number shall not be less than ten.

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(g) A financial statement showing in detail the assets contributed or accumulated in the hands of the attorneys in fact, committee of underwriters, trustees and/or other officers of such underwriters at Lloyd's, together with the liabilities incurred and outstanding and the income received and disbursements made by the attorney for the underwriters.

(h) An instrument executed by each and all of the underwriters specially empowering the attorney to accept services of process for each underwriter in any action on any policy or contract of insurance and an instrument from the attorney to such Board delegating the Attorney's powers in this respect to such Board. [As amended Acts 1929, 41st Leg., 1st C. S., p. 32, ch. 11, § 1.]

#### Art. 5016. License

Upon compliance with the requirements of this chapter [Arts. 5013-5023a] and upon a showing of net assets as provided in the succeeding article the Board of Insurance Commissioners shall, upon payment of a fee of ten dollars, issue a license to any attorney applying therefor specifying the kind or kinds of insurance which he is authorized to make and containing the name of the attorney, the location of his principal office, and the title under which such business is to be conducted. Such license shall continue in force until the first day of March succeeding, at which time it may be renewed for the period of another year by the Board if and when said Board shall be satisfied from a report filed by such underwriters at Lloyd's showing that the provisions of the law applicable thereto have been complied with, and that such underwriters are entitled to a renewal of such license. Such license shall be renewed from year to year thereafter on the same conditions. [As amended Acts 1929, 41st Leg., 1st C. S., p. 32, ch. 11, § 1.]

#### Art. 5017. Assets

No attorney shall be licensed for the underwriters at a Lloyd's under this chapter unless the net assets, including the guaranty fund contributed to the attorney, a committee of underwriters, trustees or other officers as provided for in the articles of agreement, shall be at least sixty thousand dollars in cash, or convertible, admissible securities; nor shall any attorney be licensed for any underwriters at a Lloyd's to transact more than one kind of business as defined in the third article of this chapter, unless the net assets, as they are herein defined belonging to such underwriters at Lloyd's, shall be as much as ten thousand dollars additional for each additional kind of insurance designated in the application for license. [As amended Acts 1929, 41st Leg., 1st C. S., p. 32, ch. 11, § 1.]

#### Art. 5017a. Limitation of business

The underwriters at a Lloyd's shall not assume nor write insurance obligations in Texas nor for citizens of Texas, nor covering property located in Texas which produce a net premium income in excess of ten times the net assets of such underwriters, and if at any time the liabilities assumed upon such insurance shall produce a net premium income greater than ten times such net assets then no further insurance obligation shall be assumed until the net assets have been increased so as to admit of additional insurance obligations which will produce a premium income not greater than ten times such net asset; provided that when the net assets at a Lloyd's shall equal the sum of money which will be required of a stock insurance company doing the same characters of business in Texas, then his limitation upon the volume of business to be written shall not apply further; provided further that if in the judgment and discretion of the Board of Insurance Commissioners such underwriters [at] a Lloyd's shall have effected reinsurance, or other contracts, with

responsible and solvent insurance carriers reducing the net lines at risk carried by such underwriters at a Lloyd's so that their operations are safe and their solvency not in danger, then such Board may renew or extend the licenses of such underwriters, irrespective of this limitation. [Acts 1929, 41st Leg., 1st C. S., p. 32, ch. 11, § 1.]

#### Art. 5017b. Solvency

In determining the solvency and arriving at the amount of net assets on hand belonging to underwriters at a Lloyd's for the purpose of this chapter, there shall be considered all the funds contributed to the Guaranty Fund by the Underwriters and the funds accumulated during the progress of the business and held for such underwriters by the attorney in fact, trustees or other officers. Underwriters at a Lloyd's shall be deemed solvent when the net assets on hand shall meet the requirements of this Chapter [Arts. 5013-5023a] after deducting from its gross assets all outstanding liabilities, including reserve liabilities, and when the contributed guaranty fund at least to the minimum required herein shall be unimpaired. [Acts 1929, 41st Leg., 1st C. S., p. 32, ch. 11, § 1.]

#### Art. 5017c. Reserves

Underwriters at a Lloyd's are required to compute reserve liabilities for all outstanding business and for all incurred losses upon the same basis required for stock insurance companies doing the same classes and character of business in Texas. [Acts 1929, 41st Leg., 1st C. S., p. 32, ch. 11, § 1.]

#### Art. 5017d. Investments

The assets of underwriters at a Lloyd's shall be invested in such property and securities as the capital and/or surplus of a stock insurance company doing the same sort of business may be invested in, except real estate, or they may be held in cash.

Provided, however, that no Lloyd's already organized and doing business under license from the Department of Insurance shall be required to conform to this requirement except as to securities hereafter acquired whether in substitution for securities now held or from additional, successor or substitute underwriters, provided further, at least the minimum requirement for the guaranty fund shall be invested in securities admissible under this Act. [Arts. 5013-5023a.] [Acts 1929, 41st Leg., 1st C. S., p. 32, ch. 11, § 1.]

#### Art. 5017e. Control of net assets

The assets of underwriters at a Lloyd's to the extent of the minimum required under the provisions of this Chapter [Arts. 5013-5023a] shall be submitted to and subjected to the joint control of the attorney in fact for such underwriters, and the Board of Insurance Commissioners, in some manner satisfactory to the Board so that the same may not be withdrawn or diverted, or expended, except with the approval of the Board and the purposes provided for in this Chapter [Arts. 5013-5023a]. Such underwriters, however, shall be entitled to the interest or income accruing from such property or securities as may be placed under the joint control of such attorney in fact and the Board as and when the same is payable. Provided, however, in lieu of such joint [joint] control any attorney in fact at a Lloyd's now doing business in this State may give bond in the sum of Twenty-five Thousand Dollars for the safe keeping of assets, to be released only on approval of the Board of Insurance Commissioners, and in such form and with co-operate surety as shall be approved by the Board of Insurance Commissioners. [Acts 1929, 41st Leg., 1st C. S., p. 32, ch. 11, § 1.]

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#### Art. [5018.] Examination of affairs

The Board of Insurance Commissioners is hereby required to make a biennial examination either in person or through a duly appointed examiner of the books and affairs of the attorney for underwriters at a Lloyd's or of any attorney for such underwriters at a Lloyd's wherever such books may be kept and its affairs may be conducted. The expense of such examinations must be borne by the underwriters; and the attorneys and their deputies shall facilitate such examination and furnish all such information which the commissioners may demand. [As amended Acts 1929, 41st Leg., 1st C. S., p. 32, ch. 11, § 1.]

#### Art. 5018a. Annual reports

The attorneys for such underwriters shall annually file with the Commissioners of Insurance a verified report of the business done by the attorney for such underwriters during the previous year, and of the condition of its affairs, together with such other information as the Board of Insurance Commissioners may demand; such report shall be filed upon blanks prepared by the Commissioners and shall cover the report of all the business of such underwriters, wherever the same may be conducted. [Acts 1929, 41st Leg., 1st C. S., p. 32, ch. 11, § 1.]

#### Art. 5018b. [Limitation of liability]

An underwriter at a Lloyd's may limit his total liability by contract with the persons insured to the proportionate part of the loss represented by the ratio which his subscription paid in, in cash and/or securities such as allowed by this Law, bears to the total guaranty fund contributed by the several underwriters and his total liability on all risks may be limited to the amount of his subscription as expressed in his power of attorney and agreement with the attorney in fact, provided at least half of the subscription of each underwriter must be paid or contributed to the guaranty fund in cash and/or admissible securities. Each underwriter shall be responsible solely for his own liability as fixed in the contract of insurance and not be liable as a partner. [Acts 1929, 41st Leg., 1st C. S., p. 32, ch. 11, § 1.]

#### Art. 5019. Liability of substitutes

Additional or substituted underwriters shall be found in the same manner and to the same extent as original subscribers to the articles of agreement and power of attorney on file with the Board; and the acts of the duly appointed deputy or substitute attorney of any attorney licensed under this chapter accepting powers of attorney from underwriters and in making and issuing policies and contracts of insurance and in doing any additional acts incident thereto shall be deemed authorized by the license issued to the original attorney. [As amended Acts 1929, 41st Leg., 1st C. S., p. 32, ch. 11, § 1.]

#### Art. 5019a. Division of profits

No profits shall accrue to an underwriter, except upon the basis of his actual investment in cash or convertible securities, disregarding any obligation or subscription to pay in additional cash or securities at a later date. [Acts 1929, 41st Leg., 1st C. S., p. 32, ch. 11, § 1.]

#### Art. 5020. Assuming risk

No attorney for underwriters at a Lloyd's shall assume any one insurance risk exceeding one-tenth of the amount of the net assets of the underwriters as defined in this chapter and the additional liability assumed by the individual underwriters in the articles of agreement and in the policies or contracts of insurance, unless such excess shall be promptly reinsured. [As amended Acts 1929, 41st Leg., 1st C. S., p. 32, ch. 11, § 1.]

**Art. 5021. Action on policy**

Action on any policy or contracts of insurance made by the attorney for the underwriters may be brought against the attorney or against the attorney and the underwriters or any of them. In such action, summons and process shall be served on either Commissioner of Insurance or on the attorney-in-fact and when so served shall have the same force and effect as if served on the attorney and on each underwriter personally. A judgment in any such action against the attorney or against any of the underwriters shall be binding upon and be a judgment against each and all of the underwriters as their several liabilities may appear in the contract of insurance on which the action is brought.

And such summons or other process shall be served in duplicate, and the Board of Insurance Commissioners shall forthwith by registered mail send one copy thereof to the attorney for the underwriters at the principal office designated in the application for license or latest amendments thereof. The party commencing any action against the underwriters at a Lloyd's and securing service of process in this manner shall at the time of such service pay to such Commissioner for the use of the Department a fee of two dollars, which he shall be entitled to collect as taxable costs in the action if he shall prevail. [As amended Acts 1929, 41st Leg., 1st C. S., p. 32, ch. 11, § 1.]

**Art. 5022. Winding up affairs**

Whenever it shall appear to the Board that the minimum assets provided for in Article 5017 have become impaired the Board shall immediately give notice to the attorney-in-fact for such Lloyd's to appear and show cause why the license of such attorney shall not be revoked, and if within thirty days from the giving of such notice the impairment or insolvency shall not be made good by such underwriters, or their attorney, such license shall immediately be cancelled. If such attorney or other person shall make any advancement to make good such impairment, the claim for such advancement against the assets of such underwriters shall be deferred to the claims for losses under policies or contracts of insurance. If such impairment is not made good within the time prescribed, then the Board shall proceed to take charge of the assets of such underwriters, and to effect a reinsurance of all business outstanding in Texas or covering property located in Texas, and for that purpose, the Board shall have the right to use the net assets, and to make provision for the payment of outstanding claims and losses. In case reinsurance cannot be effected by the said Board, then the affairs of such underwriters at Lloyd's shall be wound up through receivership proceedings instituted by the Attorney General of Texas at the request of the Board.

In case underwriters at a Lloyd's shall desire to withdraw from the insurance business, they may be permitted to do so, if and when they shall satisfy the Board that adequate provision has been made, through reinsurance or otherwise, for the payment of all unadjusted losses, and for the reinsurance of all outstanding risk in favor of citizens of Texas, and for covering property in Texas, and thereupon, any bond of the attorney-in-fact shall be released, and said Board shall release to such underwriters the net assets over which it may have been given joint control. [Acts 1929, 41st Leg., 1st C. S., p. 32, ch. 11, § 1.]

This article 5022 is not an amendment of Rev. St. 1925, art. 5022, but a new provision.

**Art. 5022a. Foreign Lloyd's**

In case underwriters at a Lloyd's who are non-residents of Texas, or who maintain their principal office outside of Texas, apply for a permit to do business in Texas, such permit shall not be granted unless such underwriters have and maintain net assets in Texas which are subject to the joint control of their attorney-in-fact and the Board of Insurance Commissioners of this State sufficient to meet the minimum requirements of

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this Chapter [Arts. 5013-5023a] relative to the amount of net assets which underwriters at Lloyd's must have; or unless they submit to and file with the Board a bond executed by such corporate sureties as the Board may require (which corporate sureties must be licensed to do guaranty, fidelity and surety business in Texas) in a principal amount which would be required for net assets of underwriters at Lloyd's under foregoing provisions of this Chapter which said bond shall be payable to the Board of Insurance Commissioners, and which shall be conditioned for the payment of all claims arising upon contracts issued in Texas, or issued to residents and citizens of Texas, or covering property located in Texas, and which bond shall be held by the Board for the benefit of all persons having valid claims arising upon contracts issued in Texas, or to residents or citizens of Texas, or covering property located in Texas. It shall also provide that in the event the underwriters shall become insolvent or cease to transact business in this State at any time when there are outstanding policies of insurance in favor of citizens of this State, or upon property in this State, the Board shall have power, after having given ten days' notice to the attorneys for such underwriters, or any receiver in charge of its property and affairs, to contract with any other insurance carrier transacting business in this State for the assumption and reinsurance by it of all insurance risks outstanding in this State of such underwriters which contract shall also provide for the assumption by such reinsurance carrier of all outstanding and unsatisfied lawful claims then outstanding against such underwriters. In the event of the Board making any such contract, and if the same shall be approved as reasonable by the Attorney General, the reinsuring carrier shall be entitled to recover from the makers of such bond the amount of the premium or compensation so agrees [agreed] upon for such reinsurance. Such bond shall also bind any additional or substitute underwriters at such Lloyd's. If any underwriters desiring to do so, at their option, in lieu of giving the bond authorized by this article, shall submit admissible securities subject to the joint control of its attorney-in-fact and the Board of Insurance Commissioners such deposits of securities shall be deemed to have been made upon such terms and conditions as provided by such bond.

If there shall be any recovery upon the bond or from the deposit hereinabove provided for, then the Board shall immediately demand additional security so as to bring the amount of the bonds up to the minimum sum required hereunder, which additional bond must be posted within thirty days from the date of such demand. Provided, there may be successive recoveries on said bond until the principal sum thereof is exhausted. [Acts 1929, 41st Leg., 1st C. S., p. 32, ch. 11, § 1.]

#### Art. 5022b. Foreign Lloyd's Continued

All of the provisions of this Chapter [Arts. 5013-5023a] as the same are modified by the foregoing articles are applicable to underwriters at a Lloyd's who are nonresidents of Texas, or who maintain their principal office outside of Texas, in the same manner that they are applicable to underwriters of a Lloyd's who are residents of Texas and who maintain their principal office in this State. [Acts 1929, 41st Leg., 1st C. S., p. 32, ch. 11, § 1.]

#### Art. 5022c. Reinsurance

The provisions of this Act [Arts. 5013-5023a] relative to foreign Lloyd's shall not prevent any Texas Lloyd's from reinsuring its excess lines with a solvent foreign Lloyd's, acceptable to the Board of Insurance Commissioners, which has no license to do business in Texas now from reinsuring any business from such foreign Lloyd's. [Acts 1929, 41st Leg., 1st C. S., p. 32, ch. 11, § 1.]

**Art. 5022d. Revocation and suspension of license**

If any attorney-in-fact or underwriters at Lloyd's shall violate any of the provisions of this Chapter [Arts. 5013-5023a] or any of the other laws of the State of Texas, which are applicable to them, the license of such attorney shall be revoked and the right to do business in Texas shall be cancelled. [Acts 1929, 41st Leg., 1st C. S., p. 32, ch. 11, § 1.]

**Art. 5023. This law exclusive**

Except as herein provided no other insurance law of this State shall apply to insurance on the Lloyd's plan unless it is specifically so provided in such other law that the same shall be applicable. [As amended Acts 1929, 41st Leg., 1st C. S., p. 32, ch. 11, § 1.]

**Art. 5023a. Promotion of Lloyd's**

(1) No person or persons, firm or corporation shall be instrumental in the origination of a Lloyd's business if in such organization any money or property shall be paid over to such person, persons, firm or corporation, or their agent or representative by way of commission or other compensation for procuring underwriters or guaranty fund for such Lloyd's, unless such person, persons, firm or corporation shall in advance make application to the Board of Insurance Commissioners and shall receive a permit from such Board to organize such Lloyd's and charge a commission in connection with such organization.

(2) In no event shall more than ten per cent of the total amount of the subscription to such an enterprise by any underwriter be paid to any person by way of commission for the sale of "units" or interest in such Lloyd's business or in the procuring of underwriters therefor.

(3) This article shall not apply to the organization or the enlargement of a Lloyd's in which no promotion expense is deducted from the contributions made by the underwriters, and no commission of any sort is paid for the procuring of underwriters or subscriptions to the guaranty fund of such business.

(4) This Article shall apply to the continued organization or the continued extension of any Lloyd's business which has heretofore been licensed by the Insurance Department of this State, if [in] such further extension of such business any commission is to be paid[,] but such permit shall not be refused because of the contemplated size or amount of the guaranty fund of such Lloyd's.

(5) After such permission shall have been granted for the organization of enlargements of a Lloyd's, no securities shall be accepted as contributions to the guaranty fund of such Lloyd's, unless such securities shall have been approved in advance by the Board of Insurance Commissioners as complying with this Law relative to the investment of the funds of such organizations. [Acts 1929, 41st Leg., 1st C. S., p. 32, ch. 11, § 1.]

**Art. 5053. [4954] Discrimination**

No insurance company of any kind doing business in this State shall make or permit any distinction or discrimination in favor of individuals between the insured of the same class and of equal expectation of life in the amount of, or payment of, premiums or rates charged for policies of life or endowment insurance, or in the dividends or other benefits thereon; nor shall any such company or agent thereof make any contract of insurance or agreement as to such contract other than as expressed in the policy issued thereon; nor shall any such company, or any officer, agent, solicitor, or representative thereof, pay, allow, or give, or offer to pay, allow or give, directly or indirectly, as an inducement to insurance, any rebate of premiums payable on the policy, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any paid employment or contract for service of any kind or anything of value whatsoever,



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or any valuable consideration or inducement whatever not specified in the policy or contract of insurance; nor shall any such company, or any officer, agent, solicitor, or other representative thereof, give, sell or purchase, or offer to give, sell or purchase, as an inducement to insurance, or in connection with any policy of insurance, or in connection with the sale thereof, any stocks, bonds or other securities of the company writing the insurance or of any other insurance company, or of any other corporation, association or partnership, then organized or thereafter to be organized or any dividends or profits to accrue thereon; nor shall any such company issue any policy containing any special or board contract or similar provision, by the terms of which said policy will share or participate in any special fund derived from a tax or a charge against any portion of the premium on any other policy. Any company or any officer or agent thereof violating the provisions of this article shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than one hundred nor more than five hundred dollars, and the said company shall, as an additional penalty, forfeit its certificate of authority to do business in this State and the said agent shall, as an additional penalty, forfeit his license to do business in this State for one year. The company shall not be held liable under this article for any unauthorized act of its agent, unless the company shall acquiesce in such action. [As amended Acts 1929, 41st Leg., 1st C. S., p. 5, ch. 3, § 1.]

Section 2 of Acts 1929, 41st Leg., 1st C. S., p. 5, ch. 3, provides that companies that have on or before May 17, 1929, filed with the Commissioner of Insurance of this State the forms and data required of foreign and domestic companies to secure a permit to do business in the State of Texas, and which have secured or hereafter shall secure the issuance of such permit,

be and they are hereby excepted from the provisions of this article in so far as it prohibits the sale of stock in connection with policies of life insurance, until March 31, 1931, provided that the policies so issued shall clearly state the stock to be received and the conditions under which it is to be issued.

[Art. 5062a. Regulations for the licensing of local recording agents and solicitors to represent insurance companies, excepting life insurance companies]

Sec. 1. Insurance agents, as that term is defined in the laws of the State, shall for the purpose of this Act be divided into two classes; Local Recording Agents and Solicitors.

Sec. 2. By the term Local Recording Agent is meant a person or firm engaged in soliciting and writing insurance, being authorized by an Insurance Company or Insurance Carrier to solicit business and to write, sign, execute and deliver policies of insurance and to bind companies on insurance risks, and who maintain an office and a record of such business and the transactions which are involved, who collects premiums on such business and otherwise performs the customary duties of a Local Recording Agent representing an Insurance Carrier in its relation with the public.

By the term Solicitor is meant a person officing with and engaged in soliciting insurance on behalf of a Local Recording agent, who does not sign and execute policies of insurance and who does not maintain company records of such transactions. This shall not be construed to make a Solicitor of a Local Recording Agent who places business of a class which the rules of the company or carrier require to be placed on application or to be written in a supervisory office.

Sec. 3. When any person or firm shall desire to engage in business as a Local Recording Agent for an Insurance Company or Insurance Carrier, he shall make application for a license to the Board of Insurance Commissioners, in such form as the Board may require, and such license may be issued by said Board in the form prepared by it when he shall be found of good character and good reputation. The Board is authorized to issue

licenses to firms or to individuals engaging as partners in the insurance business provided the names of all persons interested in such firm are named in the license, and provided, further, that all licensed agents must be residents of Texas. Provided, that a person who may reside in a town through which the State line may run and whose residence is in the town in the adjoining State may be licensed, if he has during the last preceding two years been licensed by the State, and if his business office has been and is being maintained in this State. The Board shall not issue a license to a corporation.

Sec. 4. No person shall be permitted to act as a Local Recording Agent or Solicitor in procuring business for any Insurance Company, corporation, inter-insurance exchange, Mutual, Reciprocal, Association, Lloyds or other Insurance Carrier, until he shall have procured the license provided for herein.

Sec. 5. No license shall be granted to any person or firm, either as Local Recording Agent or Solicitor, for the purpose of writing any form of insurance, unless such person or firm is writing or soliciting, or intends to write or solicit insurance from the public generally. Nothing herein contained shall prohibit his insuring his own property or property in which he has an interest; but it is the intent of this Section to preserve to each citizen the right to choose his own Agent or Insurance Carrier and to prohibit the licensing of an individual or firm to engage in the insurance business solely to handle business which he controls only through ownership, mortgage or sale.

Sec. 6. After a person or firm shall have been granted a license as Local Recording Agent in this State, he shall be authorized to act as such Local Recording Agent only after and while having been authorized so to do by an Insurance Carrier or Carriers, having a permit to do business in this State, and when so authorized each Company or Carrier or its General and/or State and/or Special Agent making the appointment shall immediately notify the Board of Insurance Commissioners in such form as the Board may require, of the appointment, and such person or firm shall be presumed to be the agent for such company in this State until such company or its General and/or State and/or Special Agent shall have delivered written notice to the Board of Insurance Commissioners that such appointment has been withdrawn.

Sec. 7. When any Local Recording Agent who has been appointed by an Insurance Carrier having a permit to do business in this State shall desire to employ a Solicitor in the operation of his business, he and a company jointly shall make application for a license for such Solicitor to the Board of Insurance Commissioners, in such form as the Board may require, and such license may be issued by said Board on the form prepared by it, when it shall be found that such person is a resident of Texas, and is of good character and good reputation, and that he intends to engage in good faith in the business of soliciting insurance and that he is not making application for a Solicitor's license in order to evade the law against rebating or discrimination either for himself or for some other person; and the employment of such Solicitor shall be presumed to continue until the Board shall have been notified in writing that such appointment has been discontinued.

Sec. 8. No Solicitor shall be authorized to solicit insurance until after the Board of Insurance Commissioners shall have been notified by a Local Recording Agent of his employment, and no Local Recording Agent shall accept business tendered by a Solicitor until such Local Recording Agent has given notice to the Board of Insurance Commissioners of such Solicitor's appointment as such and until such Solicitor has been licensed by the Board of Insurance Commissioners. No Solicitor shall have outstanding at any time a notification of employment from more than one Local Recording Agent.

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Sec. 9. It shall be unlawful for any Local Recording Agent or Solicitor for a Fire Insurance Company or carrier knowingly to grant, write or permit a greater amount of insurance against loss by fire than the reasonable value of the subject of insurance.

Sec. 10. The license of any Local Recording Agent or Solicitor may be cancelled by the Board of Insurance Commissioners, after a hearing following not exceeding ten days' notice shall have been accorded to such Local Recording Agent or Solicitor, for violation of any Insurance Laws of this State, and if any Local Recording Agent or Solicitor shall be guilty of rebating any Insurance premiums or of discrimination as between assured; or if any Local Recording Agent or Solicitor shall fail to account or to pay promptly for premiums coming to his hands as such Local Recording Agent or Solicitor, or if it shall be made to appear that such person or firm has obtained a license and is not legally entitled thereto. The license of any Local Recording Agent or Solicitor may be voluntarily surrendered upon giving written notice thereof to the Board of Insurance Commissioners, and shall be automatically cancelled if such Local Recording Agent shall not have outstanding a valid appointment to act as agent for a company or carrier or if such Solicitor shall not have outstanding a valid appointment to act as a Solicitor for a Local Recording Agent.

Sec. 11. The Board of Insurance Commissioners is given power and authority as a requisite for granting a license to Insurance Companies or Insurance Carriers, their Local Recording Agents or Solicitors, to require answers under oath to any question propounded by the said Board or under its authority, and touching any phase of insurance business in the State of Texas in which said Insurance Company or Insurance Carrier or such person or firm shall be engaged, and to require such person or firm seeking appointment as Local Recording Agent to submit his books, records, and accounts insofar as they may be material to any phase of insurance business, to examination and inspection by the Board or any person acting under its authority.

Sec. 12. No provision of this Act shall apply to the Life Insurance business or the Life Department of the companies engaged therein, nor shall it apply to any of the following, namely:

(a) Any home office or salaried traveling representative of any Insurance Carrier licensed to do business in Texas.

(b) The Attorney-in-Fact of any Reciprocal Exchange admitted to do business in Texas:

(c) Any adjuster of losses, and/or inspector of risks, for an Insurance Carrier licensed to do business in Texas.

(d) Any General Agent or State Agent or Branch Manager representing an admitted and licensed Insurance Company or Carrier, or Insurance Companies or Carriers in a supervisory capacity.

(e) The Attorney-in-Fact for any Lloyds.

Sec. 13. Any person or firm or any insurance company or Insurance Carrier feeling aggrieved at any act or order of the Board of Insurance Commissioners with reference to the issuance, refusal, or revocation of a license may apply to a Court of Competent Jurisdiction to obtain redress for any injury unlawfully done. [Acts 1931, 42nd Leg., p. 150, ch. 96.]

Effective 90 days after May 23, 1931, date of adjournment. Section 14 repeals all conflicting laws and parts of laws and makes the provisions of the act cumulative of all other laws not in conflict therewith.

## TITLE 80—INTOXICATING LIQUOR

### Art. 5095. Comptroller to furnish forms

The Comptroller shall have printed forms of records, affidavits, and prescriptions, as provided herein, and shall furnish the same at cost to only such persons as are authorized by law to sell, transport, purchase, manu-

facture or use alcohol. The affidavits or prescriptions to be filed with the druggist shall be printed in book form, numbering such affidavit with a consecutive serial number from one (1) to one hundred (100). Each book shall be given a number, and a stub in each book shall carry the same number as the affidavit or prescription, showing the copy of the record of such sale. The book containing such stub shall be returned to the Comptroller when the affidavits or prescriptions are used, or not later than six (6) months from the date that such book or affidavits and prescriptions were delivered to such druggist or physician. All unused, mutilated, or defaced blanks shall be returned with the book. No druggist or physician shall make such sale or issue such prescriptions, except on blanks herein provided. The form of such record shall be prescribed by the Comptroller. The Comptroller shall charge a fee of One (\$1.00) Dollar for each and every character of permit issued by him under this title. [As amended Acts 1931, 42nd Leg., p. 416, ch. 249, § 1.]

## TITLE 82—JUVENILES

[Art. 5138a. Parental homes and schools for delinquents in certain counties]

Sec. 1. Counties having a population of not less than three hundred twenty-five thousand, seven hundred (325,700) and not more than three hundred twenty-five thousand, nine hundred (325,900) and containing a city of not less than two hundred sixty thousand (260,000) and not more than two hundred sixty one thousand (261,000) according to the preceding Federal Census, shall be jointly empowered and authorized with said city to establish, own, and operate a parental home and school for the training of dependent and delinquent youth resident of that county or city. All juveniles of the county who may be declared to be dependent by any of the District Courts of the county, or found to be delinquent by any of the District Courts or the County Court of the county may be committed to the parental home owned and operated by the city and county or to any home, school, institution or reformatory as now provided by law. The commitment of any dependent child to said parental home shall be in the manner now provided in Title 43 of the Revised Civil Statutes of 1925. The commitment of any delinquent child to said parental home shall be in the manner now provided in Title 16 of the Revised Criminal Statutes of 1925.

Sec. 2. The Commissioners' Court shall have authority to cooperate with and join the proper authority of the city in the purchase, establishment, building, equipment, and maintenance of a parental home and school for the care and training of dependent and delinquent youth, and it shall be lawful for the Commissioners' Court to appropriate from the General Fund of the county such sum as may be necessary to purchase, establish, equip, and maintain such home and school.

Sec. 3. Unless adequate funds for the building of said home and school can be derived from the current funds of the county, available for such purpose, issuance of county warrants and scrip, the Commissioners' Court may submit either at a special election called for the purpose or at a regular election, the proposition of the issuance of county bonds for the purpose of building and equipping such a home and school. The Commissioners' Court shall be required to submit said proposition of the issuance of bonds upon petition of five hundred (500) qualified taxpaying voters of said county. The Commissioners' Court is hereby authorized to assess, levy, and collect such taxes upon real and personal property situated in the county as it may deem necessary to provide the funds for the erection and maintenance of said home and school and for such other necessary expenditures therefor.

Sec. 4. Upon the establishment of said home and school, the authorities of the city and the County Commissioners' Court, at a joint meeting, shall select a board of managers of five (5) citizens of the county who shall

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serve for the period of two years. Said board of managers will have authority to receive all funds provided by the city and county for the establishment and maintenance of said home and school, and shall have the general management and control of said home and school, the grounds, buildings, offices, and employees thereof, of the inmates therein and of all matters relating to the government, discipline, and conduct thereof, and make such rules and regulations as may seem to be necessary for carrying out the purpose of said home and school.

Sec. 5. Subject to the approval of the authorities of the city and the Commissioners' Court, said board shall have power and authority to accept and hold in trust for said home and school any grant or devise of land or any gift or bequest of money or other personal property, or any donation to be applied for the benefit of said home and school and to apply same in accordance with the terms of such gift.

Sec. 6. The board of managers of said home and school shall have authority to arrange with the Board of Education of the city for instructional work in said home and school, and it shall be the duty of the Board of Education of the city to cooperate with said board of managers in carrying out the purpose of said home and school, and said Board of Education of the city is hereby authorized to appropriate such funds as may be necessary for employing teachers and carrying on the necessary educational work in said home and school, whether the same is located within the limits of the independent school district of the city or outside the limits of the independent school district of the city.

Sec. 7. Any city which has heretofore authorized bonds to be issued for such a home or institution are hereby validated. [Acts 1931, 42nd Leg., Spec. L., p. 189, ch. 88.]

#### [Art. 5142a. Juvenile officer and salary]

That in counties having a population of more than three hundred fifty thousand, according to the preceding Federal census, the County Juvenile Board shall appoint a Juvenile Officer for a term of two years, at a salary not to exceed Five Thousand (\$5,000.00) Dollars per annum, salary to be fixed by the Commissioners' Court, to be paid monthly by the county, whose extra duties will be to make investigations for the Commissioners' Court on applications for charity, or admission into detention homes or orphans' homes created by such counties. Such Juvenile Officer may select Assistant Juvenile Officers, subject to the approval of such Board, the number of such assistants not to exceed one assistant to each twenty-five thousand population. The salaries of such assistants shall be the same as that fixed in Article 3902 of the Revised Statutes of 1925, and as amended for assistants to other county officials, except that the head of a department need not have before served for any particular period of time, efficiency being called for in such counties. Such Juvenile Officer and said Assistant Juvenile Officers may be allowed expenses not to exceed Two Hundred (\$200.00) Dollars a year each. [Acts 1931, 42nd Leg., p. 759, ch. 302, § 1.]

### TITLE 83—LABOR

#### Art. 5160. Bond for wages

Any person, or persons, firm or corporation, entering into a formal contract with this State or its counties or school districts or other subdivisions thereof or any municipality therein for the construction of any public building, or the prosecution and completion of any public work shall be required, before commencing such work, to execute the usual Penal Bond, with the additional obligation that such contractor shall promptly make payments to all persons supplying him or them with labor and materials in the prosecution of the work provided for in such contract. Any person, company, or corporation who has furnished labor or materials

used in the construction or repair of any public building or public work, and payment for which has not been made, shall have the right to intervene and be made a party to any action instituted by the State or any municipality on the bond of the contractor, and to have their rights and claims adjudicated in such action and judgment rendered thereon, subject, however, to the priority of the claims and judgment of the State or municipality. If the full amount of the liability of the surety on said bond is insufficient to pay the full amount of said claims and demands, then, after paying the full amount due the State or municipality, the remainder shall be distributed pro rata among said intervenors. Provided further, that all claims for labor and material furnished to said contractor, and all claims for labor and material furnished to any contractor shall be itemized and sworn to as required by Statutes as to mechanic's lien claims, and such claims shall be filed with the County Clerk of the County, in which said work is being prosecuted, within ninety days from the date of the delivery of said material and the performance of said work. The County Clerk shall note on the mechanic's lien record, the name of the claimant, the amount claimed, the name of the contractor and the name of the county, school district, other subdivisions, or municipality with which the contract was made; and the County Clerk shall index the claim under the name of the contractor and under the name of the county, school district, other subdivisions or municipality; with which the contract was made.

Provided further that after completion and acceptance of completed project all moneys due contractor under said contract shall be held by the State or its counties or school districts or other subdivision thereof or any municipality until such a time that satisfactory evidence is submitted and affidavits made by the contractor that all just bills for labor and material under this contract has [have] been paid in full by the contractor. [As amended Acts 1929, 41st Leg., p. 481, ch. 226, § 1.]

Effective 90 days after March 14, 1929, Acts 1927, 40th Leg. 1st C. S. p. 114, ch. 39, date of adjournment. Section 2 of said § 1, which amended this article.  
Acts 1929, 41st Leg., p. 481, ch. 226, repeals

#### Art. 5172. Exceptions

The four preceding Articles shall not apply to stenographers and pharmacists, nor to mercantile establishments, nor telegraph and telephone companies in rural districts, and in cities or towns or villages of less than three thousand inhabitants as shown by the last preceding Federal census, nor to superintendents, matrons and nurses and attendants employed by, in, and about such Orphans' Homes as are charitable institutions not run for profit, and not operated by the State. In case of extraordinary emergencies, such as great public calamities, or where it becomes necessary for the protection of human life or property, longer hours may be worked, but for such time not less than double time shall be paid such female with her consent. [Acts 1929, 41st Leg., 1st C. S., p. 217, ch. 86, § 1.]

#### Article 5196. [594] Discrimination

Either or any of the following acts shall constitute discrimination against persons seeking employment:

1. Where any corporation, or receiver of the same, doing business in this state, or any agent or officer of any such corporation or receiver, shall blacklist, prevent, or attempt to prevent, by word, printing, sign, list or other means, directly or indirectly, any discharged employee, or any employee who may have voluntarily left said corporation's services, from obtaining employment with any other person, company, or corporation, except by truthfully stating in writing, on request of such former employee or other persons to whom such former employee has applied for employment, the reason why such employee was discharged, and why his relationship to such company ceased.

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2. Where any corporation, or receiver of the same, doing business in this state, or any officer or agent of such corporation or receiver shall, by any means, directly or indirectly, communicate to any other person or corporation any information in regard to a person who may seek employment of such person or corporation, and fails to give such person in regard to whom the communication may be made, within ten days after demand therefor, a complete copy of such communication, if in writing, and a true statement thereof if by sign or other means not in writing, and the names and addresses of all persons or corporations to whom said communication shall have been made[;] provided that if such information is furnished at the request of a person other than the employee, a copy of the information so furnished, shall be mailed to such employee at his last known address.

3. Where any corporation, or receiver of the same, doing business in this state, or any agent or employee of such corporation or receiver, shall have discharged an employee and such employee demands a statement in writing of the cause of his discharge, and such corporation, receiver, agent or employee thereof fails to furnish a true statement of the same to such discharged employee, within ten days after such demand, or where any corporation or receiver of the same, or any officer or agent of such corporation or receiver shall fail, within ten days after written demand for the same, to furnish to any employee voluntarily leaving the service of such corporation or receiver, a statement in writing that such employee did leave such service voluntarily, or where any corporation or receiver of the same, doing business within this state, shall fail to show in any statement under the provision of this title the number of years and months during which such employee was in the service of the said corporation or receiver in each and every separate capacity or position in which he was employed, and whether his services were satisfactory in each such capacity or not, or where any such corporation or receiver shall fail within ten days after written demand for the same to furnish to any such employee a true copy of the statement originally given to such employee for his use in case he shall have lost or is otherwise deprived of the use of the said original statement.

4. Where any corporation, or receiver of same, doing business in this state, or any agent or officer of the same, shall have received any request, notice or communication, either in writing or otherwise, from any person, company or corporation, preventing, or calculated to prevent, the employment of a person seeking employment, and shall fail to furnish to such person seeking employment, within ten days after a demand in writing therefor, a true statement of such request, notice or communication, and, if in writing, a true copy of same, and, if otherwise than in writing, a true statement thereof, and a true interpretation of its meaning, and the names and addresses of the persons, company or corporation furnishing the same.

5. Where any corporation, or receiver of the same, doing business in this state, or any officer or agent of such corporation or receiver, discharging an employee, shall have failed to give such employee a true statement of the causes of his discharge, within ten days after a demand in writing therefor, and shall thereafter furnish any other person or corporation any statement or communication in regard to such discharge, unless at the request of the discharged employee.

6. Where any corporation, or receiver of same, doing business in this state, or any officer or agent of such corporation or receiver, shall discriminate against any person seeking employment on account of his having participated in a strike.

7. Where any corporation, or receiver of the same, doing business in this state, or any officer or agent of such corporation or receiver, shall give any information or communication in regard to a person seeking employment having participated in any strike, unless such person violated the law during his participation on such strike, or in connection therewith, and

unless such information is given in compliance with subdivision 1 of this article. [As amended Acts 1929, 41st Leg., p. 509, ch. 245, § 1.]

[Art. 5221a—1. Emigrant agents, license, bond, reports]

Sec. 1. The term "emigrant agent" as used in this Act means every person, firm, corporation or association of persons engaged in the business of hiring, enticing, or soliciting laborers in this State to be employed beyond the limits of this State and is also meant to include every person, firm, partnership, corporation or association of persons maintaining an office to hire, entice, or solicit laborers to be employed beyond the limits of this State; and is also meant to include every person who, as an independent contractor or otherwise than as an agent of a duly licensed emigrant agent procures, or undertakes to procure, or assist in procuring laborers for an emigrant agent; and every emigrant agent shall be termed and held to be doing business as such in each and every County wherein he, in person, or through an agent, hires, entices or solicits any laborer to be employed beyond the limits of the State.

Sec. 2. Each emigrant agent shall, before operating in Texas, secure a State license as such, on application therefor to the Commissioner of Labor Statistics of the State of Texas. Such application shall be in writing on form prescribed by said Commissioner, and shall be verified by the applicant. Where the application is made by a firm, partnership, or association of persons, it shall state the names of all the members of such firm, partnership, or association of persons, and shall be verified by each of them and where by a corporation, it shall state the names of all officers and duly verified by authorized officer. The application shall state the post office address, and the residence and citizenship, of each applicant named therein. The application shall state where the main office of the applicant is and/or is to be located. It shall also state the counties in which the applicant proposes to do business and the place in each county where such business is to be conducted, provided, the application may be subsequently amended in this respect by supplemental application filed with said Commissioner, duly verified, adding counties not named in the original application and stating where such business is to be conducted in each such added county. No person shall engage in the business of any emigrant agent in any county not named in such original or amended application. When an emigrant agent has filed such application, and has paid the occupation taxes as provided by law, and pays to the Labor Commissioner of Texas an annual license fee of \$10.00, the said Commissioner shall issue to him a state license as an emigrant agent, which shall entitle him to do business as such in any county named in said license in which said County tax has been paid. Such emigrant agent shall file with the Tax Collector of any county in which he proposes to do business a certified copy of his license.

Sec. 4. Any emigrant agent who furnishes, provides or arranges for transportation out of this State for any laborer hired by him to be employed beyond the limits of this State shall furnish provide or arrange for return transportation to this State for such laborer upon written demand of such laborer dated not exceeding thirty days after the termination of the contract of employment procured for such laborer by such emigrant agent; and such emigrant agent shall, at the time he hires such laborer, give to him a statement in writing that he will furnish, provide or arrange for such return transportation as above provided. Each emigrant agent shall, before engaging in business as such, execute a bond in the sum of \$5,000.00 by a surety company doing business in Texas as surety to be filed with and approved by the said Commissioner of Labor Statistics, and payable to the State of Texas, conditioned that he will faithfully comply with the above and foregoing provision respecting the furnishing, providing or arranging for such return transportation for such laborer,



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which bond shall be for the use of such laborers and may be sued on by any such laborer, in the county where he resided at the time he was hired by such emigrant agent, without the State being joined in said suit; provided that any laborer may waive his rights under any bond required by this section of this Act by instrument in writing signed by him and acknowledged by him before the County Judge of the County in which he is residing at the time he is hired, a copy of which instrument shall be filed with the County Judge and a copy thereof be by such County Judge transmitted to said Commissioner of Labor Statistics.

If any such bond shall become exhausted, or depleted to the extent of one-half, by recoveries thereon, then such emigrant agent shall give a new bond, similar to the original bond, and shall not engage in business as emigrant agent until such new bond is given and approved.

Sec. 5. All the books, correspondence, memoranda, papers and records of every kind and character incident to the business of an emigrant agent of each emigrant agent licensed under this Act shall be subject to inspection at any time by the said Commissioner of Labor Statistics, his deputies, or inspectors, and a failure to permit said Commissioner, his deputies or inspectors to inspect such books, correspondence, momoranda [memoranda], papers and records at any time shall be sufficient grounds for the Commissioner to cancel the licerse of such agents and he shall have authority and it shall be his duty to do so.

The Commissioner shall not cancel the license of any emigrant agent until complaint in writing made by a credible person, shall be filed with him, specifying in general terms the grounds of the proposed cancellation, and a full and fair hearing given to him thereon. Upon the filing of such complaint, the Commissioner shall fix a time and place, reasonably accessible to the emigrant agent complained against, for the hearing of said complaint. The Commissioner shall notify the agent so complained against of the time and place fixed for said hearing by a registered letter addressed to him at his postoffice address as the same appears upon his application for license, accompanied by an exact copy of the complaint against him; and mailing of such notice and copy shall be sufficient and conclusive evidence of proper service of the procedure upon the agent so complained against. The emigrant agent so complained against shall have at least ten days after the date of said notice mailed, exclusive of the day of mailing and day of hearing, before hearing upon said complaint shall be had, and shall have the right to file answer, introduce evidence and to be heard both in person and by counsel. The Commissioner shall have the power to summon and compel the attendance of witnesses before him to testify in relation to any such complaint, and may require the production of any book, paper or document deemed pertinent thereto. Said Commissioner shall also have the power to provide for the taking of depositions of witnesses and evidence may be heard either from witnesses present testifying orally, or by deposition taken under such rules, and in such fair and impartial manner as the Commissioner may prescribe. Said hearing shall be had before the Commissioner and shall be conducted in a fair and orderly manner, and in accordance with rules of procedure to be adopted by the Commissioner. At the conclusion of the hearing the Commissioner shall enter his findings and judgment in writing and the same shall be recorded by him in a permanent record to be kept by him, and a copy thereof furnished to the emigrant agent complained against. Any emigrant agent whose license shall be cancelled by the Commissioner may, within thirty days after the cancellation thereof, and not thereafter, have his right of action for reinstatement against the Commissioner in the district court of Travis County. If the agent whose license has been cancelled by the Commissioner shall, within ten days after receiving information of such cancellation, give notice to the Commissioner in writing of his intention to file such suit, the action of the Commissioner in cancelling the said license shall be suspended for a period

of thirty days, but unless such suit shall be filed within said time, the action of the Commissioner shall be final. If suit shall be filed against the Commissioner to reinstate said license within said time, the action of the Commissioner shall remain suspended until the validity of the license in question shall be adjusted by the court in said suit. In such suits the burden shall be upon the emigrant agent to show good cause for reinstatement of his license.

Sec. 6. Each emigrant agent shall make monthly reports on the first day of each and every month covering the preceeding month correctly showing the name and address of every agent, sub-agent, contractor, solicitor or recruiter engaged in any part of the work connected with the business of hiring, enticing or soliciting laborers in this State to be employed beyond the limits of this State in which such emigrant agent is engaged, and correctly showing, (a) the name, age, sex, race and address of each person hired to be employed beyond the limits of this State, (b) the name and address of the employer of every such person, (c) the kind of work every such person is employed to do, (d) the place where every such person is to be employed, (e) the term of employment of every such person, and (f) the wages to be paid to every such person for his work, and (g) the number, name, and address of each party if any returned to the State of Texas by said agent, which report shall be filed with the said Commissioner of Labor Statistics.

The said Commissioner shall have the authority, and it shall be his duty, to cancel the license of every emigrant agent who fails to make and file such monthly report on or before the 10th day of each month respectively in accordance with the cancellation procedure provided in this Act.

Sec. 7. This Act shall also apply in all its terms and provisions to every other person, firm, corporation, maritime agency or association of persons hiring, enticing or soliciting laborers to be employed by him beyond the limits of this State, but not maintaining an office therefor, except that such other person, firm, corporation, maritime agency, or association of persons as used in this section, shall not be required to pay the occupation taxes in order to procure a license but shall pay to the Labor Commissioner the annual license fee provided by this Act, and shall perform all the other provisions of this Act, and such license shall in that event be limited to such holder thereof hiring, enticing or soliciting laborers exclusively and only for said holder of such license; provided, however, that this section shall not apply to a person where the number to be employed by such person shall not exceed ten employees. [Acts 1929, 41st Leg., 2nd C. S., p. 203, ch. 96.]

Section 8, Acts 1929, 41st Leg., 2nd C. S., p. 203, ch. 96, makes the act cumulative of the employment agency laws, which shall be applicable to this act. Section 9 provides that if any part is held invalid such holding shall not affect the remainder and section 10 repeals all conflicting laws and parts of laws and specially repeals Pen. Code, art. 1137c. Section 3 being a penal provision is published as Pen. Code, art. 1137d.

## TITLE 84—LANDLORD AND TENANT

### Article 5222. [5475] [3235] Landlord's lien

All persons leasing or renting lands or tenements at will or for a term of years shall have a preference lien upon the property of the tenant, as hereinafter indicated, upon such premises, for any rent that may become due and for all money and the value of all animals, tools, provisions and supplies furnished or caused to be furnished by the landlord to the tenant to make a crop on such premises; and to gather, secure, house and put the same in condition for marketing, the money, animals and tools and provisions and supplies so furnished or caused to be furnished being necessary for that purpose, whether the same is to be paid in money, agricultural products or other property; and this lien shall apply only to animals, tools and other property furnished or caused to be furnished by the landlord to the

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tenant and to the crop raised on such premises. Provided, further, that all persons leasing or renting lands or tenements at will or for a term of years where the landlord furnishes everything except the labor and the tenant furnishes the labor shall have a preference lien upon the crop or crops grown on such premises for any rent that may become due and for all money, provisions and supplies furnished or caused to be furnished by the landlord to the tenant, to make a crop on such premises; and to gather, secure, house, and put the same in condition for marketing, the money, provisions and supplies so furnished or caused to be furnished being necessary for that purpose, whether the same is to be paid in money, agricultural products or other property, and this lien shall apply only to the crop or crops grown on the premises for the year in which the same is furnished or caused to be furnished.

This article shall not apply in any way or in any case where any person leases or rents lands or tenements at will or for a term of years for agricultural purposes where the same is cultivated by the tenant who furnishes everything except the land, and where the landlord charges a rental of more than one-third of the value of the grain and more than one-fourth of the value of the cotton raised on said land; nor where the landlord furnishes everything except the labor and the tenant furnishes the labor and the landlord directly or indirectly charges a rental of more than one-half the value of the grain and more than one-half of the value of the cotton raised on said land, and any contract for the leasing or renting of land or tenements at will or for a term of years for agricultural purposes stipulating or fixing a higher or greater rental than that herein provided for shall not carry any statutory lien nor shall such lien attach in favor of the landlord, his estate or assigns, upon any of the property named, nor for the purpose mentioned in this article. [As amended Acts 1931, 42nd Leg., p. 171, ch. 100, § 1.]

## TITLE 85—LANDS—ACQUISITION FOR PUBLIC USE

### [Art. 5248a. Granting easement to the United States in certain lands]

Sec. 1. That there is hereby granted and conveyed to the Government of the United States of America the free and uninterrupted use, liberty, and easement of constructing and maintaining the proposed Louisiana and Texas Intra-Coastal Waterway over and through disconnected portions of the stream beds of Mud Bayou and East Bay Bayou from approximately Station 1519 to approximately Station 1914 as shown on United States Engineer Department map, "Louisiana and Texas Intra-Coastal Waterway, Sabine River-Galveston Bay Section, Survey of 1926-7, Sheet No. 12, File 16-2-16," the said portions of the stream beds of Mud Bayou and East Bay Bayou covered by this easement being 300 feet wide and located in Chambers and Galveston Counties where the proposed [proposed] Intra-Coastal Waterway will intersect the meanderings of the bayous.

Sec. 2. Provided, however, that should the United States of America fail or refuse to construct said Intra-Coastal Waterway prior to January 1, 1939, or should said Government cease to maintain or to have maintained said Intra-Coastal Waterway at any time, then this right of easement shall cease and determine, and all right of whatsoever nature shall revert and be vested in the State of Texas.

Sec. 3. Provided, further, that nothing in this Act shall be construed to affect or impair any vested rights, or the right to use and maintain any bridge or bridges now in existence on or across said Mud Bayou, or East Bay Bayou, and the right of the owner of any such bridge to use and maintain the same is hereby expressly recognized and confirmed. [Acts 1929, 41st Leg., 1st C. S., p. 175, ch. 66.]

## TITLE 86—LANDS—PUBLIC

### [Art. 5305a. Validating land grants in cities and towns; General Land Office records conclusive as to non-existence of vacancies]

Sec. 1. The surveys of all lands heretofore or hereafter made, either actually on the ground or by protraction, and returned to the General Land Office and upon which patents have been issued, or sale and award been made, and all valid grants by former governments, and which said surveys are located in whole or in part within the corporate limits of any city, town or village are hereby declared valid surveys and the titles to the land included within the lines of said surveys as returned to the General Land Office are hereby vested in the parties for which the same were made, their heirs, successors and assigns; provided, however, in all cases of law or equity involving boundary, title, or possession of land where the location of any such surveys or the extent or boundaries thereof shall be in issue, the corners, lines, and boundaries thereof which at the date of such incorporation were generally recognized and which have for ten years prior to filing of said suit been generally recognized and acquiesced in, shall be conclusively presumed to be the original corners, lines and boundaries of said surveys.

Sec. 2. In all cases involving boundary, title, or possession of surveys, partly or wholly included in any such incorporated city, town or village in Texas, where there is sought to be established a vacancy between surveys, the field notes and official maps in use in the General Land Office at the date of such incorporation, shall be conclusive as to the non-existence of such vacancy, and if no vacancy appears from said field notes or maps, it shall be conclusively presumed that no such vacancy exists. [Acts 1931, 42nd Leg., p. 422, ch. 254.]

Effective 90 days after May 23, 1931, date of adjournment. Section 3 of said act provides that if any provision is declared unconstitutional, such division shall not affect the remainder.

### Art. 5323. [Repealed by Acts 1931, 42nd Leg., p. 452, ch. 271, § 13]

#### [Art. 5323b. Withdrawal of land from sale or lease]

Sec. 1. That the surface and the minerals therein of all river beds and channels, and of all unsurveyed public free school lands, and portions of the same, in the State of Texas, are hereby withdrawn from sale or lease until otherwise provided by law.

Sec. 1a. Provided however that such withdrawal from sale and lease of unsurveyed public school land shall not apply in cases where application of inquiry has been heretofore made therefor and on which suit is now pending. [Acts 1929, 41st Leg., 3rd C. S., p. 526, ch. 22.]

#### [Art. 5326b. Acceptance and award of applications for repurchase]

In cases where public school land in Gaines, Yoakum, Kinney, San Augustine and Hudspeth Counties was forfeited and came under the terms of either Chapter 94, an Act approved March 19, 1925, or Chapter 25, an Act approved October 27th, 1926, and was reappraised by the Commissioner of the General Land Office, and for the repurchase of which the forfeiting owner filed his application, and which land is located in Gaines, Yoakum, Kinney, San Augustine and Hudspeth Counties, Texas, together with the first payment therefor, after the expiration of the time by those Acts for so doing, the said Commissioner shall accept such applications and award the land upon the return of the first payment to the said Land Office, provided such application and first payment shall be filed within one year from the passage of this Act. [Acts 1929, 41st Leg., p. 622, ch. 283, as amended Acts 1929, 41st Leg., 1st C. S., p. 157, ch. 58; Acts 1929, 41st Leg., 2nd C. S., p. 196, ch. 92, § 1.]

Section 1 of Acts 1929, 41st Leg., p. 622, ch. 283, related only to lands located in Kinney County. The amendment by Act 1929, 41st Leg., 1st C. S., p. 157, ch. 58, included, also, lands located in Gaines, Yoakum and Hudspeth Counties.

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Sec. 2. The acceptance of such applications and issuance of awards thereon shall constitute a sale effective from the date on which such applications were filed in the Land Office; but said sales shall be subject to any rights, if any, heretofore acquired by one who may have heretofore filed a valid oil and gas application for a permit to develop said substances. [Acts 1929, 41st Leg., p. 622, ch. 283, as amended Acts 1929, 41st Leg., 1st C. S., p. 157, ch. 58.]

[Art. 5326c. Application for repurchase of school lands in Montgomery County]

Sec. 1. In cases where public school land located in Montgomery County, Texas was forfeited and came under the terms of either Chapter 94, An Act approved March 19, 1925, or Chapter 25, An Act approved October 27, 1926, and was reappraised by the Commissioner of the General Land Office, and for the repurchase of which the forfeiting owner filed his application, together with the first payment therefor, after the expiration of the time fixed by those Acts for so doing, the said Commissioner shall accept such applications and award the land upon the return of the first payment to the said Land Office.

Sec. 2. The acceptance of such applications and issuance of awards thereon shall constitute a sale effective from the date on which such applications were filed in the Land Office; but said sales shall be subject to any rights, if any, heretofore acquired by one who may have heretofore filed a valid oil and gas application for a permit to develop said substances. [Acts 1930, 41st Leg., 4th C. S., p. 7, ch. 6.]

[Art. 5326d. Repurchase of school land in El Paso County]

Sec. 1. In cases where public school land located in El Paso County, Texas, was forfeited and came under the terms of either Chapter 94, an Act approved March 19, 1925, or Chapter 25, an Act approved October 27, 1926, and was re-appraised by the Commissioner of the General Land Office, and for the repurchase of which the forfeiting owner filed his application, together with the first payment therefor, after the expiration of the time fixed by those Acts for so doing, the said Commissioner shall accept such applications and award the land upon the return of the first payment to the said Land Office.

Sec. 2. The acceptance of such applications and issuance of awards thereof shall constitute a sale effective from the date on which such applications were filed in the Land Office; but said sales shall be subject to any rights, if any, heretofore acquired by one who may have heretofore filed a valid oil and gas application for a permit to develop said substances. [Acts 1930, 41st Leg., 5th C. S., p. 210, ch. 64.]

[Art. 5326e. Repurchase of school land in Jeff Davis County]

Sec. 1. In cases where public school land located in Jeff Davis County, Texas, was forfeited and came under the terms of either Chapter 94, an Act approved March 19, 1925, or Chapter 25, an Act approved October 27, 1926, and was re-appraised by the Commissioner of the General Land Office, and for the repurchase of which the forfeiting owner filed his application, together with the first payment therefor, after the expiration of the time fixed by those Acts for so doing, the said Commissioner shall accept such applications and award the land upon the return of the first payment to the said Land Office.

Sec. 2. The acceptance of such applications and issuance of awards thereon shall constitute a sale effective from the date on which such applications were filed in the Land Office; but said sales shall be subject to any rights, if any, heretofore acquired by one who may have heretofore filed a valid oil and gas application for a permit to develop said substances. [Acts 1930, 41st Leg., 5th C. S., p. 244, ch. 80.]

[Art. 5330a. Regulating sale and patenting of lands formerly part of Oklahoma; Special Land Board; powers and duties]

Sec. 1. That all of the lands along the 100th degree of west longitude on the East side of the Panhandle of the State of Texas and the west side of the State of Oklahoma, found to be in the State of Texas by the final decree of the Supreme Court of the United States, entered March 17th, 1930, in the case of the State of Oklahoma vs. the State of Texas, the United States of America, Intervenor, theretofore claimed by Oklahoma but now located in Lipscomb, Hemphill, Wheeler, Collingsworth and Childress Counties, are hereby offered for sale to the claimants of said lands as reflected by the Deed Records or other public records of the State of Oklahoma and under the laws of the State of Oklahoma at the time of the rendition of said decree by the Supreme Court of the United States, and said lands shall be sold to such claimants as would have then owned said lands had the same been a part of Oklahoma, or who have acquired or may hereafter acquire title by foreclosure of a lien valid and enforceable under the laws of Oklahoma at the time of the rendition of such decree. The consideration for such sale shall be the sum of One (\$1.00) Dollar per acre.

Sec. 2. The Commissioner of the General Land Office, the Attorney General, and the Governor are hereby designated and constituted a Special Land Board to ascertain the persons entitled to purchase said lands. Said Board is hereby authorized to employ as many as three persons, if deemed necessary, to assist in ascertaining the bona fide claimants of said lands as shown by the public records and under the laws of the State of Oklahoma, and to make such surveys and investigations as may be necessary to carry out the provisions of this Act, and said Board is hereby authorized to adopt such rules, regulations and forms as it may deem expedient.

Sec. 3. Any claimant to any portion of said lands who would have had title to same had it been located in Oklahoma, may make application to the Commissioner of the General Land Office to purchase the land claimed. Such application shall be accompanied by field notes of the tract claimed, together with a filing fee of One (\$1.00) Dollar, an examination fee of Fifteen (15¢) Cents per acre, and with such other information as the Land Board may require to be given, including certified copies of all muniments of title under the laws of Oklahoma. Upon receipt of such application the Land Board shall cause an investigation to be made as to the status of the public records of the State of Oklahoma, and in event it is found that the applicant would have been the owner of said land at the time of the decree of the Supreme Court of the United States had the same been located in Oklahoma, or holds title by reason of foreclosure of a lien valid and enforceable under the laws of Oklahoma at the time of such decree of the Supreme Court of the United States, such application shall be approved, and said land awarded to said applicant. Within sixty days after such award such applicant shall pay to the Commissioner of the General Land Office the sum of One (\$1.00) Dollar per acre for said land, and upon receipt of such payment the Commissioner of the General Land Office shall issue to the claimant a patent to said lands in such form as the Land Commissioner shall prescribe.

Sec. 4. In event the claimant fails or refuses to purchase same or to apply for a patent as provided for herein, then the holder of a lien against any of said lands may make such purchase or apply for such patent on behalf of said owner and pay the consideration provided for, and all fees and expenses, and such amounts when paid by such lien holder shall be added to and become a part of the total amount secured by the lien. A failure on the part of the said owner to make purchase, or application for patent, for a period of four months after the last publication by said Land Board as provided in this Act shall constitute such failure to apply as will warrant the lien holder in making such application to purchase. The patent issued upon application and purchase of a lien holder shall be in the name of the person,

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persons or company who would have owned said lands had the same been a part of Oklahoma.

Sec. 5. All deeds, mortgages, contracts and instruments of every nature, or in case of loss of any such instrument a certified copy from the record in the Oklahoma County may be so used, affecting the title to said lands, or that would have formed a part of the chain of title to the same under the laws of the State of Oklahoma, and now of record on the public records of the State of Oklahoma, may be filed and recorded in the county in Texas in which the land is now located. All deeds, mortgages, conveyances and all other instruments which would be valid under the laws of the State of Oklahoma and admissible in evidence under the laws of said State, shall be valid in Texas and shall be admissible in evidence in any court in this State, and copies of said instruments certified as provided by the laws of Oklahoma, as well as the originals thereof, may be introduced in evidence in the same manner as if executed with the formalities required by the laws of the State of Texas, and as if certified as required by the laws of this State. All such deeds, deeds of trust, mortgages, conveyances and contracts, affecting the title to any of said lands shall be given the same force and effect in the State of Texas as same would have been given in the State of Oklahoma, and all bona fide liens, incumbrances, or debentures, now outstanding and unsatisfied, and existing against said lands at the time of the rendition of said decision of the Supreme Court of the United States are here expressly validated, save and except as to purchase money due to the State of Oklahoma, or the United States, and except taxes, general or special, due to the State of Oklahoma, or any city, county, school district or other political subdivision of the State of Oklahoma. In determining whether any lien against said land shall be enforced, the period of time intervening between the rendition of the decision by the Supreme Court of the United States and the issuance of a patent to the land involved by the State of Texas, shall not be computed in applying the Statutes of Limitation of either the State of Oklahoma or the State of Texas, and this Act shall be liberally construed in the enforcement of liens against said land, it being the intention of the Legislature that all sections and parts hereof are independent of each other, and if any section or part hereof be held unconstitutional such invalid section shall not affect the remaining sections or parts hereof.

Sec. 6. The examination fees provided for in Section 3 of this Act shall be deposited in a special fund to the credit of the Land Board created in Section 2 of this Act, and said funds shall be used to defray the expenses incident to the enforcement of this Act. This fund shall be disbursed by the Board with vouchers drawn on the State Treasurer and signed by the Governor and countersigned by the Land Commissioner. Any sum remaining in such fund after all expenses have been paid shall be transferred to the Permanent School Fund. The amount of money accruing to the State of Texas for the sale of the land as provided for in Section 3 hereof shall be placed to the credit of the Permanent School Fund.

Sec. 7. The Land Board, upon the passage of this Act, is authorized to determine when such lands are available for purchase, and said Board shall by proper proclamation give notice to all persons desiring to file an application to purchase said land, by causing such proclamation to be published once each week for two consecutive weeks in some newspaper of general circulation in each county in which any part of said lands may be located, and by filing a copy of such proclamation with the County Clerk of each such county. Applications to purchase such lands shall be filed with the Commissioner of the General Land Office within four months from and after the last publication, and if said claims are not filed within said time an additional filing fee of Ten (10¢) Cents per acre shall be required. No land shall be patented or sold under the provisions of this Act unless claimed and applied for within twelve months after the publication of said proclamation, and the proclamation shall so state. [Acts 1931, 42nd Leg., p. 311, ch. 185.]

**Art. 5338. [Repealed by Acts 1931, 42nd Leg., p. 452, ch. 271, § 13]**

**Art. 5341b. Extension of oil leases**

This section applying to the university lands amended section 14 of Acts 1925, 39th Leg., ch. 71, p. 225. Acts 1929, 41st Leg., ch. 2, p. 6, § 1, repealed the entire act of 1925 without making any reference to this amendment. See additional Legislation under Art. 5343.

**Additional legislation, Acts 1925, ch. 71, p. 225, following this section, [Repealed by Acts 1929, 41st Leg., ch. 2, p. 6]**

Acts 1929, 41st Leg., ch. 2, p. 6, in addition to repealing Acts 1925, 39th Leg., ch. 71, p. 225, provides for a withdrawal from lease or sale of all oil and gas in University lands until such time the Legislature may enact laws deemed adequate for the protection of the University fund, especially withdrawing from sale or lease oil and gas in University lands advertised for sale for Jan. 2, 1929, as

well as for later times during the month of January, and further requiring the Commissioner not to consider any of the applications filed for lease or purchase of such oil and gas so advertised, and further requires him to forthwith return the applications so filed, together with remittances made therein and declares an emergency.

**[Art. 5368a. Mineral relinquishment; validation of oil and gas leases, sales or reservations of royalty and mineral interest]**

Sec. 1. That Article 5367 of the Revised Civil Statutes of Texas, of 1925, Chapter 4, Title 86, is hereby validated, and the title to 15/16 of all minerals in all lands included within the terms of Sections 1 and 2 of Chapter 81, General Laws of the Second Called Session of the 36th Legislature, as amended by Section 1, Chapter 38, General Laws of the 1st Called Session of the 37th Legislature, is hereby vested, confirmed and validated in the owner of the soil, his heirs, successors and assigns, and the outstanding sales contracts and patents affecting said lands are hereby enlarged to include 15/16 of the minerals to the owner of the soil, his heirs and assigns, and to reserve to the State 1/16 of the minerals as a free royalty in case of production, and the owner is authorized to develop said minerals, or make such leases or sales of same, as he may deem proper, subject only to the reservation of the State's 1/16 free royalty interest.

This enlargement of the original sale is made in consideration of the co-operation of the owner of the soil in promoting the discovery, development and production of said minerals, and as a measure of damage to the soil and improvements thereon, and the further consideration of the payment of one cent per acre, and shall not become effective as to any tract or tracts unless and until the owner of said tract or tracts, his heirs, successors, assigns, or personal representatives shall make application to the Commissioner of the General Land Office to enlarge his original purchase to include 15/16 of the oil and gas and all other minerals on, in or under said land and pay the sum of one cent per acre for each acre contained in said tract or tracts, which sum shall be credited to the proper fund. Upon receipt of such application and payment, the Commissioner of the General Land Office is authorized and required to issue an award to show the acceptance of this provision by the owner. Such an award shall clearly set forth that the owner of the soil, his heirs and assigns, is the owner of the legal and equitable title to 15/16 of the minerals subject to the balance, if any, due the State of Texas on the original purchase price, and that the State's reserved interest consists of a royalty interest of 1/16 of all minerals that may be produced and saved on said land, free and clear of any expenses or charges for development. Upon the issuance of patent, same shall include 15/16 of the minerals and shall expressly provide that 1/16 royalty only is reserved to the State. The enlargement of the original sale to include 15/16 of the minerals by the owner of an interest in said land shall inure to the benefit of all of the owners thereof.

Sec. 2. The owner of land sold by the State with mineral reservation, or mineral classification, and of mineral rights acquired under the terms



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of this Act, is hereby authorized on his own behalf and as Agent for the State as to the royalty reserved by the State to develop said minerals, or to sell or lease said land for oil and gas and other mineral development and production, to contract for such development, or to develop and produce said minerals on such terms as such owner may deem proper, and without further action by or on behalf of the State, subject only to the condition that the lessee and producer of said minerals shall deliver to the State 1/16 part of said oil or gas or other minerals so produced and saved, free of cost in the pipe line to which said oil or gas wells are connected, and at the mouth of the mine in the event any other mineral is produced. Such leases may be made by the owner, his heirs, successors, or assigns, or by any personal representative of said owner or his heirs appointed by any Court of Competent Jurisdiction. All leases so made shall be assignable in whole or in part. No development, contract, lease, or assignment executed hereunder shall be binding on the State until said instrument, or a copy thereof, is filed in the General Land Office. Whenever the commencement of development for the discovery and production of oil, gas or other minerals shall begin written notice thereof shall be immediately filed with the Commissioner of the General Land Office, both by the owner of the land and by the lessee; similar notices shall be given when production begins or is obtained. All royalties and other payments to the State under this Law shall be paid to the State through the Commissioner of the General Land Office in Austin, Texas.

Sec. 3. All sales and leases of oil and gas that have heretofore been in good faith made by the owner of the soil as heretofore authorized, and in which 1/16 of the oil and gas has been reserved as a royalty to the State of Texas, and the sum of ten cents per acre paid to the State at the inception of such lease, and on which the lessee has paid to the State the sum of ten cents per acre each year since the date of such lease or until production was had thereon, or upon which such payment shall be made within six months after this Act takes effect, are hereby validated, and no claim shall be made by the State for the payment of any bonus or rental thereon in excess of the said sum of ten cents per acre per annum, and all sales or reservations of royalty or interest in the oil and gas arising through contracts heretofore entered into between owners of the soil in reference to their 15/16 interest in the oil and gas, are hereby ratified and confirmed. In all cases wherein any claim for rental, or other payments due the State of Texas under any lease heretofore executed by the owner of the soil, affecting lands covered by this Act, shall not have been paid, and shall not be paid within six months after the passage of this Act, such lease shall forfeit for non-payment of such consideration or rental, and such forfeiture shall be in lieu of any claim for such consideration or rentals.

Sec. 4. The validation of leases and royalty sales heretofore made shall not be construed to validate any lease or royalty sale, the validity of which is involved in litigation at the time of the passage of this Act.

Sec. 6. In all cases where the owner of the soil shall have acquired the legal title to 15/16 of the minerals, as provided in this Act, Articles 5369, 5370, 5371, 5372, 5373, 5374, 5375, 5376, 5377, 5378 and 5379 shall hereafter not apply. [Acts 1931, 42nd Leg., p. 28, ch. 23.]

Effective March 14, 1931. Section 5 of the remainder and section 7 repeals all conflicting laws and parts of laws. said act provides that if any provision is held invalid, such decision shall not affect

Art. 5374. [Repealed by Acts 1931, 42nd Leg., p. 452, ch. 271, § 13]

Art. 5397. Forfeiture of rights

Failure of the locator or owner of any claim to comply with any provision of this Law prior to receiving patent thereto, shall constitute an ipso facto forfeiture of all his rights in the claim, and the claim shall be opened to location by others as prescribed in this Law, the same as if no

location had ever been made; provided that any claim which has been forfeited by any locator or owner by reason of the failure to pay rental or royalty may be reinstated by the locator or owner within ninety days from the date of the forfeiture upon payment of all rentals and royalties due the State on said claim by said owner or locator, delinquent rental and royalty. Any claim which has been forfeited by any locator or owner, and not reinstated as herein provided, shall not be relocated either in whole or in part, by such forfeiting locator or owner within a period of six months from the time of such forfeiture. [As amended Acts 1929, 41st Leg., p. 655, ch. 291, § 1.]

[Art. 5414a. Validating patents on lands lying across or partly across water courses or navigable streams]

Sec. 1. All patents to and awards of lands lying across or partly across water courses or navigable streams and all patents and awards covering or including the beds or abandoned beds of water courses or navigable streams or parts thereof, which patents or awards have been issued and outstanding for a period of ten years from the date thereof and have not been cancelled or forfeited, are hereby confirmed and validated.

Sec. 2. The State of Texas hereby relinquishes, quit-claims and grants to patentees and awardees and their assignees all of the lands, and minerals therein contained, lying across, or partly across water courses or navigable streams, which lands are included in surveys heretofore made, and to which lands patents or awards have been issued and outstanding for a period of ten years from the date thereof and have not been cancelled or forfeited, and the State of Texas hereby relinquishes, quit-claims and grants to patentees and awardees and their assignees all of the beds, and minerals therein contained, or water courses or navigable streams, and also all of the abandoned beds, and minerals therein contained, of water courses or navigable streams, which beds or abandoned beds or parts thereof are included in surveys heretofore made, and to which beds or abandoned beds, or parts thereof, patents or awards have been issued and outstanding for a period of ten years from the date thereof, and have not been cancelled or forfeited; provided that nothing in this Act contained shall impair the rights of the general public and the State in the waters of streams or the rights of riparian and appropriation owners in the waters of such streams, and provided further that with respect to lands sold by the State of Texas expressly reserving title to minerals in the State, such reservation shall not be affected by this Act; nor shall relinquished [relinquish] or quit-claim any number of acres of land in excess of the number of acres of land conveyed to said patentees or awardees in the original patents granted by the State, but the patentees or awardees and their assignees shall have the same rights, title and interest in the minerals in the beds or abandoned beds, or parts thereof, of such water courses or navigable streams, that they have in the uplands covered by the same patent or award; provided that this Act shall not in any way affect the State's title, right or interests in and to the sand and gravel, lying within the bed of any navigable stream within this State, as defined by Article 5302, Revised Statutes of 1925.

Sec. 3. All of the provisions of this Act shall apply equally to all Spanish and Mexican land grants and titles issued by the Spanish or Mexican Governments prior to the Texas Revolution of 1836, which have subsequently been recognized by the Republic of Texas, or by the State of Texas as valid. [Acts 1929, 41st Leg., p. 298, ch. 138.]

Effective March 6, 1929. Act was vetoed by Governor and passed over his veto March 6, 1929, with emergency clause.

[Art. 5414b. Validation of preemption surveys or homestead donations]

Preemption surveys or homestead donations in all cases where use and occupancy can be shown for a period of twenty-five years prior to the pas-

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sage of this Act are hereby validated and the title thereto confirmed to the original grantees, their heirs or their assigns, and the Commissioner of the Land Office is hereby authorized and required to issue patents in accordance with the statute providing for the issuance of patents. [Acts 1931, 42nd Leg., p. 193, ch. 114, § 1.]

[Art. 5421a. Lands involved in Oklahoma boundary suit]

Sec. 1. If the State of Texas should be awarded any area of land along the 100th degree of west longitude on the east side of the panhandle of Texas and the west side of the State of Oklahoma by the final decree of the Supreme Court of the United States at Washington, D. C., in the case of the State of Oklahoma against the State of Texas, the United States Intervenor, such area shall thereby and at once become a portion, part and parcel of and incorporated into the several counties of the State of Texas adjacent thereto, the same as if such area had been originally included therein for all governmental purposes when they were created; and the north and south lines of said adjacent counties, namely, Lipscomb, Hemp-hill, Wheeler, Collingsworth and Childress are hereby extended east to the said 100th degree of west longitude as it may be fixed by and in the final judgment and decree of said court; and said land shall be assessed for taxes and the taxes collected thereon by the proper officers of each of said respective counties under the provisions of existing laws.

Sec. 2. Such area of land, if any, as may be awarded to the State of Texas, as set out in the preceding section, shall not be subject to sale or other disposition until such time as the Legislature may hereafter provide.

Sec. 3. The Commissioner of the General land office shall immediately proceed to ascertain the number of acres of said land, its probable value per acre in each of said counties as the lines thereof have been extended by this Act, the nature and value of the improvements thereon, the nature of the occupancy and length of time of same by those who are occupying any of said land under any claim of title, the nature and character of such claim and title thereto, if any, and all such other information as to him may be deemed of service to the Legislature. All such information so acquired shall be immediately transmitted to the Legislature, if then is [in] session, and if not in session, to the Governor of the State.

Sec. 3a. This Act shall be in force and go into effect immediately upon the approval by the Supreme Court of the United States of the report of the Commissioner appointed by said Court to locate and mark upon the ground the 100th degree of West longitude and the line for which provision is herein made to which the lines of the several counties herein mentioned shall be extended, shall be the line fixed by the Supreme Court of the United States in its approval of the report of said Commissioner. [Acts 1929, 41st Leg., p. 335, ch. 155.]

[Art. 5421b. Withdrawal from market of lands adjacent to Caddo Lake]

Sec. 1. That all public land lying beneath or adjacent to the waters of Caddo Lake in Marion, Harrison and adjoining counties, and all such public lands heretofore sold by the State that may hereafter revert to the State and become a part of the public domain, be and the same is hereby withdrawn from the market and the title thereto shall remain in the State of Texas to be enjoyed by the public for fishing and hunting and for State park purposes as may hereafter be provided by Law; and the Land Commissioner is hereby directed to offer no portion of said land for sale nor to receive any bids therefor.

Sec. 2. The Commissioner of the General Land Office may lease any or all of said land for mineral purposes, as now provided by Law, but before the same shall be leased it shall be advertised in some newspaper published at Marshall or Jefferson Texas, stating what land is to be leased and the prices offered therefor; and such advertisement shall invite other and

additional bids thereon, and the lease shall only be made to the highest bidder. [Acts 1929, 41st Leg., p. 430, ch. 198.]

[Art. 5421c. Regulating sale and lease of school lands, public lands and river beds; Board of Mineral Development created]

Sec. 1. All lands heretofore set apart to the public free school funds under the Constitution and laws of Texas, and all of the unappropriated and unsold public domain remaining in this State of whatever character, except river beds, and channels, and islands, lakes and bays, and other areas within tide water limits, are subject to control and sale under the provisions of this Act.

Sec. 2. Surveyed public free school land may be sold by the Commissioner on the first day of any month to the person offering the highest price for it after the same has been advertised for sale in accordance with this Act and the provisions of subdivision 2 of Chapter 3, Title 86, Revised Civil Statutes, 1925, relating to school land, provided that all such land within five miles of a well producing oil or gas in commercial quantities shall be subject to lease only, and the surface rights shall not be sold.

Sec. 3. Surveyed land within the terms of this Act is defined to be all tracts or parts of tracts heretofore surveyed either on the ground or by protraction, and set apart for the public school funds and which is unsold, and for which field notes are on file in the General Land Office or which may be delineated on the maps of said Office as such, and unsurveyed land is defined to be all areas not included in surveys on file in the General Land Office or surveys delineated on the maps thereof.

Sec. 4. All land shall be sold without condition of settlement and with a reservation of one-sixteenth (1/16) of all minerals, as a free royalty to the State, which two conditions shall be expressed in the application to purchase and in the notice of award, the minimum price to be fixed by the Commissioner and in no case to be less than One Dollar (\$1.00) an acre. Provided that one-eighth (1/8) of all sulphur and other mineral substances from which sulphur may be derived or produced shall be reserved as a free royalty to the State.

Sec. 5. Any headright survey, homestead donation, preemption survey, scrip survey or other survey heretofore awarded or sold, which survey has been held and claimed in good faith by any party for a period of ten years prior to the date of application for patent and which surveys cannot be patented under existing laws, may be patented on payment of One Dollar (\$1.00) an acre to the Land Commissioner. In such cases the patent shall be issued to the owner now of record in the General Land Office and inure distributively to the true and lawful owners of the land, provided that in all cases where a tract of school land has been occupied by mistake as a part of another tract, such occupant shall have a preference right for a period of six months after the discovery of the mistake, or after the passage of this Act, to purchase the land at the same price paid or contracted to be paid for the land actually conveyed to him.

Sec. 6. Any one desiring to buy any of the unsurveyed land included in this Act not situated within five miles of a producing oil or gas well shall file with the county surveyor of the county in which the land may be situated, an application for survey describing the land in such manner as will enable the surveyor to identify it and pay the surveyor a fee of One Dollar (\$1.00) for filing and recording said application and also deposit with him such sum of money as will pay for citing the claimant or claimants of the land, if any, and the adjoining owners as the tax rolls may disclose the names of such claimants or adjoining owners. The surveyor using the forms prescribed by the General Land Office, shall immediately send by registered mail or hand to each claimant or adjoining owner a citation containing a description of the land sought to be surveyed and fix a date for survey. The survey shall be made and the field notes filed in the Land

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Office within one hundred and twenty (120) days from the filing of the application with the surveyor. If the area is found by the Commissioner to be unsurveyed and subject to sale, he shall value the land and give notice of the valuation to the applicant who may purchase the land on the same terms and conditions as prescribed by the law and the regulations for the sale of surveyed land; provided, if the area should be in the enclosure of another person claiming it in good faith, or occupied as a home by another, such holder or occupant shall have a preference right for a period of sixty (60) days after service of citation to have the land surveyed on his own application to the surveyor and on the return of the sum advanced by the first applicant for citation, and thereupon fix his right to purchase as herein provided, and in cases where a survey has been made in accordance with Article 5323 Revised Civil Statutes of 1925, and the field notes returned to the Land Office prior to August 10, 1929, the Commissioner is authorized and required to examine the field notes and if found to be correct and the land subject to sale, he shall value the same and give notice of such valuation to the applicant, and in cases where the field notes had been approved and the land valued and the applicant failed to file his application in the Land Office prior to August 10, 1929, he may do so within ninety (90) days from the passage of this Act and receive an award. All applications to purchase, except where otherwise provided, must be filed in the General Land Office within sixty (60) days from the date of the notice of valuation. All applications filed with the Land Commissioner subsequent to June 1, 1927, and prior to October 10, 1929, expressing a desire to purchase unsurveyed public school land, where the official map of the Land Office shows the area applied for not to be included within the boundaries of any previous survey, and an answer that no vacancy existed has been given by the Land Office, are hereby recognized, and all rights thereunder preserved, and the applicant may have the land surveyed by an authorized surveyor of the State. The survey shall be made, and the field notes, together with plat and a report of the surveyor, shall be filed in the Land Office within ninety (90) days after this Act takes effect, and proceedings shall then be had in accordance with the provisions of law in force at the time of the filing of his application of inquiry with the Land Commissioner.

Sec. 7. From and after the passage of this Act, all unpaid and delinquent interest on sales of public school land, and annually on November 1st of each year as it becomes delinquent, all unpaid interest on public school land sales, shall bear interest at the rate of five (5) per cent, compounded annually as it accrues on November 1st of each year; and no patent shall be issued upon any land until all compounded interest shall be paid to the time of issuing patent.

Sec. 8. Lands subject to lease: All islands, salt water lakes, bays, inlets, marshes and reefs owned by the State within tide water limits, and that portion of the Gulf of Mexico within the jurisdiction of Texas, and all unsold public free school land, both surveyed and unsurveyed, shall be subject to lease by the Commissioner to any person, firm or corporation for the production of the minerals, except gold, silver, platinum, cinnabar and other metals, that may be therein or thereunder, in accordance with the provisions of this Act and subdivision 2, Chapter 4, Title 86, Revised Statutes of 1925, relating to leasing public areas, insofar as same is not in conflict herewith.

Any person who discovers an unsurveyed area of school land which has not been listed on the records of the Land Office as school land, and is not in actual conflict on the ground with land previously sold or appropriated and which appears on the official Land Office map as unsurveyed land, may apply in writing to the county surveyor and have the same surveyed, and after the field notes thereof have been returned to the Land Office and approved and filed by the Land Commissioner, shall have a preference right, for sixty (60) days thereafter, to purchase a mineral lease thereon at the

minimum price fixed by the Land Commissioner, in addition to the other consideration provided herein.

Sec. 8-A. The beds of rivers and channels belonging to the State shall be subject to development by the State and to lease or contract for the recovery of petroleum oil and/or natural gas, in tracts of such size as may from time to time be determined by the hereinafter created board, subject to the conditions contained in this Section.

Subsection 1. There is hereby created the Board of Mineral Development, which shall consist of the Governor, the Commissioner of the General Land Office and the Chairman of the Railroad Commission of this State, which board shall have the authority to carry out the provisions of this Section, and to employ such assistants as may be necessary from time to time for the accomplishment of the purposes herein set forth.

Subsection 2. The Board of Mineral Development is hereby authorized and it is made its duty to advertise for:

(1) Proposals to lease for oil and/or gas development of the River Beds and Channels in this State.

(2) For proposals to drill said River Beds and Channels upon considerations involving compensation in oil and/or gas and/or money to the State, whereby the State will receive a proportion of the oil and/or gas as the same is produced, or by way of Advanced Royalties paid in money.

(3) And for proposals to purchase said minerals in place, or recoverable, without requirement of mineral development.

Subsection 3. The Board of Mineral Development is hereby expressly authorized to receive bids on all propositions provided for in Subsection 2, and may accept any bid which it may deem to be to the best interests of the State, or it may reject any and all bids. The board shall advertise such proposals not less than fifteen days before lease or sale date as provided in Section 9 of Chapter 271, Acts of the Regular Session of the Forty-Second Legislature.

Subsection 4. In the event the board shall deem it advisable to reject all bids it may re-advertise for bids or may enter into a contract for the drilling of such wells as it may deem advisable, provided, however, that any well or wells which may be drilled by order of the Board of Mineral Development shall be by contract let upon competitive bids to the lowest and best bidder for a completed well and providing further that any contractor drilling under contract with the Board of Mineral Development shall be required to carry Workmen's Compensation Insurance for all employees engaged in such drilling operation.

Subsection 5. Said Board of Mineral Development shall not be authorized to lease or otherwise contract for the development of, and shall not have the power to authorize or contract for the drilling of any river beds or channels situated at the time of executing said lease or contract, more than two miles from a well producing or capable of producing oil or gas in paying quantities.

Subsection 6. All leases and contracts involving development of river beds and channels shall be executed on forms to be approved by the Attorney General and the Board of Mineral Development and shall require of the lessee or contracting party or his or its successors or assigns, the use of the highest degree of care and of all proper safeguards to prevent the pollution of streams, and in the event of failure to meet such requirements the State shall have the right immediately to take charge of said properties, and for such failure said lease may be cancelled at the option of the State. -

Subsection 7. This Section is in no wise intended, or shall be held, to repeal or supersede Chapter 133, Acts of the Regular Session, Forty-First Legislature, which validated, relinquished, quit-claimed, and granted to patentees and awardees and their assignees lands, and minerals therein contained, which lands are included in surveys lying across, or partly

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across water courses or navigable streams in this State, and which have been patented or awarded as provided in said Chapter 138.

Subsection 8. All moneys collected under the provisions of this Section by the Board of Mineral Development shall be deposited in the State Treasury to the credit of the Mineral Development Fund, out of which disbursements may be made by the Board to carry out the provisions of this Section, for which purposes so much of said fund as may be necessary is appropriated. All portions of said fund not needed for such purpose shall be from time to time paid into the General Revenue Fund, provided that any portion thereof belonging to the Public Free School Fund under the Constitution and Laws of this State shall be paid to such Fund. And until such time as the Mineral Development Fund shall be ample for the purposes of this Section there is hereby appropriated out of the General Revenue Fund, not otherwise appropriated, the sum of Sixty Thousand (\$60,000.00) Dollars, as an advance to such Fund which shall be repaid out of the funds derived under the operation of this Section.

Subsection 9. The Governor shall serve as Chairman of the Board of Mineral Development, and no business shall be transacted by said Board except at a meeting of such Board, attended by two or more members, of which meeting notice to all other members shall have been given in writing by the member calling the meeting, and all orders or contracts made or entered into by said Board shall only be authorized at such a meeting and shall be signed by at least two members of the Board, and be approved by the Attorney General as to their legality.

Subsection 10. In no event shall the Board of Mineral Development enter into any contract to lease any lands without reserving to the State at least one-eighth interest or royalty.

Subsection 11. The venue of any suit arising out of this Act either by or against said board and of whatever kind or nature is hereby fixed in Travis County.

Subsection 12. No injunction shall be granted against the board, or its agents, or parties under contract with it, to restrain it from enforcing its orders, or contracts, or carrying out any development entered into or contemplated by it under this Act except after notice to the board and its agents or parties with whom it contracted or contemplates contracting, and a hearing is held thereon. Before any injunction or restraining order is issued or becomes effective against the board or any of the parties named in the foregoing sentence the complaining party or parties shall be required by the Court to give bond with good and sufficient sureties in an amount to be fixed by the Court which amount shall be sufficient to protect the State from loss by reason of drainage of the river bed or channel in question or by reason of loss of lease or bonus, consideration, or loss from any other reason whatsoever. The Court in considering the amount of the bond shall take into consideration the probable and possible loss to the State by reason of granting of any such injunction. Such bond shall be made payable to the then Governor of the State of Texas and his successors in office, and recovery for loss to the State occasioned by said action may be had in a suit on such bond brought by the Attorney General. Any bond made or executed by any bonding or surety company as surety shall be by some bonding or surety company authorized to do business in Texas.

Subsection 13. Either party to said suit has the right of appeal from the final judgment therein and said appeal shall at once be returnable to the appellate Court and said action so appealed shall have precedence in said appellate Court over all cases, proceedings and causes of a different character therein pending. In the Court of Civil Appeals such Court shall immediately and at as early a date as possible decide the questions involved therein; and in the event any question or questions shall be certified to the Supreme Court, or writ of error thereto be requested or granted, it is here made the duty of the Supreme Court to immediately set down

said cause for hearing and decide the cause at as early a date as possible, and such cause shall have precedence over all other cases, proceedings and causes of a different character in such court. All laws and parts of laws in conflict with the provisions of this Section are hereby repealed.

Subsection 14. The Board, or any person or corporation holding a contract with said Board for the development of oil and/or gas resources is hereby granted the right of Eminent Domain and Condemnation as provided by the General Laws of this State for the following purposes;

(1) Of securing such additional adjoining lands as may be necessary for erection of power machinery, and construction of storage tanks and slush pits in the operation of said channel or river development and to prevent or lessen the dangers of pollution involved in the drilling of any well in any such river beds or channels.

(2) For the purpose of securing a right of way to and from any well which may be drilled in said river beds or channels so as to enable the Board or any of its contract or lease holders to go to and from said wells and to transport any materials necessary in the development of said river beds or channels and to transport oil and/or gas away from any wells.

In determining the measure of damages in such condemnation proceeding the Commissioners shall not take into consideration the value of the oil or gas lying under said rights of way and other condemned properties excepting that it be first conclusively established that the granting of such right of way will materially interfere with the development of said oil or gas alleged to be under said condemned tracts of land.

If any Section, provision or clause of this Bill is held to be unconstitutional, then such holding by the Court as to that particular Section, provision, or clause shall not affect the remainder of the Bill, and such remainder shall remain in force and effect notwithstanding such unconstitutional Section, provision or clause. [Acts 1931, 42nd Leg., 2nd C. S., p. 64, ch. 40, §§1, 2.]

Sec. 9. Notice for bids: The Commissioner shall fix the minimum price of not less than One Dollar (\$1.00) per acre to be paid, and the day and hour when an area or areas will be subject to lease, and advertise or readvertise such areas at least thirty (30) days before such lease date, except as provided in case of tie bids, under Article 5356 of the Revised Statutes of 1925. The Commissioner may give such notice by distributing printed lists as provided for sales of surface rights of public lands.

Sec. 10. Terms of lease: The areas included herein shall be leased for a consideration, in addition to the cash amount bid therefor, of not less than one-eighth ( $1/8$ ) of the gross production of oil, or the value of same, that may be produced and saved, and not less than one-eighth ( $1/8$ ) of the gross production of gas, or the value of same, and not less than one-eighth ( $1/8$ ) of the gross production of sulphur or the value of same that may be produced, that may be produced and sold off the area, and not less than one-sixteenth ( $1/16$ ) of the value of all other minerals that may be produced, and an additional sum of twenty-five cents an acre per year for each year thereafter until production is secured. When production has been secured in commercial quantities and the payment of royalty begins and continues to be paid, the owner shall be exempt from further annual rental payments on the acreage. The provisions of this Article in respect to payments of rental after production and the cessation of production shall apply to leases heretofore issued by the State on any area except lands belonging to the State University and eleemosynary institutions. If production should cease and royalty not be paid, the owner of the lease shall, at the end of the lease year in which royalty ceased to be paid, and annually thereafter in advance, pay twenty-five cents per acre so long as such owner may desire to maintain the rights acquired under the lease, not to exceed five (5) years from the date of said lease.

Sec. 11. All payments received by the Commissioner of the General



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Land Office shall be transmitted to the State Treasurer to be credited to the proper funds. All payments for land and for mineral leases and rentals thereon, and for royalties on minerals produced, shall be credited to the permanent school fund, and all interest collected hereunder shall be credited to the available school fund. Payments received on purchase price of a tract of land shall be credited to the permanent school fund, and all payments of interest and rentals shall be credited to the available school fund; and all payments constituting the purchase price of a lease for minerals shall be transmitted to the State Treasurer to the credit of the permanent school fund, and likewise all payments of royalty received from minerals sold under leases as well as all rentals shall be credited to the permanent school fund.

Sec. 12. Any person or corporation desiring to prospect a tract of land or a part of a tract belonging to the State for gold, silver, platinum, cinnabar and other metallic ores and precious stones may file an application with the Commissioner of the Land Office designating the area to be prospected and such applicant shall have a period of one year from date of filing such application within which to prospect the area designated. Within the period of said year he may file an application to lease the area designated for the purpose of mining gold, silver, platinum, cinnabar and other metallic ores and precious stones and remit fifty cents an acre as first annual payment of rental on the lease and continue to make such payments from year to year for a period of five (5) years unless some of the minerals mentioned herein shall be discovered sooner in paying quantities. On discovery of any of such minerals, the payments of such rental shall cease. On the twentieth (20) day of each month the owner of the mine or mines shall pay the royalty due the State which shall be one-sixteenth (1/16) of the value of the minerals sold or moved off the premises. Such payments shall be remitted to the Commissioner of the General Land Office and credited to the account of the permanent school fund. The leases shall be drawn and the mines operated in accordance with regulations prescribed by the Governor, Attorney General and Commissioner of the General Land Office. [Acts 1931, 42nd Leg., p. 452, ch. 271.]

Effective 90 days after May 23, 1931, date Civ. St. arts. 5323, 5338 and 5374. of adjournment. Section 13 repeals Rev.

## TITLE 90—LIENS

### Art. 5453. [5622-3] Securing lien

Amended by substituting "three months" for "thirty days" in the second line of the first subdivision. [Acts 1929, 41st Leg., p. 224, ch. 478, § 1.]

### [Art. 5472b—1. Bond for release of lien]

Sec. 1. That whenever any claim or claims shall be filed attempting to fix a lien, secured or claimed by any instrument filed under the provisions of Chapter 17, of the General Laws of the State of Texas, passed by the Thirty-ninth Legislature in Regular Session, that the contractor or contractors against whom such claim or claims are made, may file a bond with the officials of the State, county, town or municipality whose duty it is to pay the moneys, bonds or warrants to such contractor or contractors. Said bond shall be double the amount of the claims filed, and shall be payable to the claimant or claimants. It shall be executed by the party filing same as principal, and by a corporate surety authorized under the laws of Texas to execute such bond as surety, and shall be conditioned substantially that the principal and surety will pay to the obligees named, or their assigns, the amount of the claim or claims, or such portion or portions thereof as may be proved to have been liens, under the terms of Chapter 17, General Laws of the State of Texas, passed by the Regular Session of the Thirty-ninth Legislature. The filing of said bond and its approval by the proper official

of the State, county, town or municipality, shall release and discharge all liens fixed or attempted to be fixed by the filing of said claim or claims, and the official or officials whose duty it is to pay the moneys, bonds or warrants shall pay or deliver the same to the contractor or contractors or their assigns. Said official shall send by registered mail an exact copy of said bond to all claimants.

Sec. 2. At any time within six months from the date of filing of said surety bond, the party making or holding such claim or claims may sue upon such bond, but no action shall be brought on such bond after the expiration of such period. One action upon said bond shall not exhaust the remedy thereon, but each obligee or assignee of an obligee named therein may maintain a separate suit thereon in any court and in any jurisdiction. If any claimant or claimants in an action establish the fact that they were entitled to a lien under the provisions of Chapter 17 of the General Laws of the State of Texas, passed at the Regular Session of the Thirty-ninth Legislature, and shall recover judgment for not less than the full amount for which claim was made, the court shall fix a reasonable attorney's fee in favor of the claimant or claimants, which shall be taxed as part of the costs in the case. The bond provided in Section One of this Act shall also be conditioned that the principal and surety will pay all court costs adjudged against the principal in actions brought by claimant or claimants thereon. [Acts 1929, 41st Leg., 2nd C. S., p. 154, ch. 78.]

[Art. 5472c. Bond to indemnify against liens]

Sec. 1. Whenever any lien or liens, other than liens granted by written contracts of the owners of property, shall be fixed or attempted to be fixed, secured or claimed by any instrument filed of record under the provisions of Chapter 2, of Title 90 of the Revised Civil Statutes of 1925, then the owner of the property on which the lien or liens are claimed or the contractor or subcontractor through whom such lien or liens are claimed or either of them, may file a bond with the County Clerk of the County in which the property is located as herein provided. Such bond shall describe the property on which lien or liens are claimed, shall refer to the lien or liens claimed in manner sufficient to identify them and shall be in double the amount of the claimed lien or liens referred to and shall be payable to the party or parties claiming same. Such bond shall be executed by the party filing same as principal and by a corporate surety authorized under the Laws of Texas, to execute such bonds as surety and shall be conditioned substantially that the principal and surety will pay to the obligees named or their assigns the amounts of the liens so claimed by them with all costs in the event same shall be proven to be liens on such property.

Sec. 2. Upon the filing of such bond, the County Clerk shall issue a notice thereof to all obligees named therein. Such notice shall have attached thereto a copy of the bond. Such notice may be served upon each of such obligees by having a copy thereof delivered to him by any person competent to make oath thereof. The original notice shall be returned into the office of the County Clerk issuing same and the person making service of any copies thereof shall make oath on the back thereof showing on whom and on what date such copies were served.

Sec. 3. Such bond, when filed, and such notice, when issued, and returned together with the return thereon shall be recorded by the County Clerk in the Mechanic's Lien Records, and any purchaser or lender may rely upon the record of such bond, notice and return in acquiring any interest in said property and shall absolutely be protected thereby.

Sec. 4. No action shall be brought or maintained in any court to establish, enforce or foreclose any lien or claim of lien referred to in such bond unless same shall be brought within thirty days after the service of notice thereof as herein provided. After such 30 days and at any time within one year from the date of such service, the party making or holding such claim of lien may sue upon such bond but no action shall be brought

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upon such bond after the expiration of such period. One action upon said bonds shall not exhaust the remedies thereon but each obligee or assignee of an obligee named therein may maintain a separate suit thereon in any court having jurisdiction.

Sec. 4a. In case the lien holder shall recover in a suit upon his lien or in a suit upon the bond he shall be entitled to recover in addition to his debt, a reasonable attorney's fee. [Acts 1929, 41st Leg., p. 452, ch. 211.]

Section 5 of said Acts 1929, 41st Leg., p. 452, ch. 211, provides that if it is held in- as to statutory liens.  
valid as applied to any lien granted by the.

#### Art. 5473. Contractor's lien

Any person, corporation, firm, association, partnership, artisan, materialman, laborer or mechanic, who shall, under contract, express or implied, with the owner of any land, mine or quarry, or the owner of any gas, oil or [or] mineral leasehold interest in land, or the owner of any gas pipe line or oil pipe line, or the owner of any oil or gas pipe line right-of-way, or with the trustee, agent or receiver of any such owner, perform labor, furnish or haul material, machinery or supplies used in digging, drilling, torpedoing, operating, completing, maintaining or repairing any such oil or gas well, water well, mine or quarry, or oil or gas pipe line, shall have a lien on the whole of such land or leasehold interest therein, or oil pipe line, or gas pipe line, including the right-of-way for same, or lease for oil and gas purposes, the buildings and appurtenances, and upon the materials and supplies so furnished or hauled, and upon said oil well, gas well, water well, oil or gas pipe line, mine or quarry for which the same are furnished or hauled, and upon all of the other oil wells, gas wells, buildings and appurtenances, including pipe line, leasehold interest, and land used in operating for oil, gas and other minerals, upon such leasehold or land or pipe line and the right-of-way therefor, for which said material and supplies were furnished or hauled or labor performed. Provided, that if labor, supplies, machinery or material is furnished to or hauled for a leaseholder, the lien hereby created shall not attach to the underlying fee title to the land. [As amended Acts 1929, 41st Leg., p. 477, ch. 223, § 1.]

#### Art. 5474. Sub-contractor's lien

Any person, corporation, firm, association, partnership or materialman who shall furnish or haul such machinery, material or supplies to a contractor or subcontractor, or any person who shall perform such labor under a subcontract [subcontract] with a contractor, or who as an artisan or day laborer in the employ of such contractor or subcontractor shall perform any such labor, shall have a lien upon all such property or interest described in the preceding article, including right-of-way, for which said material and supplies were furnished or hauled and labor performed, in the same manner and to the same extent as the original contractor, for the amount due him for material furnished or for such hauling or labor performed. [As amended Acts 1929, 41st Leg., p. 477, ch. 223, § 2.]

### TITLE 91—LIMITATIONS

#### [Art. 5519a. Title to land by limitation]

In all suits involving the title to land not claimed by the State, if it be shown that those holding the apparent record title thereto have not exercised dominion over such land or have not paid taxes thereon, one or more years during the period of twenty-five years next preceding the filing of such suit and during such period the opposing parties and those whose estate they own are shown to have openly exercised dominion over and asserted claim to same and have paid taxes thereon annually before becoming delinquent for as many as twenty-five years during such period, such facts shall constitute prima facie proof that the title thereto had passed

to such persons so exercising dominion over, claiming and paying taxes thereon.

Sec. 2. This Act shall in no way affect any Statute of Limitation or the right to prove title by circumstantial evidence under the present Rule of Decision in the Courts of this State nor to suits between trustees and their beneficiaries nor to suits now pending. [Acts 1930, 41st Leg., 5th C. S., p. 162, ch. 30, as amended Acts 1931, 42nd Leg., p. 288, ch. 169.]

**Art. 5520. [5694] Actions by vendors**

Actions by vendors, etc. There shall be commenced and prosecuted within four (4) years after the cause of action shall have accrued and not afterward, except as herein provided, all actions of the following description:

1. Actions to recover real estate by virtue of a superior title retained by the vendor in a deed of conveyance or purchase money note.
2. Actions for the foreclosure of vendor's liens on real estate.
3. Actions to foreclose deed of trust or mortgage liens on real estate.

Provided, however, that where a series of notes may be given or any note may be made payable in installments; or if any other instrument is executed which creates an obligation on the Vendee or Grantee of real estate to pay for the same in installments or partial payments, limitation shall not begin to run until the maturity date of said last note or installment. Upon the expiration of four (4) years from and after the date of maturity of the last said note or installment, payment shall be conclusively presumed to have been made of each said note and installment, and the lien for the security of same shall cease to exist, unless the same is extended by an agreement in writing by the party or parties primarily liable for the payment of the indebtedness, as provided by law. The lien created by deeds of trust or other mortgages may be extended by an agreement in writing by the party or parties primarily liable for the payment of such indebtedness, and filed and recorded in the manner provided for the acknowledgment and record of conveyance of real estate.

No power of sale conferred by a deed of trust or other mortgage on real estate executed subsequent to the 14th day of July, 1905, and prior to the 1st day of July, 1913, shall be enforced after the expiration of ten (10) years from the maturity date of the indebtedness secured thereby, and no power of sale conferred by any deed of trust or other mortgage on real estate executed on or subsequent to the 1st day of July, 1913, or that may hereafter be executed, shall be enforced after the expiration of four (4) years from the maturity of the indebtedness secured thereby, and any such sale under such powers after the expiration of such times, shall be void, and such sale may be enjoined and the lien created in any such deeds of trust or mortgages as were executed subsequent to the 14th day of July, 1905, and prior to the 1st day of July, 1913, shall cease to exist ten (10) years after the maturity date of the debt secured thereby, and as to all deeds of trust or mortgages as were executed on or subsequent to the 1st day of July, 1913, or that may hereafter be executed, the lien created thereby shall cease to exist four (4) years after the maturity of the debt secured thereby. [As amended Acts 1931, 42nd Leg., p. 230, ch. 136, § 2.]

**Art. 5521. [Repealed by Acts 1931, 42nd Leg., p. 230, ch. 136, § 1]**

**Art. 5523. [Repealed by Acts 1931, 42nd Leg., p. 230, ch. 136, § 1]**

**[Art. 5523a. Ten year limitation in action for land]**

Any person who has the right of action for the recovery of land because of any one or more of the following defects in any instrument, where it has not been signed by the proper officer of any corporation; or where the corporate seal of the corporation has not been impressed on such instrument; or where the record does not show such corporate seal; or be-

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cause the record does not show authority therefor by the Board of Directors and Stockholders (or either of them) of a corporation; or where such instrument was executed and delivered by a corporation which had been dissolved or whose charter had expired, or whose corporate franchise had been canceled, withdrawn or forfeited; or where the executor, administrator, guardian, assignee, receiver, Master in Chancery, agent or trustee, or other agency making such instrument, signed or acknowledged the same individually instead of in his representative or official capacity; or where such instrument is executed by a trustee without record of Judicial or other ascertainment of the authority of such trustee or of the verity of the facts therein recited; or where the officer taking the acknowledgment of such instrument having an official seal did not affix the same to the certificate of acknowledgment; or where the notarial seal is not shown of record; or where the wording of the consideration may or might create an implied lien in favor of grantor (By this is not meant an express vendor's lien retained); shall institute his suit therefor not later than 10 years next after the date when such instrument has been or hereafter may be actually recorded in the office of the County Clerk of the county in which such real estate is situated and not afterwards; provided that such person, if not already barred by limitation or otherwise, shall in case of instruments of record for nine years or more, prior to the effective date of this Act, have the right within one year after the effective date of this Act, to bring proceedings to contest the effect of such instrument but not afterward; and providing further that nothing herein contained shall be construed to operate on any suit or action now pending or which may have been heretofore determined in any court of this State in which the validity of the making, execution or acknowledgment of any such instrument has been or may hereafter be drawn in question; and provided further, this Act is cumulative of all other laws on this subject and if any portion of this Act be declared unconstitutional the remaining portion shall not be affected thereby and shall remain in full force and effect. This Act shall not apply to forged instruments, and shall be subject to the provisions of Article 5518, Revised Civil Statutes of 1925. [Acts 1929, 41st Leg., p. 394, ch. 181, § 1.]

[Art. 5539a. Limitations on dismissal for want of jurisdiction and re-filing action in proper court]

When an action shall be dismissed in any way, or a judgment therein shall be set aside or annulled in a direct proceeding, because of a want of jurisdiction of the Trial Court in which such action shall have been filed, and within sixty (60) days after such dismissal or other disposition becomes final, such action shall be commenced in a Court of Proper Jurisdiction, the period between the date of first filing and that of commencement in the second Court shall not be counted as a part of the period of limitation unless the opposite party shall in abatement show the first filing to have been in intentional disregard of jurisdiction. [Acts 1931, 42nd Leg., p. 124, ch. 81, § 1.]

Effective 90 days after May 23, 1931, date of adjournment. Section 2 repeals all conflicting laws and parts of laws.

[Art. 5539b. Limitations as affecting amended and supplemental pleading]

Whenever any pleading is filed by any party to a suit embracing any cause of action, cross-action, counterclaim, or defense, and at the time of filing such pleading such cause of action, cross-action, counterclaim, or defense is not subject to a plea of limitation, no subsequent amendment or supplement changing any of the facts or grounds of liability or of defense shall be subject to a plea of limitation, provided such amendment or supplement is not wholly based upon and grows out of a new, distinct

or different transaction and occurrence. Provided, however, when any such amendment or supplement is filed, if any new or different facts are alleged, upon application of the opposite party, the court may postpone or continue the case as justice may require. [Acts 1931, 42nd Leg., p. 194, ch. 115, § 1.]

Effective 90 days after May 23, 1931, date of adjournment. Section 2 repeals all conflicting laws and parts of laws.

## TITLE 92—LUNACY—JUDICIAL PROCEEDINGS IN CASES OF

### Art. 5561. [165] Officers' fees

In such cases the officers and jurors shall be allowed the same fees as are now allowed for similar services performed in misdemeanor cases, to be paid out of the estate of the defendant if he have an estate, otherwise by the county on accounts approved by the County Judge. [As amended Acts 1929, 41st Leg., 1st C. S., p. 243, ch. 101, § 1.]

## TITLE 93—MARKETS AND WAREHOUSES

[Art. 5570a. Receipts containing statement of cotton grade and staple; penalty]

Sec. 1. From and after the passage of this Act, it shall be the duty of every owner, proprietor, lessee, and manager of any public warehouse, whether an individual, firm or corporation to, upon delivery to him of any cotton, and upon the request of the owner of said cotton said warehouseman shall issue a public warehouse receipt therefor which receipt shall contain in addition to the information now required by Article 5570 of the Statutes of this State, a statement of the grade and staple of the cotton represented by the receipt, said grade and staple to have been determined by a public cotton classer, licensed as required by law, for which statement of grade and staple the warehouseman shall not collect any charge in excess of twenty-five (25¢) cents per bale; provided, however, that in event no public cotton classer, licensed as required by law is available at any public warehouse, the warehouseman shall be authorized to issue a temporary receipt, which receipt need not contain the aforementioned statement of class and staple and which shall have the words "temporary receipt" plainly stamped across the face thereof; and which receipt shall be exchangeable at any time after five (5) days after its date of issuance for a permanent warehouse receipt, containing all of the information afore required.

Sec. 2. Any warehouseman who shall fail or neglect to comply with any of the provisions of this Act shall be deemed guilty of the violation of law contemplated in Article 5569 of the Revised Statutes of this State, and upon proof of such failure or neglect shall be deemed liable to revocation of his certificate by any Court of competent jurisdiction as provided in the aforementioned Article. [Acts 1931, 42nd Leg., 2nd C. S., p. 45, ch. 25.]

[Art. 5679a. Regulating public cotton classers]

Sec. 1. Defining cotton classers. All persons in this State, who shall hereafter grade cotton for the public, or who shall hereafter issue or cause to be issued, a receipt or ticket for cotton, and place on said ticket the grade of said cotton, which said ticket is intended for the use of the public in buying and selling said cotton, shall be known as Public Cotton Classers and, before entering upon such duties, shall comply with the provisions of this Act. After complying with said provisions, such Classers shall be known as Registered Public Cotton Classers. Class-

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ers as herein referred to shall include every person, or persons who shall grade or staple cotton.

Sec. 2. Qualifications. All Public Cotton Classers shall furnish evidence of their good moral character, and, as evidence of their qualifications as Cotton Classers, they shall be required to obtain from the Secretary of Agriculture of the United States, a license to grade or staple cotton and to certify the grade and staple thereof in accordance with the official cotton standards of the United States Cotton Standards Act, and file with the Commissioner of Agriculture of this State, hereafter called the "Commissioner", a duplicate thereof.

Sec. 3. Bond. Before any such licensee shall issue a certificate of classification in this State, except as provided in United States Cotton Standards Act, he shall file a bond with the Commissioner to be approved by him, in the sum of One Thousand (\$1,000.00) Dollars, which bond shall be so conditioned as to bind its maker and his sureties to guarantee as approximately correct, his work in classing and stapling cotton. It shall also bind the maker and his sureties to promptly indemnify any person who may sustain financial loss by reason of any false class or staple he may make, or by reason of any untrue or misleading certificate issued by him or under his authority, with intent to defraud. Such bonds shall be payable to the State of Texas for the use and benefit of any person or persons who may be damaged by the breach of its conditions, but it shall not be necessary to join the State in any suit on any such bond, the venue of such suit on any such bond shall be that of the general venue by suit or otherwise, the Commissioner may, by written notice to the maker, require such impairments to be made good. If any such impairment is not made good, to the satisfaction of the Commissioner, within a reasonable time after notice, which time shall in no event, exceed thirty (30) days, such bond shall become null and void.

Sec. 4. Each Public Cotton Classer in this State shall keep a complete record of cotton classed and for whom classed, in a well bound book, and shall issue a certificate to each person showing the class and other grade of the cotton classed by him. He shall also keep on hand, a set of the United States Standards of grades and staples and his books, records and standards shall be open to inspection of the public at all reasonable hours.

Sec. 5. Form of receipts and records. It shall be the duty of the Commissioner to prescribe all forms of receipts, certificates and records of whatever description necessary, but all such receipts, certificates and forms shall be drawn in compliance with this Act. He shall prescribe such rules and regulations as he shall deem proper, not in conflict with any provisions hereof. The Commissioner shall have power and authority and it shall be his duty to enforce the provisions of this Act.

Sec. 6. Fees. Before any Public Cotton Classer is registered under this Law, he shall pay over to the Commissioner a fee of Five (\$5.00) Dollars, said fee shall be paid annually along with the renewal of his said bond, such fee to be deposited in the State Treasury to the credit of the general revenue.

Sec. 7. Right. All Registered Public Cotton Classers shall have the right, at any time within this State, to engage in the business of Public Cotton Classers and shall be authorized to class and staple cotton generally, and to charge for their services. A certificate of classification of cotton issued by any person or persons under authority of this Act, shall be accepted in all the courts of this State, as prima facie evidence of the facts stated therein.

Sec. 8. Rights to class own cotton. This Act shall not affect the right of anyone to class his own cotton or of any cotton buyer or other person to class cotton purchased by him for himself, or purchased for another, but applies to all other persons who engage in the business of classing

cotton for the public or of issuing receipts and tickets therefor with the grade thereon, for the use of the public, as herein above provided.

Sec. 11. Collections and appropriations. All moneys so collected shall be paid over by the Commissioner to the State Treasurer and shall be placed in the General Fund of the State. [As amended Acts 1931, 42nd Leg., 2nd C. S., p. 24, ch. 13.]

Sections 9 and 10 of said acts 1931, 42nd Leg., 2nd C. S., p. 24, ch. 13, being penal provisions are published as Pen. Code art. 1027a.

This article was also amended by Acts 1931, 42nd Leg., p. 101, ch. 68 (effective 90

days after May 23, 1931, date of adjournment.)

Effective 90 days after May 23, 1931, date of adjournment. Sections 9, 10 and 10-A of said Acts 1931, 42nd Leg., p. 101, ch. 68, being penal provisions are published as Penal Code art. 1027a.

#### Art. 5714. Shall establish tolerances

Acts 1931, 42nd Leg., p. 125, ch. 83, § 1, in amending this article makes it a penal pro-

vision and it is, therefore, classified as Pen. Code art. 1057d.

#### Art. 5734. Weight per bushel, barrel or ton

Amended by inserting at end of the first paragraph: Green corn, (roasting ears) per bushel 50 pounds. In the event of controversy over the weight of green corn (roasting ears) a tolerance of two pounds more or less than the standard weight as advised herein shall be allowed. [Acts 1929, 41st Leg., p. 531, ch. 256, § 1.]

#### [Art. 5736a. Babcock test for butter fat]

The Babcock test is hereby adopted as the official dairy test for use in the State of Texas, to be used by every person, firm, association, partnership and/or corporation paying for milk or cream on the basis of the butter fat content of such commodity or commodities, and the method of operating the test shall comply in every detail with the standard rules governing the Babcock test, and the Commissioner of Agriculture is hereby authorized to enforce the correct operation of the Babcock test and to issue all rules and regulations necessary to enforce the provisions of this Act. [Acts 1931, 42nd Leg., p. 735, ch. 287, § 1.]

Arts. 5736b and 5736c of Acts 1931, 42nd Leg., p. 735, ch. 287, § 1, being penal provisions are classified as Pen. Code arts. 1057b, 1057c.

#### [Art. 5736d. Entry on premises for samples for tests; standard weights and measures from United States]

In addition to the rights and powers given to the Commissioner of Agriculture and his inspectors and agents by the provisions of Chapter 7, Title No. 93, of the Revised Civil Statutes of 1925, as amended by Acts of Regular Session of the 41st Legislature, the said Commissioner, his inspectors and agents are hereby authorized to enter any creamery, cheese factory, building, premises or place where milk, cream and dairy products are handled for the purpose of securing samples and/or checking tests on same, and except as herein provided, all of the provisions of said Chapter and Title shall apply to the purchase of cream, milk and butter fat in this State, and particularly as pertains to the standard of weights and measures received from the United States under a resolution of Congress, approved June 14, 1836, and particularly such new weights and measures as shall be received from the United States or which have been received from the United States as standard weights and measures in addition thereto or in renewal thereof, and such as shall be procured by the State in conformity therewith and certified by the Bureau of Standards. [Acts 1931, 42nd Leg., p. 735, ch. 287, § 1.]

#### [Art. 5736e. Units or standards of measure for use in Babcock test]

The units or standards of measure of capacity for use in the Babcock test shall be the true cubic centimeter, or the weight of one (1) gram of distilled water, at four (4) degrees Centigrade, and all other units and



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weights shall be in conformity with the standards prescribed by the United States Bureau of Standards, as aforesaid. The said Commissioner of Agriculture shall from time to time make tests of individual bottles and pipettes used by various persons, firms and corporations in the State in order to ascertain whether the above provisions are being complied with, and shall report any violations found to the Attorney General, County or District Attorney in the county where such alleged violation occurs. All glassware and/or measuring devices found not to be standard in capacity shall be seized and destroyed by the Commissioner of Agriculture or his authorized agent. [Acts 1931, 42nd Leg., p. 735, ch. 287, § 1.]

#### [Art. 5736f. Duties of district or county attorney]

It shall be the duty of the District or County Attorney of any county in which the provisions of this Act may be violated to make due investigation and prosecute in the Court having jurisdiction of the offense all persons guilty of such violations, and if necessary to file suits to enjoin further violations of this Act. [Acts 1931, 42nd Leg., p. 735, ch. 287, § 1.]

#### Art. 5738. Definitions

(a) The term "agricultural products" shall include horticultural, viticultural, forestry, dairy, live stock, poultry, bee, and any farm and ranch products; (b) the term "member" shall include actual members of associations without capital stock and holders of common stock in associations organized with capital stock; (c) the term "association" means any corporation organized under this Act or any association organized under the co-operative marketing acts of any other State of the United States; provided, such foreign association is composed of persons engaged in the production of agricultural products as farmers, planters, ranchmen, dairymen, nut or fruit growers, acting together in associations, corporate or otherwise, with or without capital stock, in collectively processing, preparing for market, handling, and marketing in interstate and foreign commerce, such products of persons, so engaged; provided, further, that such associations are operated for the mutual benefit of the members thereof, as such producers, and conform to one or both of the following requirements:

(1) That no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein, or

(2) That the association does not pay dividends on stock or membership capital in excess of eight per centum per annum, and in any case to the following:

(3) That any association shall be permitted to deal in the products of non-members to an amount not greater in value than such as are handled by it for its members; and (d) the term "person" shall include individuals, firms, partnerships, corporations and associations. Associations organized hereunder shall be deemed non-profit, inasmuch as they are organized not to make profits for themselves, as such, or for their members, as such, but only for their members as producers. This Act shall be referred to as the "Co-operative Marketing Act." [As amended Acts 1930, 41st Leg., 4th C. S., p. 12, ch. 12, § 1; Acts 1930, 41st Leg., 5th C. S., p. 145, ch. 20, § 1.]

#### Art. 5739. Who may organize

Five or more persons engaged in the production of agricultural products or three or more associations may form a non-profit co-operative association with or without capital stock, under the provisions of this chapter. [As amended Acts 1930, 41st Leg., 4th C. S., p. 12, ch. 12, § 2.]

See note to art. 5738.

**Art. 5742. Powers**

Each association incorporated under this Chapter shall have the following powers:

(a) To engage in any activity in connection with the marketing, selling, harvesting, preserving, drying, processing, canning, packing, storing, handling or utilization of any agricultural products produced or delivered to it by its members, or the manufacturing or marketing of the by-products thereof or in connection with the purchase, hiring or use by its members of supplies, machinery or equipment, or in the financing of any such activities; or in any one or more of the activities specified in this Article.

(b) To borrow money and make advance to members.

(c) To act as the agent or representative of any member or members in any of the above mentioned activities.

(d) To purchase or otherwise acquire, and to hold, own and exercise all rights of ownership in, and to sell, transfer, or pledge shares of the capital stock or bonds of any corporation or association engaged in any related activity or in the handling or marketing of any of the products handled by the association.

(e) To establish reserves and to invest the funds thereof in bonds or such other property as may be provided in the by-laws.

(f) To buy, hold and exercise all privileges of ownership over such real or personal property as may be necessary or convenient for the conducting and operation of any of the business of the association or incidental thereto.

(g) To do each and everything necessary, suitable or proper for the accomplishment of any one of the purposes or the attainment of any one or more of the objects herein enumerated; or conducive to or expedient for the interest or benefit of the association; and to contract accordingly; and in addition to exercise and possess all powers, rights and privileges necessary or incidental to the purposes for which the association is organized or to the activities in which it is engaged; and in addition, any other rights, powers and privileges granted by the laws of this State to ordinary corporations, except such as are inconsistent with the express provisions of this Act; and to do any such thing anywhere.

(h) To act as a stabilization corporation when recognized as such under the provisions of the Agricultural Marketing Act of the Congress of the United States, approved June 15, 1929, and when so acting to have power to deal in the products of non-members without regard to the provisions of Article 5740 supra. [As amended Acts 1930, 41st Leg., 4th C. S., p. 12, ch. 12, § 3, Acts 1930, 41st Leg., 5th C. S., p. 145, ch. 20, § 2.]

**[Art. 5742—A. Powers conferred on Farmers Co-operative Societies as organized]**

All the power and authority authorized or given in Article 5742 is hereby conferred and given to Farmer's Co-operative Societies now organized, or may be hereafter organized, under Chapter 5 of Title 46, of the Revised Civil Statutes of 1925, including the power to organize, own stock in, manage and control a joint agency or corporation for the accomplishment of the purpose for which they are incorporated. [Acts 1930, 41st Leg., 4th C. S., p. 12, ch. 12, § 3.]

See note to art. 5738.

**Art. 5743. Members**

(a) Under the terms and conditions prescribed in its by-laws, an association may admit as members, or issue common stock, only to persons engaged in the production of the agricultural products to be handled by or through the association, including the lessees and tenants of land used for the production of such products and any lessors and land-

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lords who receive as rent part of the crop raised on the leased premises. (b) If a member of a non-stock association be other than a natural person, such member may be presented by any individual, associate officer or member thereof, duly authorized in writing. (c) Any association as defined in Article 5738 (c) may become a member or stockholder of any other association or associations organized hereunder. [As amended Acts 1930, 41st Leg., 4th C. S., p. 12, ch. 12, § 4.]

See note to art. 5738.

#### Art. 5746. By-laws.

Each association incorporated under this Act must, within thirty days after its incorporation, adopt for its government and management, a code of by-laws, not inconsistent with the powers granted by this law. A majority vote of the members or stockholders, or their assent, is necessary to adopt such by-laws. Each association, under its by-laws may also provide for any or all of the following matters: (a) The time, place and manner of calling and conducting its meetings. (b) The number of stockholders or members constituting a quorum. (c) The right of members or stockholders to vote by proxy or by mail or by both and the conditions, manner and effects of such vote and the method and manner in which an association which is a member may cast its vote. (d) The number of directors constituting a quorum. (e) The qualifications, compensation and duties and term of office of directors and officers; time of their election and the mode and manner of giving notice thereof. (f) Penalties for violations of the by-laws. (g) The amount of entrance, organization and membership fees, if any; the manner and method of collection of the same, and the purposes for which they must be used. (h) The amount which each member or stockholders (stockholder) shall be required to pay annually or from time to time, if at all, to carry on the business of the association; the charge, if any, to be paid by each member or stockholder for services rendered by the association to him and the time of payment and the manner of collection; and the marketing contract between the association and its members or stockholders which every member or stockholder may be required to sign. (i) The number and qualification of members or stockholders of the association and the conditions precedent [precedent] to members of ownership of common stock; the method, time and manner of permitting members to withdraw or the holders of common stock to transfer their stock; the manner of assignment and transfer of the interest of members, and of the shares of common stock; the conditions upon which, and time when membership of any member shall cease. The automatic suspension of the rights of a member when he ceases to be eligible to membership in the association, and mode, manner and effect of the expulsion of a member; manner of determining the value of a member's interest and provision for its purchase by the association upon the death or withdrawal of a member or stockholder, or upon the expulsion of a member or forfeiture of his membership, or, at the option of the association, by conclusive appraisal by the board of directors. In case of the withdrawal or expulsion of a member, the board of directors shall equitably and conclusively appraise his property interests in the association and shall fix the amount thereof in money, which shall be paid to him within one year after such expulsion or withdrawal. [As amended Acts 1930, 41st Leg., 4th C. S., p. 12, ch. 12, § 5.]

See note to art. 5738.

#### Art. 5748. Directors—Election

The affairs of the association shall be managed by a board of not less than five directors elected by the members or stockholders from their own number. Any association which is a member or stockholder may designate any of its members or stockholders to cast its vote as prescribed by

the by-laws of the association holding the meeting and any member or stockholder so designated may be considered as a member or stockholder of the association holding the meeting, for the purpose of election or service as director thereof. [As amended Acts 1930, 41st Leg., 4th C. S., p. 12, ch. 12, § 6.]

See note to art. 5738.

#### Art. 5763. Application of general laws, etc.

The provisions of the general corporation laws of this State, and all powers and rights thereunder shall apply to associations organized hereunder except when in conflict with the provisions of this chapter. Provided, however, that any co-operative marketing association incorporated under the laws of any other State may apply for and be granted a permit [permit] to do business in this State and pay the same filing fee as required of domestic corporations organized for a similar purpose. Provided further, that such foreign co-operative marketing associations [associations] shall not be required to have a paid-up capital or any portion of the capital paid-up in order to be entitled to such permit. [As amended Acts 1930, 41st Leg., 4th C. S., p. 12, ch. 12, § 7.]

See note to art. 5738.

### TITLE 94—MILITIA

#### [Art. 5796a. Salary of Assistant Adjutant General]

That on and after the passage of this Act there shall be paid to the Assistant Adjutant General a salary of three thousand dollars annually, payable monthly. [Acts 1929, 41st Leg., p. 500, ch. 238, § 1.]

#### [Article 5798a. State Service Officer]

Sec. 2. The Adjutant General shall appoint some suitable person to the office of State Service Officer, with the advice and consent of the Governor, to serve concurrently with and under the direction of the Adjutant General. Such person shall be qualified by education and training for the duties of such office. He shall be experienced in the law, regulations and rulings of the United States Veterans' Bureau controlling the cases coming before such officer, and shall himself have served in the active military or naval forces of the United States for some time during the period between April 6, 1917, and November 11, 1918, and have been honorably discharged therefrom. [As amended Acts 1931, 42nd Leg., p. 414, ch. 246, § 1.]

#### [Art. 5837b. National Guard funds]

Sec. 1. That the Governor shall upon passage of this Law deposit in the Treasury of the State of Texas the fund of \$2862.94, which is in the form of a Treasury Warrant of the United States, being funds to the credit of World War Units formed in whole or in part from the National Guard of Texas, which will not be reconstituted, held by him, as Trustee, for the benefit of the National Guard of this State, and that such fund shall be held by the Treasurer in a special fund to be known as the "National Guard Fund."

Sec. 2. That the Adjutant General of Texas is authorized to expend such fund for the planting of trees and shrubs and the beautification of all lands held by the State of Texas for the use and benefit of the National Guard of Texas and for any other purposes looking to the benefit of the National Guard of this State.

Sec. 3. That the Comptroller is authorized to draw his warrant against said fund upon sworn accounts approved by the Adjutant General of this State.

Sec. 4. That the entire amount of said fund be, and it is hereby appropriated, for the benefit of the National Guard of this State and the purposes set out in this Act. [Acts 1929, 41st Leg., 2nd C. S., p. 45, ch. 29.]

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[Art. 5890a. Leave of absence of State or municipal employes with pay]

Sec. 1. All officers and employees of the State of Texas and of any county or political subdivision thereof, including municipalities, who shall be members of the National Guard of Texas and of the National Guard Reserve of Texas and of the Organized Reserves of the United States Army and of the Naval Reserves of the Navy of the United States, shall be entitled to leave of absence from their respective duties, without loss of efficiency rating, on all days during which they shall be engaged in field or coast defense training, ordered or authorized under the provisions of law, and without loss of pay for the first twelve (12) days of such leave of absence; but such officers and employees shall not be entitled to pay from the State of Texas or any county or political subdivision thereof during such leave of absence for a longer period than twelve (12) days in any one calendar year. Such leave of absence shall be in lieu of any and all other vacations with pay, and said employee shall not be entitled to any other vacation with pay during that fiscal year. [Acts 1931, 42nd Leg., p. 330, ch. 197, § 1.]

## TITLE 102—OIL AND GAS

✓ Art. 6008. [7849] Gas to be confined

Any party or person in possession as owner, lessee, agent, trustee, receiver, or manager, or any person, co-partnership, or corporation in possession of any well producing natural gas only, in order to prevent said gas from wasting by escape, shall, within ten (10) days after encountering such gas, confine said gas in said well until said gas shall be utilized for light or fuel; provided, however, the Commission may permit the use of such gas for the purpose of being introduced into an oil or gas bearing stratum in order to maintain or increase the rock pressure, or otherwise increase the ultimate recovery of oil or gas from such stratum and for any other purpose which, under circumstances surrounding each particular case, might be found by the Commission, after hearing, to be practical and conducive to the public welfare. Any person violating the provisions of this Article shall be liable to a penalty of One Thousand Dollars (\$1,000.00) for each offense to be recovered with the costs of suit in a civil action in the name of the State of Texas, in Travis County, and each day any such violation continues shall be a separate offense, and for which the party in violation shall be held liable for the penalty herein prescribed. [As amended Acts 1931, 42nd Leg., 1st C. S., p. 46, ch. 26, § 2.]

✓ Art. 6014. "Waste"

Neither natural gas nor crude petroleum shall be produced, transported, stored, or used in such manner or under such conditions as to constitute waste; provided, however, this shall not be construed to mean economic waste, and the Commission shall not have power to attempt by order, or otherwise, directly or indirectly, to limit the production of oil to equal the existing market demand for oil; and that power is expressly withheld from the Commission, and no part of this Act shall ever be construed so as to prevent the storage of oil except for the prevention of physical waste. As used herein, the term "waste" in addition to its ordinary meaning, shall include:

(a) The operation of any oil well or wells with a gas-oil ratio exceeding that fixed for such well or wells by order of the Commission, and the Commission is hereby given authority to fix and determine by order such ratio.

(b) Drowning with water of any stratum capable of producing oil or gas or both oil and gas in paying quantities.

(c) Underground waste caused by the premature intrusion of water into any producing well or wells or into wells producing from the same stratum, resulting from improper drilling or producing methods by the owner of such well or wells.

(d) Permitting any natural gas well to wastefully burn.

(e) The wasteful utilization of natural gas; provided, however, the utilization of gas from a well producing both oil and gas, for manufacturing natural gasoline, shall not be construed to be waste.

(f) The creating of unnecessary fire hazards.

(g) Actual physical waste incident to or resulting from so drilling, equipping, locating, spacing, or operating wells as to reduce, or tend to reduce, the ultimate total recovery of crude petroleum oil or natural gas from any well or pool.

(h) Waste incident to or resulting from the unnecessary, inefficient, excessive, or improper use of the gas, gas energy, or water drive in any well or pool; however, it is not the intent of this Act to require repressuring of an oil pool, or that the separately owned properties in any pool be unitized under one management, control, or ownership.

(i) Surface waste, including unnecessary or excessive surface losses or destruction of crude petroleum oil or natural gas without beneficial use.

(j) The escape into the open air of natural gas except as may be necessary in the drilling or operation of a well; this section shall be cumulative of and not contrary to the above definitions of waste, and shall not be construed to conflict therewith.

(k) Waste incident to the inequitable utilization of gas energy, water drive, or other natural force, resulting from the inequitable withdrawal from any common pool; provided, however, that the Commission shall only invoke this definition of waste for the purpose of preventing discrimination in production as between producers disposing of their oil and/or gas by means of regulated carriers and those producers disposing of their oil and/or gas by means of unregulated carriers.

The Commission shall at no time have authority to make any rule or regulation, or to in any wise determine or hold that any mode, manner, or process of refining crude oil constitutes waste.

Nothing in this Act shall require the owner of any gas and/or oil well to curtail the production thereof unless the same is being operated in such manner as to constitute waste as herein defined or contributing to waste as herein defined. [As amended Acts 1931, 42nd Leg., 1st C. S., p. 46, ch. 26, § 1.]

This article was also amended by Acts March 29, 1929.)  
1929, 41st Leg., p. 694, ch. 313, § 2 (effective See, also, note to art. 6036b.)

#### Art. 6029. Rules and regulations

The Commission shall make and enforce rules and regulations for the conservation of oil and gas.

1. To prevent the physical waste, as hereinbefore defined, of oil and gas in drilling and producing operations and in the storage, piping and distribution thereof.

2. To require dry or abandoned wells to be plugged in such way as to confine oil, gas, and water in the strata in which they are found and to prevent them from escaping into other strata.

3. For the drilling of wells and preserving a record thereof.

4. To require such wells to be drilled in such manner as to prevent injury to adjoining property.

5. To prevent oil and gas and water from escaping from the strata in which they are found into other strata.

6. To establish rules and regulations for shooting wells and for separating oil from gas.

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7. To require records to be kept and reports made by oil and gas drillers, operators, and pipe line companies and by its inspectors.

8. It shall do all things necessary to prevent physical waste of oil and gas as hereinbefore defined whether herein enumerated or not and shall establish such rules and regulations as will be necessary to carry into effect this law and to conserve the oil and gas of this State by preventing physical waste as herein defined. [As amended Acts 1931, 42nd Leg., 1st C. S., p. 46, ch. 26, § 15.]

#### Art. 6030. Supervisor and employees

The Commission shall employ a Chief Supervisor of its Oil and Gas Division to aid the Commission in the enforcement of the provision of this Act and all Oil or Gas Conservation Laws of Texas, and all rules, regulations and orders of said Commission made thereunder. He shall also perform the duties placed upon the pipe line expert as set out in the pipe line statutes of this State. The Commission may also appoint a Chief Deputy Supervisor and such other Deputy Supervisors as may be necessary to assist in carrying out the provisions of this Act and related Statutes and shall employ such other assistants and clerical help as may be necessary for the same purpose. The salary of the Chief Supervisor and of Chief Deputy Supervisor and of the Deputy Supervisors shall be fixed by the Legislature in its appropriation bill for the Railroad Commission; provided such salaries shall not exceed the following amounts: That of the Chief Supervisor shall be Six Thousand (\$6,000.00) dollars per annum, that of the Chief Deputy Supervisor shall be Five Thousand (\$5,000.00) Dollars per annum, and that of the Deputy Supervisors shall be Thirty-six Hundred (\$3,600.00) dollars each per annum. In addition to any other qualifications that may be required by the Commission, no one shall hereafter be appointed Chief Supervisor who has not had at least five years experience in some line of the oil or gas business, or in some other business or profession calculated to fit him for the performance of his duties. No one shall hereafter be appointed as Chief Deputy Supervisor who has not had at least three years experience in oil and gas field work, and no one shall hereafter be appointed deputy supervisor who has not had at least two years experience in oil and gas field work, a substantial portion of which shall be in the drilling or production department. All salaries and other expenses of every kind and character necessary in the administration and enforcement of this Act shall be paid out of the funds created in Chapter 30, Acts of 1917, being now Article 6032, Revised Civil Statutes of 1925, and in the manner therein provided. The Chief Supervisor, Chief Deputy Supervisor and all Deputy Supervisors and all other employees shall perform the duties prescribed by the Railroad Commission and in conformity to the rules and regulations of the Commission dealing with the production, transportation and conservation of crude oil and natural gas. [Acts 1929, 41st Leg., p. 694, ch. 313, § 3.]

Effective March 29, 1929. See, also, note to article 6036b.

#### Art. 6032. Tax

There is hereby levied a tax of one-tenth of one cent per barrel of forty-two (42) standard gallons of crude petroleum produced within this State, which shall be in addition to and collected in the same manner as the present gross receipts production tax on crude petroleum. Producers of crude petroleum are hereby required to make reports of production in the same manner and under the same penalties as for the gross production tax. The tax thus collected shall be paid into the State Treasury as other revenues, and shall be paid out on warrants as other funds. The funds derived from this tax shall be used for the administration of this law and the laws mentioned and referred to by this Act. Any yearly excess of the tax over and above the requirements of the Commission

shall become a part of the general revenues of the State and any deficiency shall be made up out of the general revenues of the State. [As amended Acts 1931, 42nd Leg., 1st C. S., p. 46, ch. 26, § 22.]

#### Art. 6036. Penalty

In addition to any penalty that may be imposed by the Commission for contempt for the violation of its orders, any person, firm, corporation, joint stock associations, or any officer, agent, or employee, thereof, violating any of the provisions of this Act or Title 102 of the Revised Civil Statutes of 1925, or of any of the rules, regulations or orders of said commission made in pursuance thereof, shall be subject to a penalty of not more than One Thousand Dollars (\$1,000.00) for each and every day of such violation, to be recovered in any court of competent jurisdiction in the county in which the violation occurs, such suit by direction of the Commission to be instituted and conducted in the name of the State of Texas, by the Attorney General of the State of Texas, or by the County or District Attorney of the county in which the violation occurs. [As amended Acts 1931, 42nd Leg., 1st C. S., p. 46, ch. 26, § 3.]

This article was also amended by Acts March 29, 1929.)  
1929, 41st Leg., p. 694, ch. 313, § 4 (effective See, also, note to art. 6036b.)

#### [Art. 6036a. Notice of hearing]

No rule or regulation shall be adopted under the provisions of this Act or under the provisions of Title 102 of the Revised Civil Statutes of Texas, 1925, dealing with the conservation of oil and gas and the prevention of the waste thereof, except after hearing upon at least ten days notice given in the manner and form prescribed by the Commission. [Acts 1929, 41st Leg., p. 694, ch. 313, § 5.]

Effective March 29, 1929. See, also, note to article 6036b.

#### [Art. 6036b. Court review of Commission's ruling]

If any person, firm, corporation or other party at interest be dissatisfied with any rule, regulation or order adopted by the Commission in pursuance of the provisions of this Act such dissatisfied party may file a petition setting forth the particular cause of objections thereto in a Court of competent jurisdiction in Travis County against the Commission as defendant. Said action shall have precedence over all other causes on the docket of a different nature and shall be tried and determined as other Civil cases in said Court. Either party to said action may have the right of appeal; and said appeal shall at once be returnable to the Appellate Court, and said action so appealed shall have precedence in said Appellate Court of all causes of a different character therein pending. If the Court be in session at the time such right of action occurs the suit may be filed during such term and stand ready for trial after ten (10) days notice. In all trials under this Section the burden of proof shall rest upon the plaintiff. [Acts 1929, 41st Leg., p. 694, ch. 313, § 6.]

Effective March 29, 1929. Section 7 of said Acts 1929, 41st Leg., p. 694, ch. 313, makes it cumulative of all laws regulating the conservation of oil and gas not in conflict therewith and repeals all conflicting laws and parts of laws.

Section 8 provides that if any provision is held invalid, such holding shall not affect the remainder.

Section 9 provides that if any liabilities or penalties have accrued and the laws repealed they shall not be annulled by this act, but suits shall proceed as if such prior acts had not been repealed or altered, except that the procedure provided herein shall be followed so far as practicable.

#### [Art. 6049a. Regulating pipe lines and common purchasers of oil]

Sec. 1. Every person, association of persons, or corporation owning, operating or managing any crude petroleum storage tanks or storage facilities for the public for hire, either in connection with a pipe line, pipe lines, or otherwise, is hereby declared to be a public utility, subject to the provisions of this law.



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Sec. 2. No such public utility in its operations as such shall discriminate between or against its patrons in regard to facilities furnished or services rendered, or rates charged under the same similar circumstances, in the storage of crude petroleum.

Sec. 3. All such public utilities as herein defined shall within thirty days after this Act takes effect, or in case of persons, associations or corporations, hereafter engaging in such business, before they actually engage therein, file a bond which shall not exceed Twenty-five Thousand Dollars (\$25,000.00), properly executed, payable to the State of Texas, the amount of such bond and the sureties thereon to be subject to the approval of the Railroad Commission of the State of Texas. The amount of such bond may be changed from time to time by order of the Railroad Commission, after notice and hearing as prescribed by Article 6038, Revised Civil Statutes, in accordance with the volume of business done, or to be done, by such public utility and such bond or securities in lieu thereof as provided by Article 836 of the Revised Civil Statutes of Texas, shall be approved by the Railroad Commission before it is filed. Such bond shall be conditioned that the utility will observe the provisions of this law and the rules of the Railroad Commission in so far as its business is regulated and controlled by such Commission, and that the utility will exercise ordinary care in the storage, preservation, handling and delivery of all petroleum products entrusted to it and shall guarantee the classification, measurements and grades made by such public utility, under its authority in conformity herewith. The bond shall be for the benefit of the patrons of such utility and their assignees as though they were named obligees therein and they shall severally have the right of suit thereon.

Sec. 4. The Railroad Commission of Texas shall establish and enforce rules and regulations governing the character of facilities to be furnished by such utilities, the forms of receipts to be issued by them, the rates, charges and regulations for the storage of crude petroleum by such public utilities in respect to their storage facilities and for the inspection, grading, measurement, deductions for waste or deterioration, the delivery of such products, and it shall also exercise such power upon petition of any person showing a substantial interest in the subject matter thereof.

Sec. 5. Any such public utility shall have a lien on the commodity in its possession to secure it in the payment of all proper storage charges against such commodity, and/or the transportation charges accrued to or paid or advanced by it, superior to all other liens thereon, except lien for taxes.

Sec. 6. Every common carrier of crude petroleum within this State as defined by law and every public utility as defined herein shall on or before the twentieth day of each calendar month file with the Railroad Commission of Texas, and post in a conspicuous place, accessible to the general public, in each of its division offices, and in its principal office in this State, a statement, duly verified, containing the following information concerning its business during the preceding calendar month:

1. How much petroleum, crude or refined, was in the actual and immediate custody of such carrier or public utility at the beginning and close of such month, and where same was located or held, including the location and designation of each tank or place of deposit, and the name of its owner.

2. How much petroleum, crude or refined, was received by such carrier or public utility during such month.

3. How much petroleum, crude or refined, was delivered by such carrier or public utility during such month.

4. What quantity of such petroleum, crude or refined, is held by it for the account of itself or parent or affiliated organizations.

5. The available empty storage owned or controlled by it and where located.

6. The foregoing information shall be set out in each statement separately as to crude petroleum and each refined product thereof.

Sec. 6a. The Commission shall establish and promulgate rates of charges and regulations for gathering, transporting, loading and delivering crude petroleum by such common carriers in this State, and for the use of storage facilities necessarily incident to such transportation, and prescribe and enforce rules and regulations for the government and control of such common carriers in respect to their pipe line and receiving, transferring and loading facilities. Such rates shall include both single and joint line transportation, deductions for evaporation and shrinkage, demurrage, storage, and overage, charges, and all other similar items. The basis of such rates shall be such as will provide a fair return upon the aggregate value of the property of any such carrier used and useful in the services performed after providing reasonable allowance for depreciation and other proper factors, and for reasonable operating expenses under honest, efficient and economical management, and provided further that the Commission shall have reasonable latitude in the establishment and adjustment of competitive rates.

Immediately after this Act shall become effective it shall be the duty of the Commission to hold hearings as to rates now charged and shall reset them on all existing and operating lines, in accordance with the preceding article, taking into consideration the past earnings of such carrier.

When any carrier makes application or files tariff to establish a new rate, either for a new or old line, a temporary rate may be placed into effect immediately upon filing said tariff with the Commission. If any rates shall be filed, shippers who have paid the rates so filed by the pipe line company shall have the right to reparation or reimbursement of all excess rates or transportation charges so paid over and above the rate as finally determined on all shipments. When any person or persons at interest hereafter file an application for a change in a rate or rates the Commission shall call a hearing or hearings and shall immediately thereafter establish and promulgate a rate or rates in accordance with the basis herein set out. The Commission, shall on its own motion or motion of any interested person, hold a hearing or hearings when it has reason to believe that any rate or rates do not conform to the basis herein set out, said hearings or hearing to be for the purpose of adjusting, establishing and promulgating a proper rate or rates, and said Commission shall hold a general hearing once each year for the purpose of adjusting all rates to conform to the basis of rates and charges as herein set out. Article 6037, Revised Civil Statutes, is hereby repealed.

No common carriers by pipe line within this State shall hereafter abandon any of its connections or lines except under authority of a permit granted by the Railroad Commission, or with written consent of the owner or duly authorized agent of the wells to which connections are made. Before granting any such permit the Railroad Commission shall issue notice and have a hearing as now provided for in Section 6038 of the Revised Civil Statutes of Texas for 1925.

Sec. 7. The Railroad Commission of Texas may, after hearing in a proceeding upon complaint by a party at interest, or upon its own initiative without complaint, and after notice and hearing as provided by Article 6038, Revised Civil Statutes of Texas, 1925, authorize or require by order any person, association of persons, or corporation owning or operating pipe lines in the State of Texas, which is a common carrier as defined by law, or owning, operating, or managing any crude petroleum storage tanks, or crude petroleum facilities for the public for hire, to extend or enlarge such pipe lines, or storage facilities, provided such extension or enlargement shall be found to be reasonable and required in the public interest and that the expense involved will not impair the ability of such common carrier or public utility to perform its duty to the public.

Sec. 8. Every person, association of persons or corporation who pur-

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chases crude oil or petroleum in this State, which is affiliated through stock-ownership, common control, contract, or otherwise, with a common carrier by pipe line, as defined by law, or is itself such common carrier, shall be a common purchaser of such crude petroleum and shall purchase oil offered it for purchase without discrimination in favor of one producer or person as against another in the same field, and without unjust or unreasonable discrimination as between fields in this State; the question of justice or reasonableness to be determined by the Railroad Commission, taking into consideration the production and age of wells in respective fields and all other proper factors. It shall be unlawful for any such common purchaser to discriminate between or against crude oil or petroleum of a similar kind or quality in favor of its own production, or production in which it may be directly or indirectly interested, either in whole or in part, but for the purpose of prorating the purchase of crude oil or petroleum to be marketed, such production shall be taken in like manner as that of any other person or producer and shall be taken in the ratable proportion that such production bears to the total production offered for market in such field. The Railroad Commission of Texas shall have authority, however, to relieve any such common purchaser, after due notice and hearing as hereinafter provided, from the duty of purchasing petroleum of inferior quality or grade.

Sec. 8a. That in order to further conserve the natural gas resources of this State every person, association of persons, joint stock company, limited co-partnership, partnership, corporation, gas pipe line company or gas purchaser now, or hereafter, claiming or exercising the right to carry or transport natural gas by pipe line, or pipe lines, for hire, compensation or otherwise within the limits of this State, or which is now engaged or shall hereafter engage in the business of purchasing, or taking, natural gas, or residue gas or casinghead gas shall be a common purchaser thereof, and shall purchase, or take, such gas under such rules or regulations as may be prescribed by the Commission, in the same manner, under the same inhibitions against discriminations and subject to the same provisions as are herein set out with respect to common purchasers of oil.

Sec. 8aa. In addition to persons enumerated in Section 8, hereof, any and all other persons, association of persons, or corporations, operating any pipe line, which may now, or hereafter, purchase crude oil, petroleum, or natural gas in this State, whether they be common carriers or affiliated with common carriers or not, shall be a common purchaser of such crude oil, petroleum or natural gas, and shall purchase crude oil, petroleum or natural gas, offered it for purchase without discrimination in favor of one producer or person as against another as provided in Section 8 hereof.

Sec. 8b. It shall be the duty of the Railroad Commission of Texas to see that the provisions of this Act are fully complied with, and it shall have the power, after notice and hearing, to make rules, regulations and orders, defining the distance that extensions or gathering lines shall be made to all oil or gas wells; and such other rules, regulations or orders as may be necessary to carry out the provisions of this Act, and to prevent discrimination in purchases.

Sec. 8bb. It is expressly provided that no provision of this Act shall be construed as in any wise modifying, limiting, changing, repealing, or affecting any part of the present laws of this State defining and regulating trusts, monopolies, and conspiracies in restraint of trade; and that no provision of this Act shall be construed as authorizing any agreement and/or combination of capital, skill, or acts and/or any combination or consolidation now prohibited by the Anti-trust Laws of this State and/or the laws of this State prohibiting trusts, monopolies, and/or conspiracies in restraint of trade; and that no provision of this Act is intended or shall be construed as authorizing any agreement, act, combination, consolidation, or otherwise, which is now prohibited under the Anti-trust

Laws of this State and/or the laws prohibiting and defining trusts, monopolies and/or conspiracies in restraint of trade.

Sec. 8c. No person, association of persons or corporation, whether a common carrier or otherwise, shall be permitted to transport crude oil or petroleum in this State unless such crude oil or petroleum has been produced and/or purchased in accordance with the laws of the State of Texas and/or any order, rule or regulation of the Railroad Commission made in pursuance thereof.

Sec. 9. The Railroad Commission of Texas shall have authority to make rules and regulations for the enforcement of the provisions of this Act.

Sec. 10. Any person, association of persons or corporation, or the Attorney General of Texas on behalf of the State, may institute proceedings before the Railroad Commission, or apply for a hearing before said Commission, upon any question relating to the enforcement of this Act, and jurisdiction is hereby conferred upon said Commission to hear and determine the same after the notice provided by Article 6038, Revised Civil Statutes of Texas. The Commission shall not make any order establishing, prescribing or modifying rates, rules or regulations, as herein provided, except upon like notice and hearing as provided in said Article 6038.

Sec. 11. For the violation of any provision of this Act, or for the violation of any valid rule or regulation promulgated hereunder or any order passed by the Railroad Commission in pursuance of any such provision, rule or regulation, such person, association of persons, or corporation shall be subject to a penalty of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1000.00) for each offense recoverable in the name of the State in any District Court in Travis County, Texas, and each day of such violation shall constitute a separate offense. One half of such penalty may be recovered by and for the use of any person, association of persons or corporation against whom there shall have been an unlawful discrimination as herein defined, such suit to be brought in the name of and for the use of the party or parties aggrieved.

Sec. 11a. For any violation of any provision of this Act, or for the violation of any valid rule or regulation promulgated hereunder by the Railroad Commission, in pursuance of such provision, by any domestic corporation, which is a common purchaser as defined herein, the Attorney General may bring suit in the District Court of Travis County, Texas, for the purpose of forfeiting the charter of such corporation, and enjoining and forever prohibiting such corporation from doing business in this State, and if adjudged guilty by the Court before whom the action is brought, the charter of such corporation may be forfeited and the injunction may be granted, provided said forfeiture and injunction shall be in addition to all other penalties.

Sec. 11b. For any violation of any provision of this Act, or for the violation of any valid rule or regulation promulgated hereunder by the Railroad Commission in pursuance of such provision, by any foreign corporation, which is a common purchaser as defined herein, the Attorney General may bring suit in the District Court of Travis County for the purpose of cancelling the permit of such corporation and of enjoining and forever prohibiting such corporation from doing business in this State, and if adjudged guilty by the Court before whom the action is brought, the permit may be cancelled and the injunction may be granted, provided said cancellation and injunction shall be in addition to all other penalties.

Sec. 11c. When any person, persons, association or corporation is discriminated against by a common purchaser as defined herein in favor of the production of said common purchaser, a cause of action for damages, when such has occurred, shall lie against said common purchaser and said

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person, persons, association or corporation may bring suit for same in any court of competent jurisdiction in the county in which the damage occurred.

Sec. 11d. The Railroad Commission shall make inquiry in each field concerning the connections of the various producers and when discrimination is found to be practiced by any common purchaser as defined in this Act the said Railroad Commission shall issue an order to such common purchaser to make such reasonable extensions of their lines and such reasonable connections as will prevent such discrimination.

Sec. 11e. The Railroad Commission shall, upon information that discrimination is practiced in its purchases by any common purchaser, request the Attorney General to bring a mandatory injunction suit against said common purchaser to compel such reasonable extensions as are necessary to prevent discrimination.

Sec. 11f. Whenever, any order, rule or regulation promulgated by the Commission pursuant to this Act has been finally adjudged to be valid, in whole or in part, in any suit to which the Commission is a party, and thereafter any party to the suit or other proceedings in which such matter has been so adjudged, shall violate such rule, regulation, order or judgment, or shall suffer any property owned or controlled by him to be used in violation of any such rule, regulation, order or judgment, the Commission shall have the power, and it shall be its duty, to make, application to the Judge of the trial court, setting out such rules, regulation, order or judgment and that such party, subsequent to the date of such judgment, has violated or is violating such rule, regulation, order, or judgment, and praying that a receiver be appointed as provided in this Section. Thereupon the judge of such trial court may after notice and hearing, appoint a receiver of the property involved or used in violating such rule, regulation, order, or judgment, and shall fix a proper bond for such receiver. As soon as such receiver has qualified, he shall take possession of such property, and such receiver thereafter shall perform his duties as receiver of such property under the orders of said court, strictly observing such rule, regulation, order or judgment. Any party whose property has been so placed in the hands of a receiver may move to dissolve such receivership and discharge the receiver only upon showing that such party has not wilfully violated nor suffered property owned or controlled by him to be used in violating such rule, regulation, order or judgment or upon other good cause shown. In its discretion such court may, before dissolving such receivership or discharging such receiver, require the party applying for such dissolution or discharge to give bond with good and sufficient sureties in an amount to be fixed by the court, sufficient reasonably to indemnify all persons who may suffer damage by reason of the violation of the rule, regulation or order so adjudged to be valid. In determining the amount of such bond, the judge shall take into consideration all of the facts and circumstances surrounding the parties which he may deem necessary to determine the reasonableness of the amount of such bond and any bond so executed, if made by any bonding or surety company, shall be by some company authorized to do business in Texas. Such bond shall be made payable to, and be approved by, the judge of said court and shall be for the use and benefit of, and may be sued on, by all persons who may suffer damage by reason of any further violation by the party giving the bond of the rule, regulation or order so adjudged to be valid, and who may bring suit thereon. From time to time on motion the court may increase or decrease the amount of such bond, and may require new or additional sureties as the facts may warrant or justify.

Sec. 11g. Any common purchaser of oil or gas as herein defined shall, in making purchases of royalty oil, comply with all the provisions of this Act, and shall not discriminate between royalty and/or land owners in making such purchases. Neither shall said common purchaser unreason-

ably delay payments to said land and/or royalty owner for said oil or gas purchased. For violation whereof in addition to the other penalties herein set out, the land and royalty owner or owners damaged thereby shall have a cause of action against said common purchaser for damages and may file suit for same in any court of competent jurisdiction in the county where the royalty lies.

Sec. 11h. All the provision of Title 102 of the Revised Civil Statutes as amended shall apply in the enforcement of this Act.

Sec. 11i. There is hereby appropriated to the Railroad Commission of Texas for its use in complying with this Act an additional sum of Fifty Thousand Dollars (\$50,000.00), or so much thereof as may be necessary, out of the money raised each year from the tax collected by virtue of Article 6032 Revised Civil Statutes of 1925, and if the money so raised by said tax is insufficient to pay this appropriation therefrom, then the balance of this appropriation shall be paid out of the General Revenue not otherwise appropriated.

Sec. 11j. Nothing contained in this Act shall authorize the Commission to limit, fix or adjust the amount of the production of crude petroleum oil or natural gas within this State, or from any pool or area within the State, for the purpose of balancing the amount of such production with the current demand or market demand for such oil or gas.

Sec. 12. Any person or party at interest aggrieved by any order of the Railroad Commission of Texas under this Act, may have such order reviewed by proceedings in the manner prescribed by Article 6453, Revised Civil Statutes of Texas. The proceedings upon appeal shall be in like manner as prescribed by Article 6453. [Acts 1930, 41st Leg., 5th C. S., p. 171, ch. 36, as amended Acts 1931, 42nd Leg., 1st C. S., p. 58, ch. 28.]

Section 13 of Acts 1930, 41st Leg., 5th C. S., p. 171, ch. 36, provides that the invalidity of any section or part of the act shall not affect the remainder and that it shall be construed as in addition to and cumulative of all other laws and not as an impairment or limitation of any law now in force.

#### [Art. 6049b. Marginal wells defined; curtailing production]

Sec. 1. The term "Marginal Well" as used herein means a pumping oil well producing such daily quantities of oil as herein set out as would be damaged, or result in a loss of the production ultimately recoverable, or cause the premature abandonment of same, if its daily production were artificially curtailed. The following described wells shall be deemed "Marginal Wells" in this State:

(a) Any pumping oil well within this State having a daily production of ten barrels or less, averaged over the preceding thirty consecutive days, producing from a depth of 2000 feet or less;

(b) Any pumping oil well within this State having a daily production of twenty barrels or less, averaged over the preceding thirty consecutive days, producing from a horizon deeper than 2000 feet and less in depth than 3500 feet;

(c) Any pumping oil well in this State having a daily production of forty barrels or less, averaged over the preceding thirty consecutive days, producing from a horizon deeper than 3500 feet.

Sec. 2. To artificially curtail the production of any "Marginal Well" below the marginal limit as set out above prior to its ultimate plugging and abandonment is hereby declared to be waste, and no rule or order of the Railroad Commission of Texas, or other constituted legal authority, shall be entered requiring restriction of the production of any "Marginal Well" as herein defined. [Acts 1931, 42nd Leg., p. 92, ch. 58.]

Effective April 16, 1931. Section 3 of said act provides that if any provision is held invalid, such decision shall not affect the remainder.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

✓ [Art. 6049c. Oil and gas conservation, powers and duties of Railroad Commission]

Sec. 4. Whenever it shall appear that any party engaged in the production, storage or transportation of crude petroleum oil or natural gas is violating any Statute of this State or any valid rule, regulation or order of the Commission promulgated to correct, prevent, or lessen the waste of crude petroleum oil or natural gas, the Commission, through the Attorney General, may bring suit against such party in any court of competent jurisdiction in Travis County, Texas, or in the county of the residence of the defendants, or any of them, or in the county in which such violation is alleged to have occurred, but not elsewhere, to restrain such party from violating such rule, regulation, or order, or any part thereof, and in such suit the Commission may obtain such preliminary restraining order or temporary or final injunction as the facts may warrant.

Sec. 5. The Commission shall have the power, and it shall be its duty, from time to time, to inquire into the production, storage or transportation of crude petroleum oil and of natural gas, in order to determine whether or not waste, as hereinbefore defined, exists. The Commission shall have the right to require any party to make and file with the Commission sworn statements, as to the facts within the knowledge or possession of such party pertaining to the production, storage or transportation of crude petroleum oil or of natural gas, and may require any well or wells under the control of any party whenever and as often and for such periods as the Commission may specify, to be inspected or gauged, and the books and records of any party to be examined.

Sec. 6. It shall be the duty of all parties producing, storing or transporting crude petroleum oil or natural gas within this State, to make and to keep in this State a permanent record or copies of records of the quantity or amount of all such oil or gas so produced, stored or transported within this State. The Commission or its duly authorized agents, and the Attorney General or his assistants or agents, shall have the right to inspect said records as often and for such periods as they may deem necessary. The failure of any corporation chartered under the laws of this State to comply with the provisions of this Section and to keep such records in this State, or the refusal to permit the officers herein mentioned to inspect and examine the records herein required, shall constitute grounds for a forfeiture of its charter rights and privileges and the dissolution of its corporate existence. Such violations by a foreign corporation shall be grounds for enjoining and forever prohibiting such corporation from doing business in this State. It shall be the duty of the Attorney General, when in his judgment the public interest requires it, upon his motion, and without leave or order of any judge or court, to institute suit or other appropriate action in Travis County, for forfeiture of charter rights of domestic corporation and enjoining foreign corporations from doing business in this State, when any such corporation is deemed guilty of violating the provisions of this Section.

Sec. 7. The Commission shall have the right when it reasonably appears, and shall upon the verified complaint of any party showing that physical waste of crude petroleum oil or natural gas is taking place in this State, or is reasonably imminent, to hold such hearings at such times and places as it may fix, to determine whether or not such waste is taking place or is reasonably imminent, and to make inquiry into what rule, if any, or what regulation or order should be made and what action, if any should be taken to correct, prevent, or lessen the same within the meaning of this Act. Notice of such hearings shall be given as provided by law. All parties interested shall be entitled to be heard and introduce evidence and shall have the right to process for witnesses and the production of evidence. The Commission upon such hearing, if it finds that waste is taking place or is reasonably imminent, shall make and enter

such rule, regulation or order as in its judgment the facts justify, in order to correct, prevent or lessen such waste, if any. If it is the judgment of the Commission that any reduction or adjustment in the production of oil or gas from any well or pool is necessary in order to prevent the waste as herein defined of crude petroleum or natural gas from any such well or pool, the Commission shall determine how to accomplish such reduction or adjustment and such order shall be made in such manner as to distribute, prorate or otherwise apportion such reduction or adjustment among the wells committing such waste or contributing thereto as the facts justly and equitably require. Any properties, well or pools within this State may be described or referred to by the Commission in such proceedings and in making of such rules, regulations or orders, in general terms or by using well understood names or descriptions thereof, or may otherwise identify the same by general or special descriptions.

From and after the hearing and the promulgation of any rule or order of the Commission, it shall be the duty of all parties affected thereby, to comply with the same. From time to time after notice and hearing the Commission may amend, revoke, suspend, renew or extend any such rule or order so made, to such extent and under such circumstances as may justly and equitably be necessary. Provided that nothing in this Act shall be construed as granting to the Commission any power or authority to restrict, or in any manner limit, the drilling of wells for the purpose of exploring for oil and/or gas in territory not known to produce either oil or gas.

The Commission shall not restrict the production of oil from any new field brought into production by such exploration until such total production therefrom aggregates ten thousand (10,000) barrels of oil per day, unless such restriction results from the enforcement of orders, rules or regulations dealing with the method or manner of producing, storing or transporting oil therefrom to prevent physical waste occurring in such new field.

Sec. 8. Any interested party affected by any rule or order made or promulgated by the Commission, under the terms of this Act and who may be dissatisfied therewith, shall have the right to file a suit in a court of competent jurisdiction in Travis County, Texas, and not elsewhere, against the Commission, as defendant, and ask for such relief as may be necessary to annul, correct or modify such rule or order so promulgated by the Commission. Such suit shall be advanced for trial and be determined as expeditiously as possible and no postponement thereof or continuance shall be granted except for reasons deemed imperative by the Court. In all trials under this section, the burden of proof shall be upon the party complaining of such rule, regulation or order and such rule, regulation or order so complained of shall be deemed prima facie valid until otherwise shown.

Sec. 9. Any party feeling aggrieved by any order, rule, or regulation of the Railroad Commission shall be entitled to judicial review thereof in the manner provided under existing law, and as provided in this Act.

Sec. 10. No injunction shall be granted against the Railroad Commission to restrain it from enforcing rules, regulations and orders made and promulgated by the Commission under the terms of this Act or of any conservation statutes of this State relating to oil or gas except after notice to the Commission and a hearing. Provided, however, that before any injunction or restraining order shall become effective the plaintiff shall be required by the court to execute a bond with good and sufficient sureties in an amount to be fixed by the court reasonably sufficient to indemnify all persons whom the court may find from the facts proven, will suffer damages by reason of the violation of the rule, regulation or order complained of, such persons to be named in the order of the judge when the amount of the bond is fixed by the court and entered of record; provided that the finding of the court that any party is likely to suffer



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

damage shall not be admissible as evidence of damages in any suit on such bond. In determining the amount of such bond it shall be the duty of the judge to take into consideration all of the facts and circumstances surrounding the parties and the ability of the plaintiff to make such bond in order to determine the amount and the reasonableness thereof under the facts and circumstances. Any bond made or executed by any bonding or surety company shall be by some company authorized to do business in Texas. Such bond shall be made payable to and approved by the judge of said court and shall be for the use and benefit and may be sued on by all persons named in said order who may suffer damages by reason of the violation of such rule, regulation or order and shall bring suit thereon before the expiration of six months from the date of the final determination of the validity in whole or in part of such rule, regulation or order, provided further that any person believing himself to be entitled to protection under said bond shall have the right, within the discretion of the court, to intervene in said suit before said bond is fixed and to make proof of his damages which might result from a violation of such rule, regulation or order. Upon motion and for good cause shown the court may from time to time increase or decrease the amount of such bond after notice to the parties and may require new or additional sureties as the facts may justify.

Sec. 11. Either party to said suit has the right of appeal from the final judgment therein and said appeal shall at once be returnable to the appellate court and said action so appealed shall have precedence in said appellate court over all cases, proceedings and causes of a different character therein pending. In the Court of Civil Appeals such Court shall immediately and at as early a date as possible decide the questions involved therein; and in the event any question or questions shall be certified to the Supreme Court, or writ of error thereto be requested or granted, it is here made the duty of the Supreme Court to immediately set down said cause for hearing and decide the cause at as early a date as possible, and such cause shall have precedence over all other cases, proceedings and causes of a different character in such court. All laws and parts of laws in conflict with the provisions of this Section are hereby repealed.

Sec. 12. Whenever any order, rule or regulation promulgated by the Commission has been finally adjudged to be valid, in whole or in part, in any suit to which the Commission is a party, and thereafter any party to the suit or other proceedings in which such matter has been so adjudged, shall violate such rule, regulation, order or judgment, or shall thereafter suffer any property owned or controlled by him to be used in violation of any such rule, regulation, order, or judgment, the Commission shall have the power, and it shall be its duty to make application to the judge of the trial court, setting out such rule, regulation, order or judgment and that such party, subsequent to the date of such judgment, has violated or is violating such rule, regulation, order or judgment, and praying that a receiver be appointed as provided in this Section. Thereupon, the judge of such trial court may, after notice and hearing, appoint a receiver of the property involved or used in violation of such rule, regulation, order or judgment, and shall fix a proper bond for such receiver. As soon as such receiver has qualified, he shall take possession of such property, and such receiver thereafter shall perform his duties as receiver of such property under the orders of said court, strictly observing such rule, regulation, order or judgment. Any party whose property has been so placed in the hands of a receiver may move to dissolve such receivership and to discharge the receiver upon such terms as the court may prescribe.

Sec. 13. Nothing herein contained or authorized, and no suit by or against the Commission, and no penalties imposed upon or claimed against any party violating any Statute of this State, or any rule, regulation or order of the Commission, shall impair or abridge or delay any cause of

action for damages, or other relief, any owner of any land or any producer of crude petroleum oil or natural gas, or any other party at interest, may have or assert against any party violating any rule, regulation or order of the Commission, or any judgment herein mentioned. Any party owning any interest in any property or production which may be damaged by any other party violating this Act or any other Statute of this State prohibiting waste or violating any valid rule, regulation or order of the Commission, may sue for and recover such damages, and have such other relief as he may be entitled to in law or in equity.

Sec. 14. The purchase, transportation or handling of crude petroleum oil or natural gas produced from any property in excess of the amount allowed by any statute or any rule, regulation or order of the Commission is hereby prohibited, and the Commission shall have power to enjoin any violation of this section.

Sec. 16. Nothing in this Act contained shall be construed to relieve any party from the duties and obligations imposed by Chapter 36, Page 17, of the Acts of the Forty-first Legislature at its Fifth Called Session, commonly known as the Common Purchaser Act and all amendments thereto, nor to modify or change any provisions of said Acts. Nothing in this Act contained shall modify or change in any way the terms and provisions of Senate Bill No. 337, passed by the Forty-second Legislature at its Regular Session, commonly known as the Marginal Well Bill. This Act shall not repeal any existing law except where it supersedes such existing law or is in conflict therewith.

Sec. 17. This Act shall be cumulative of all laws of the State of Texas not inconsistent herewith, relative to crude petroleum oil and natural gas.

Sec. 18. All persons entrusted with the enforcement of the orders, rules, and regulations of the Commission shall be regular employees of the State of Texas and paid by the State of Texas, and no persons other than the regular employees of the State of Texas shall be charged with or relied upon for the performance of any such duties.

Sec. 19. If any of the sections, clauses, or any provisions of this Act or of an other Act referred to by this Act shall be held unconstitutional, or otherwise invalid or unenforceable, such holding shall not have the effect of nullifying or in any wise affecting the remainder of this Act, and the parts of this Act not so held to be unconstitutional or invalid shall remain in full force and effect.

Sec. 20. The term "party" as used as this Act shall include all persons, firms, associations, corporations, trustees and receivers. The term "Commission" shall mean the Railroad Commission of Texas.

Sec. 21. This Act shall not amend, repeal, change, alter or affect in any manner the Anti-trust Laws of this State.

Sec. 23. The Commission is hereby authorized and directed to employ such supervisors, deputy supervisors and umpires as may be necessary to carry out the provisions of this Act and all related laws and orders, rules and regulations of such Commission made thereunder, and it shall likewise employ such other assistants and clerical help as may be necessary from time to time for the same purpose, and there is hereby expressly appropriated out of the funds derived from the tax levied in this Act, a sufficient amount to pay such salaries and expenses. The salaries of such employees shall be fixed by the Railroad Commission until provided for by the next Session of the Legislature, such salaries to be reasonable and not to exceed salaries now being paid for similar service. [Acts 1931, 42nd Leg., 1st C. S., p. 46, ch. 26.]

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

**Art. 6060. [Repealed in part by Acts 1931, 42nd Leg., p. 111, ch. 73, § 10]**

This section is repealed except insofar as it imposes a license fee or tax of one-fourth of one per cent. against persons owning, operating, or managing pipe lines, as provided in Section 2 of Article 6050, and said fund shall be used for enforcing the provisions of Articles 6050 to 6066, inclusive.

**Art. 6066. Expenditures limited**

The salary and expenses of the expert and his assistant and the salaries, wages, fees, and expenses of every other person employed or appointed by the Commission under the provisions of this subdivision, and all other expenses, costs, and charges, including witness fees and mileage incurred by or under authority of the Commission or a Commissioner in administering and enforcing the provisions of this subdivision or in exercising any power or authority hereunder, shall be paid out of the Gas Utilities Fund provided for by Article 6060, as amended by H. B. No. 547, Acts of the Regular Session of the 42nd Legislature, by the State Treasurer on warrants of the Comptroller on orders or vouchers approved by the Commission or Chairman thereof. The entire amount derived from the tax imposed by Article 6060, as amended, shall be used for the purposes of enforcing the provisions of the preceding Articles 6050, et seq. Any surplus remaining in this fund after paying all such salaries and expenses as may be contracted to be paid and incurred and such as may be reasonably estimated by the Commission for its use shall be paid over to the General Revenue Fund on September First of each year, beginning September 1st, 1932. Provided, that not more than Seventy Thousand (\$70,000.00) Dollars shall ever be spent in any one Calendar year. [As amended Acts 1931, 42nd Leg., p. 319, ch. 190, § 1.]

## TITLE 103—PARKS

**Art. 6067. Creating Board**

Lease of oil and gas lands, see art. 3183a.

**[Art. 6070a. Park concessions; funds; prison labor]**

Sec. 1. The State Park Board is hereby authorized to grant concessions in State Parks and to make concession contracts for any causeway, beach drive or other improvements in connection with State Parks sites, wherever feasible. The revenue thus earned by the State Parks Board shall, when collected be placed in the State Treasury. The Board may make such rules and regulations for the carrying out of this Act and the Laws of this State relative to State Parks, as it may deem necessary not in conflict with Law.

Sec. 2. The funds and revenue derived under the provisions of this Act and deposited in the State Treasury shall be deposited in a Special Fund to be known as the "State Parks Fund", and the State Treasurer is hereby authorized and directed to designate such Fund accordingly and carry on his records a separate account therefor; and not exceeding One Thousand (\$1,000.00) Dollars per year is hereby appropriated by the Legislature of Texas out of said Fund for the payment of the traveling and contingent expenses of the members of the State Parks Board which have been necessarily incurred in the performance of their duties.

Sec. 3. The State Parks Board shall have the use of the labor of trusty State convicts on or in connection with State Parks, said labor to be performed as required by the State Parks Board, provided that such convicts shall, at all times, be under the control of the State Prison Board and shall, during the time they are working in connection with State Parks, be considered as serving their terms in the penitentiary. [Acts 1931, 42nd Leg., p. 287, ch. 168.]

## 4A. GOLIAD STATE PARK

## [Art. 6077a. Goliad State Park Commissioners; powers and duties]

Sec. 2. The Board for Lease of Eleemosynary and State Memorial Lands shall have no right, power or authority to lease for any purpose any of the land composing the "Goliad State Park," or any other lands subsequently added to said park, and it is hereby expressly forbidden from leasing same.

Sec. 3. The Governor shall, as soon as practicable after the taking effect of this Act, appoint three resident citizens of this State, who shall be known as "Goliad State Park Commissioners," who shall serve without compensation except for such reasonable and necessary personal expense as may be incurred in the performance of their duties in this behalf. The term of office of each of said Commissioners shall be six years, except the members of the first Commission appointed hereunder, whose term shall be two, four and six years, respectively, and they shall decide by lots among themselves who is to have the two, four and six year terms; but after the expiration of the term of office of any member of the First Commission appointed hereunder, his successor shall hold for a term of six years. The duties of said Commissioners, acting with the advice and consent of the Board of Control, shall be the same as that provided by Law for the San Jacinto State Park Commissioners.

Sec. 4. The Goliad State Park Commission shall have authority to solicit further donations of land adjoining the Goliad State Park as established in this Act, and is hereby authorized to accept in behalf of the State the title to such adjoining land when and as tendered, subject to the approval of the State Board of Control, not to exceed 125 acres of such additional land.

Sec. 5. The government of the United States to have the permission, if same is necessary, to erect upon said parksite a memorial in the form of a monument, building or whatever it may desire as such memorial, the location of same to be agreed upon by the proper representatives of said United States government and the Board of Control of the State of Texas. Such memorial to be erected under the conditions required by such Government of the United States but without expense to the State of Texas. [Acts 1931, 42nd Leg., p. 39, ch. 31.]

Effective March 24, 1931. Section 1 of to the land to be known as Goliad State above act, Acts 1931, 42nd Leg., p. 39, ch. 31. Park.  
31, contains a preamble accepting the title

## [Art. 6081a. Sale or exchange by city of park property]

Any incorporated city in this State having a population of less than 45,000 according to the 1920 United States census and a city of more than 43,000 population, according to said census, is hereby authorized to sell any real property heretofore dedicated as a public park in said city which has never been used for public park purposes on account of its location and surroundings being unsuitable for such use, provided such dedication was not made by the State of Texas. Any such property may be sold by the city or exchanged for other real property within the city limits. Provided that in event of a sale the proceeds thereof shall be used exclusively for the purpose of acquiring other real property in the city to be used as a public play ground and in event of an exchange of such property for other property the property acquired shall be used as a public play ground. Provided further, that the purchaser of any property sold or exchanged as herein authorized shall not be responsible for the application or use of the proceeds or the property received, for such property, and in event of misapplication thereof the title to the property sold by the City shall not in any way be affected. [Acts 1929, 41st Leg., p. 48, ch. 18, § 1.]

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

[Art. 6081b. Acquisition and maintenance of parks and playgrounds outside limits of certain cities]

Sec. 1. That the governing body of any incorporated city in this State having more than 43,000 inhabitants according to the United States census of 1920, which city is in a county having a population of less than 100,000 inhabitants according to said census may receive through gift or dedication and is hereby empowered to, by purchase without condemnation or by purchase through condemnation proceedings, acquire and thereafter maintain and conduct for the use of the public [as] recreational parks or playgrounds, either or both, tracts of land without the corporate limits of such city, no one of such parks or playgrounds which may be acquired by purchase or through condemnation proceedings to exceed 320 acres in area and the total acreage outside the limits of the city which may be acquired by purchase and through condemnation proceedings, either or both, shall never exceed 640 acres.

Sec. 2. For the purpose of condemning or purchasing without condemning, either or both, lands to be used and maintained as provided in Section 1 hereof, the governing body of any city falling within the terms of such section may issue negotiable bonds of the city and levy taxes to provide for the interest and sinking funds of any such bonds so issued, the authority hereby given for the issuance of such bonds and levy the collection of such taxes to be exercised in accordance with and subject to the provisions of Chapter 1 of Title 22 of the Revised Civil Statutes of 1925.

Sec. 3. Any and all recreational parks and playgrounds acquired under and by virtue of the terms of this Act shall be under the control and management of the governing body of the city acquiring the same and such governing body is hereby expressly authorized and empowered to improve, maintain and conduct the same for the benefit of the public and to provide, improve, maintain and conduct suitable recreational facilities therein and in connection therewith and to fix such reasonable charges as the board shall deem fit for the use of such recreational facilities by members of the public, all proceeds from such charges to be devoted exclusively to the support, maintenance, upkeep, and improvement of the city's parks and playgrounds and the facilities, structures and improvements therein. Provided, that no city shall be liable for injuries to persons resulting from or caused by any defective, unsound, or unsafe condition of any such park or playground, or any part thereof, or thing of any character therein or resulting from or caused by any negligence, want of skill or lack of care on the part of any governing board, officer, servant, employee, or other person with reference to the construction, improvement, management, conduct, or maintenance of any such park or playground or any improvement, structure or thing of any character whatever located therein or connected therewith.

Sec. 4. That in addition to and exclusive of any taxes which may be levied and collected for the interest and sinking funds of any bonds issued under the authority of this Act, the governing body of any city falling within the terms hereof may and is hereby empowered to levy and collect a special tax not to exceed for any one year five cents on each one hundred dollars of the assessed value of the taxable property within the city for the purpose of acquiring any such parks or playgrounds, either or both, and such governing body may and is hereby further empowered to levy and collect an annual special tax not to exceed five cents on each one hundred dollars assessed value of the taxable property in the city for the purpose of improving, maintaining, and conducting such parks and playgrounds as such city may acquire without its limits under the provisions of this Act and to provide, improve, maintain and conduct for use in connection therewith all such suitable recreational facilities and structures and other things as such governing body may deem fit.

Provided that nothing contained in this Act shall be construed as authorizing any city to exceed the limits of indebtedness placed upon it under the Constitution.

Sec. 5. All parks and playgrounds acquired and maintained under the provisions of this Act shall remain open for the use of the public under such rules and regulations as the governing body having the control and management of the same may from time to time prescribe. However, no person, firm, association of persons, or corporation shall have the right to, in any such park or playground offer anything for barter or sale, or exhibit anything for pay or conduct any place of amusement for which a fee is charged or render personal service for hire without having first obtained from such governing body the privilege of so doing under such rates of payment therefor and other terms as may be agreed upon with such governing body and all revenues arising from the sales of such privileges or concessions shall be devoted to the support, maintenance, upkeep and improvement of the city's parks and playgrounds and the facilities, structures, and improvements therein.

Sec. 6. Nothing contained in this Act shall be construed as repealing any provisions of any special charter of any incorporated city, but shall be deemed and held to be cumulative thereof.

Sec. 7. Any roadway upon which land acquired for park purposes under the provisions of this Act abuts on both sides may be closed by order of the commissioners court of the county in which said roadway is located, and thereafter all rights which the State may have in and to such roads by reason of previous dedication shall be cancelled and surrendered back to the county. [Acts 1929, 41st Leg., p. 272, ch. 120.]

[Art. 6081c. Development by certain cities of lands owned outside limits for parks and playgrounds]

Sec. 1. That whenever any incorporated city having a population of more than 43,000 according to the United States census of 1920, in any county having a population of less than 100,000 according to said census may own land without its limits, and devoted to use as a public park or playground, either or both, and which may be contiguous to any land owned by the county in which such city is situated and devoted to use as a public park, the governing body of such city may purchase for the city and the Commissioners' Court of such county may sell to the city, upon such terms as may be agreed upon, the lands so owned and held by the county, the same to be acquired by the city to be used exclusively in connection with its adjacent or contiguous lands devoted to park or playground purposes, either or both, and the land so acquired to be devoted to a like use; or the governing body of such city may sell to and the Commissioners' Court thereof may buy for such county, upon such terms as may be agreed upon, the lands so owned and held by the city, the same to be acquired by the county for the exclusive use in connection with its adjacent or contiguous lands devoted to use as a public park and to be devoted only to such purpose; provided, however, that in all cases of such sales the minimum consideration which may be agreed upon shall be adequate to pay, or provide for the payment of any portion of any unmatured bonded indebtedness which may have been incurred by the seller in originally acquiring the land so sold, all sums to the credit of the sinking fund of such indebtedness to be deducted from the face value of the unmatured bonds in determining the outstanding indebtedness within the meaning of this Act, and this provision to in no wise be deemed as prohibiting any agreement upon a greater consideration for the property.

Sec. 2. That whenever the governing body of any incorporated city may have under its management and control any property outside of the limits of such city and devoted to use as a public park or playground, either or both, and there may be adjacent or contiguous thereto proper-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

ty devoted to use as a public park under the control and management of the Commissioners' Court of the county in which such city is situated, [the governing body of such city and the Commissioners' Court of the county in which such city is situated,] the governing body of such city, and the Commissioners' Court of such county may, and they are hereby expressly authorized to, by lease or otherwise, upon such terms and for such period as they may determine, provide for the single management, conduct and control of such contiguous or adjacent properties for the benefit of the public and for the uses to which the same may have been devoted, by vesting the exclusive management, maintenance, conduct and control thereof in either the governing body of the city or the Commissioners' Court of the county, as may be agreed upon, the vesting of such exclusive management and control in one of such bodies to in no wise affect the power or authority of each of them to contribute such funds as it might lawfully have expended under its own management and control for the maintenance, improvement and upkeep of such parks or playgrounds, or providing, improving, maintaining and conducting suitable recreational facilities, structures and improvements therein or in connection therewith.

Sec. 3. Any roadway upon which land acquired for park purposes under the provision of this Act abuts on both sides [sides] may be closed by order of the Commissioners' Court of the county in which said roadway is located, and thereafter all rights which the State may have in and to such roads by reason of previous dedication shall be cancelled and surrendered back to the county. [Acts 1929, 41st Leg., p. 274, ch. 121.]

The bracketed matter in section 2 is superfluous and should be omitted.

[Art. 6081d. Condemnation or purchase of lands without city limits for parks and playgrounds; bonds and taxes authorized]

Sec. 1. That the governing body of any incorporated city in this State may receive and hold through gift or under dedication, and is hereby empowered to condemn or to purchase lands without its territorial limits and within the county in which such city is situated for the purpose of establishing and maintaining thereon public recreational parks and playgrounds, either or both, no one of such parks or playgrounds which may be acquired by purchase or through condemnation to exceed 320 acres in area and the total acreage outside of the limits of the city which may be acquired by purchase and through condemnation proceedings, either or both, shall not exceed 640 acres.

Sec. 2. For the purpose of condemning or purchasing, either or both, lands to be used and maintained as provided in Section 1 hereof, the governing body of any city falling within the terms of such Section may issue negotiable bonds of the city and levy taxes to provide for the interest and Sinking Funds of bonds so issued, the authority hereby given for the issuance of such bonds and levy of such taxes to be exercised in accordance with and subject to the provisions of Chapter 1 of Title 22 of the Revised Civil Statutes of 1925.

Sec. 3. Any and all recreational parks and playgrounds acquired under and by virtue of the terms of this Act shall be under the control and management of the governing body of the city acquiring the same and such governing body is hereby expressly empowered to improve, maintain and conduct the same for the benefit of the public and to provide, improve, maintain and conduct suitable recreational facilities therein and in connection therewith and to fix and collect such reasonable charges as the governing body shall deem fit for the use of such facilities by members of the public; all proceeds from such charges to be devoted exclusively to the support, maintenance, upkeep, and improvement of the city's parks and playgrounds and the facilities, structures, and improvements therein. Provided, that no city shall be liable for injuries to persons resulting from or caused by any defective, un-

sound, or unsafe condition of any such park or playground, or any part thereof, or thing of any character therein resulting from or caused by any negligence, want of skill, or lack of care on the part of any governing board, officer, servant, employee or other person with reference to the construction, management, conduct, or maintenance of any such park or playground or any improvement, structure, or thing of any character whatsoever located therein or connected therewith.

Sec. 4. That in addition to and exclusive of any taxes which may be levied and collected for the interest and Sinking Fund of any bonds issued under the authority of this Act and of any taxes which may be authorized to be levied and collected for the acquisition or maintenance of parks or playgrounds within the limits of the City, the governing body of any city falling within the terms hereof may and is empowered to levy and collect a Special Ad Valorem Tax not to exceed for any one year five cents on each One Hundred Dollars of the assessed value of the taxable property subject to taxation by the city for the purpose of acquiring any park or playground, either or both, authorized by the terms of this Act to be acquired, and such governing body is hereby further authorized to levy and collect an annual Special Ad Valorem Tax not to exceed five cents on each One Hundred Dollars assessed value of the taxable property in the city for the purpose of improving, maintaining, and conducting such parks and playgrounds as such city may acquire without its limits under the provisions of this Act, and to provide, improve, maintain and conduct for use herein and in connection therewith all such suitable recreational facilities and structures and other things as such governing body may deem fit. Provided, that no tax shall be attempted to be levied or collected in violation of any limit or restriction placed upon the taxing power of the city by the Constitution.

Sec. 5. All parks and playgrounds acquired and maintained under the provisions of this Act shall be open to the use of the public under such reasonable rules and regulations as the governing body having the control and management of the same may from time to time prescribe. However, no person, firm, association of persons, or corporation, shall have the right in any such park or playground to offer anything for barter or sale, or exhibit anything for pay or conduct any place of amusement for which an admission fee is charged or render personal service or transportation of any character for hire without having first obtained from such governing body the privilege of so doing under such rates of payment therefor and such other terms and conditions as may be agreed upon with such governing body, and all revenues arising from the grants of such privileges or concessions shall be devoted to the support, maintenance, upkeep and improvement of the city's parks and playgrounds and the facilities, structures, and improvements therein.

Sec. 6. Nothing herein contained shall be construed as repealing any provisions of any special charter of any incorporated city, but the powers, terms and provisions hereof shall exist as alternative powers, terms and provisions of any such special charter and any city which shall hereafter adopt or amend its own charter under the terms of the Home Rule provisions of the Constitution may provide in any such charter or amendments thereto provisions on the subject covered hereby other than and differing from those herein provided.

Sec. 7. Whenever any incorporated city may own land without its limits and devoted to use as a public park or playground, either or both, and which may be contiguous or adjacent to any land owned by the county in which such city is situated, and devoted to use as a public park, the governing body of such city may purchase for the city and the Commissioners' Court of such county may sell to the city upon such terms as may be agreed upon the lands so owned and held by the county or the Commissioners' Court of such county may purchase for the county and the governing body of the city may so sell to the county the lands owned by the city any such



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land so purchased to be used by the purchaser exclusively in connection with its contiguous or adjacent lands devoted to playground or park purposes and the land so acquired to be devoted to like use. Provided, however, that in all cases of such sales the minimum consideration which may be agreed upon shall be adequate to pay, or to provide for the payment of, any portion of any outstanding bonded indebtedness which may have been incurred by the seller in originally acquiring the land sold, all sums to the credit of the Sinking Fund of such indebtedness to be deducted from the face value of the unpaid bonds in determining the outstanding indebtedness within the meaning of this Act and this provision in no wise to be deemed as prohibiting any agreement upon a greater consideration for the sale of the property.

Sec. 8. Whenever any county and city situated therein may separately own contiguous or adjacent lands as described in the preceding section, the governing body of such city and the Commissioners' Court of such county may by lease, or other arrangements, upon such terms and for such period as they may determine provide for the single management, conduct, and control of such contiguous or adjacent properties in their entirety for the benefit of the public as a recreational park or playground by vesting the exclusive management, maintenance, conduct and control thereof either in the governing body of the city or the Commissioners' Court of the county as may be agreed upon, the vesting of such exclusive management and control in one of such bodies in no wise to affect the power or authority of each of them to contribute such funds as it might lawfully have expended under its own management and control for the maintenance, improvement and upkeep of such parks or playgrounds or providing, improving, maintaining and conducting suitable recreational facilities, structures and improvements therein or in connection therewith.

Sec. 9. Any roadway upon land acquired by any city under authority of this Act for the purposes herein prescribed or upon which there abut both sides lands of any city and county the exclusive control of which may be vested in the one or the other under the terms hereof may be closed by order of the Commissioners' Court of the county in which such roadway is located and thereafter all rights which the State may have in and to such roadway shall be considered as terminated and surrendered to the county or city as the case may be. [Acts 1931, 42nd Leg., p. 105, ch. 70.]

[Art. 6081e. Condemnation or purchase by county or incorporated city of land for parks or playgrounds; cooperation with State Parks Board]

Sec. 1. That any county or any incorporated city of this State, either independently or in cooperation with each other, or with the Texas State Parks Board, may acquire by gift or purchase or by condemnation proceedings, lands to be used for public parks and playgrounds, such lands to be situated in any locality in this State and in any sized tracts deemed suitable by the governing body of the city or county acquiring same.

Sec. 2. To pay for lands for park purposes any incorporated city may issue bonds and may levy a tax not exceeding ten (10) cents on the One Hundred (\$100.00) Dollars worth of property in said city to pay the interest and provide a sinking fund to retire such bonds, the issuance of such bonds and the collection of taxes to be in accordance with the provisions of Chapter 1, Title 22 of the Revised Civil Statutes of 1925.

Sec. 3. All parks acquired by authority of this Act shall be under the control and management of the city or county acquiring same or by the city and county jointly, where they have acted jointly in acquiring same, provided that the Commissioners' Court and the City Commission or City Council may, by agreement with the State Parks Board, turn the land over to the State Parks Board to be operated as a public park, the expense of the improvement and operation of such park to be paid by the county and/or

city, according to the agreement to be made between such municipalities and the State Parks Board.

All counties and incorporated cities are authorized to levy a tax of not exceeding five (5) cents on the One Hundred (\$100.00) Dollars property valuation to create a fund for the improvement and operation of such parks.

Sec. 4. The management in charge of any park created by authority of this Act shall have the right to sell and lease concessions for the establishment and operation of such amusements, stores, filling stations and all such other concerns as are consistent with the operation of a public park, the proceeds of such sales and rentals to be used for the improvement and operation of the park.

Sec. 5. All parks and playgrounds acquired and maintained under the provisions of this Act shall remain open for the use of the public under such rules and regulations as the governing body or bodies having the control and management of the same may from time to time prescribe. The Texas State Parks Board is hereby authorized to cooperate with any city and/or county in the acquisition and establishment of parks and playgrounds, and the Texas State Parks Board is hereby authorized to make such rules and regulations for the acquisition, establishment and operation of such parks and playgrounds with any city or county as said State Parks Board and city or county may deem advisable, and provided that the Governor and the State Prison Board may permit the use of State convicts for the improvement and maintenance of such parks under such provisions as may be made by the State Parks Board with said cities and/or counties.

Sec. 6. Nothing contained in this Act shall be construed as repealing any provisions of any special charter of any incorporated city but shall be deemed and held to be cumulative thereof. [Acts 1931, 42nd Leg., p. 248, ch. 148.]

## TITLE 108—PENITENTIARIES

### [Art. 6166g. Control of prison system]

Acts 1929, 41st Leg., p. 527, ch. 252, §§ 1, 2, effective March 19, 1929, authorizes the Texas Prison Board to sell 5.72 acres of land adjoining the Imperial State Farm near Sugar Land, Fort Bend County to the highest bidder at not less than \$200 per acre and directs the Chairman or Vice Chairman to execute deed attested by the Secretary.

### [Art. 6166x. Labor of prisoners]

Prisoners shall be kept at work under such rules and regulations as may be adopted by the manager with the Board's approval; provided, that no prisoner shall be required to work more than ten hours per day except on work necessary and essential to efficient organization of convict forces, which time shall include the time spent in going to and returning from their work, but not to include the intermission for dinner, which shall not be less than one hour, and in cases of such necessary and essential overtime work, said prisoners shall receive a deduction of time equal to double the hours so worked from the term or terms of sentence. This "necessary and essential work" shall be subject to the recommendation by the general manager to the Prison Board and shall become effective only after approval by said Board. Sunday work on jobs approved by the Prison Board shall be considered as "necessary and essential work." A strict accounting of credit records of all overtime earned shall be kept by the man in charge of the unit on which the work is performed and completed; a report shall be rendered to the general manager each month, who shall approve all such overtime before it is placed to the credit of the inmate. The Prison Board shall have the power to designate certain fixed overtime hours which it considers sufficient for the efficient performance of any particular work, and no inmate shall receive any overtime at all unless same is attested by the officer in charge of said inmate, who must certify from his own knowl-

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edge that said overtime was actually earned. For each sustained charge of misconduct in violation of any rule known to the prisoner all commutation earned by such overtime work shall be subject to complete forfeiture. In going to and returning from work prisoners shall not be required to travel faster than a walk. No greater amount of labor shall be required of any prisoner than his physical health and strength will reasonably permit, nor shall any prisoner be placed at such labor as the prison physician may pronounce him unable to perform. No prisoner upon his admission to the prison, shall be assigned to any labor until first having been examined by the prison physician. Any officer or employee violating any provision of this Section, shall be dismissed from the service. [As amended Acts 1929, 41st Leg., p. 485, ch. 229, § 1.]

Effective March 18, 1929. Section 2 of repeals all conflicting laws and parts of said Acts 1929, 41st Leg., p. 485, ch. 229, laws.

#### [Art. 6166z9. Salaries of employes of State Penitentiary]

Sec. 1. That hereafter the following employees of the State Penitentiary System, in addition to their board and lodging and such clothes and provisions as may be provided by appropriations, shall receive such salaries as may be fixed by the Prison Board not exceeding the following amounts, unless otherwise provided in the Biennial Appropriation, to-wit: Each guard, Seventy-five Dollars per month; each steward, Eighty-five Dollars per month; each gin manager, Eighty-five Dollars per month; each dog sergeant, Ninety Dollars per month; each assistant farm manager, One Hundred Twenty-five Dollars per month.

Sec. 1a. Provided that all employees to receive such salaries shall be invested and the employer of each shall be satisfied as to the employee's morals, honesty and other qualities touching his proficiency as such an employee before such salary increase shall be paid.

Sec. 1b. All guards and other employees shall have free medical attention from the prison physician and free hospital privileges in the prison hospital, when such guards and other employees have been injured while in the performance of their duties, in connection with the Prison System. [Acts 1929, 41st Leg., 1st C. S., p. 98, ch. 44.]

Section 1c of Acts 1929, 41st Leg., 1st C. S., p. 98, ch. 44, repeals all conflicting laws and parts of laws.

#### Art. 6196. [6227] Discharge of convicts

Not more than ten days nor less than four days before any convict is discharged from the penitentiary there shall be prepared and sent to the district clerk of the county where the convict was convicted and sentenced, or to such other county as hereinafter provided, a written or printed discharge from the Board, signed by the Chairman with the seal of the Board affixed, giving his name, date of sentence, from what county sentenced, the amount of commutation received, the trade he has learned, his proficiency in same and such description as may be practicable. Which report shall not be less than four days prior to said discharge sent by registered mail to said district clerk, and said report shall have a place for the convict to sign proper receipt of said discharge upon his presenting himself to said district clerk, and he shall report forthwith upon his arrival to such clerk, and he shall not be considered as finally discharged until he presents himself to said clerk and signs said receipt. He shall be furnished with a suit of clothes, of good quality and fit, two suits of underwear, one pair of shoes and a hat, one shirt and five dollars in money in addition to any money which he may have to his credit with the Board, and in addition the sum of three dollars as further traveling expense money. Each convict shall be discharged in the County in which he was convicted for the offense for which he served the sentence in the penitentiary, in the manner as herein set forth except as hereinafter set forth. He shall be given a non-transferable and non-cashable ticket for trans-

portation to the county in which he was convicted, or to any other point in the State in which he selects, provided an official selected for the purpose of the penitentiary commission approves the request of the convict that a ticket be given to him to the point in the State other than the county in which he was convicted, but if it shall be determined that he go to another point in the State other than the county in which he was convicted, then it must be a point where a county seat is located and the discharge papers as herein provided for must be sent to the district clerk of that county to be signed by the convict in the manner and form as herein provided had he gone to the county where he was convicted. Provided further that said convict shall be given a temporary certificate by the Board good for ten days, protecting said convict from molestation while traveling to the place of his discharge. [As amended Acts 1929, 41st Leg., 1st C. S., p. 9, ch. 5, § 1.]

Section 1 of Acts 1929, 41st Leg., 1st C. S., p. 9, ch. 5, amends Rev. St. 1925, art. 6196 without reference to its repeal by Acts 1927, 40th Leg., p. 298, c. 212, § 1.

#### Art. 6203. [6086-7-8] Board of Pardons

**Sec. 1. Board of Pardons and Paroles.** There is hereby created a Board to be known and designated under the official title of the Board of Pardons and Paroles hereinafter referred to as the Board. The Board consisting of three qualified voters of this State of high character and broad understanding who are interested in the reformation and rehabilitation of prisoners and who shall perform such duties as the Governor may direct and as herein directed consistent with the Constitution and as the Governor may deem necessary in disposing of all applications for pardons, paroles and furloughs. Said Board shall be appointed by the Governor, one to serve two years, one to serve four years, and one to serve six years, and at the expiration of the term for which a member of said Board has been appointed, his successor shall be appointed. Said Board shall be given a room in the Capitol, properly furnished with necessary furniture and file cases, and provided with such stationery and other appliances which may be necessary for the speedy and proper dispatch of the business for which it is organized, as well as herein directed to perform. Said Board shall make a thorough examination of each application which the Governor may refer to it and report its recommendations thereon to him. It shall spend such time each year as may be necessary in personally looking into the condition of such convicts as it may desire, or as may be designated by either the Governor, the Prison Board, Manager of the Prison System or its physician, giving special attention to the cases of those of long service who may be so designated and who have no means of getting a proper petition before the Governor, to the end that the Board may have before it such data as will enable it to judge the condition of such convicts. All cases shall be taken up, considered and voted upon by said Board in the regular order of reference, by the Governor, except when it appears to said Board there is extraordinary emergency in any case. Said Board shall be required to keep a record in which shall be entered every case sent it by the Governor, giving the docket number of the convict, his name, when and where convicted, his sentence, his offense, when received from the Governor, the action taken by said Board, and the date of said action. The salaries of the members of said Board shall be Three Thousand Dollars per annum payable in twelve equal installments.

**Sec. 2. Organization of Board. Supervisor of Parole.** The Governor shall designate one member of the Board as Chairman, who shall be the presiding officer of said Board; any other member thereof may act as such Chairman in the Chairman's absence. The Board shall designate one of its members who shall act as Supervisor of Paroles whose duty it shall be to have assembled a complete record of all prisoners received by the Prison System who may be, or may become eligible to parole under the provisions of this Law, as hereinafter provided. It shall also be his duty

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to secure employment, if possible, for paroled prisoners, and to supervise and keep a record of them. [As amended Acts 1929, 41st Leg., 1st C. S., p. 99, ch. 45.]

**Sec. 3. Action on Application for Pardon.**—When an application for pardon is referred to the Board by the Governor, the Secretary of the Board shall immediately, by registered mail, notify the prosecuting officer, or officers, and the Sheriff of the county in which the applicant was convicted, or in which the alleged crime was committed, or both, of the filing of such application, and that they or either of them, or any interested party, may within ten days from the receipt of such notice, present in person or in writing to said Board their objection, if any, to the granting of such pardon. [As amended Acts 1929, 41st Leg., 1st C. S., p. 99, ch. 45; Acts 1930, 41st Leg., 5th C. S., p. 126, ch. 11, § 2.]

Acts 1929, 41st Leg., 1st C. S., p. 99, ch. 45, required the objection to be made with-

**Sec. 4. Duties of Board.** It shall also be the duty of the Supervisor of Paroles to ascertain and report to the Governor what prisoners serving in the State Penitentiary may profitably, both to themselves and to society, be released on parole, or furlough, and when and under what conditions. The Supervisor of Paroles shall also be charged with the duty of supervising all prisoners released on parole from the prisons of the State, of making such investigations as may be necessary in connection therewith, of determining whether violation of parole condition exists in specific cases and of deciding the action to be taken with reference thereto, and of aiding paroled prisoners to secure employment. It shall also be his duty personally to study the prisoners confined in the prisons of the State eligible for parole, so as to determine their ultimate fitness to be paroled.

**Sec. 5. Pre-Parole Records.**—As soon as practicable after each prisoner eligible for parole under this Act is received in the prisons of the State, it shall be the duty of the Parole Supervisor to cause to be obtained and filed, information as complete as may be obtainable at that time with regard to each such prisoner. Such information shall include a complete statement of the crime for which he is then sentenced, the circumstances of such crime, the nature of his sentence, the court in which he was sentenced, the name of the Judge and District Attorney sentencing and trying such prisoner and copies of such probation reports as may have been made, as well as reports as to the prisoner's social, physical, mental and psychiatric condition and history. It shall be the duty of any District Judge, District Attorney, County Attorney, Clerk of the Court and of all probation officers and other public officials of this State having information with reference to any prisoners eligible to parole, to send such information as may be in their possession or under their control to the Board upon request of the Board or any member or employee thereof. The Board shall also at that time obtain and file a copy of the complete criminal record of such prisoner, including any Juvenile Court record, that may exist. [As amended Acts 1929, 41st Leg., 1st C. S., p. 99, ch. 45.]

**Sec. 6. Who May Be Paroled:** Every person sentenced to an indeterminate sentence and now confined in the penitentiary, or hereafter sentenced thereto on an indeterminate sentence, who has never before been imprisoned [imprisoned] in a State Penitentiary in this or any other state or nation, when he shall have served a period of time equal to the minimum sentence imposed upon him for the crime, or crimes, of which he was convicted, shall be deemed eligible for parole under the provision of this Act. In addition, every person now confined in the penitentiary on a definite sentence, or who shall hereafter be sentenced thereto for a definite term and who has never before been imprisoned in a State Penitentiary in this or any other state or nation, shall be deemed eligible for a parole when

he shall have served one-third of the term, or terms, for which he was sentenced. But in neither of the foregoing cases shall such person be recommended for release on parole under the terms of this Act until he shall have served such minimum period of time. [As amended Acts 1929, 41st Leg., 1st C. S., p. 99, ch. 45; Acts 1930, 41st Leg., 4th C. S., p. 9, ch. 9, § 1.]

**Sec. 7. Reasons for Release.** No prisoner shall be recommended for release on parole merely as a reward for good conduct or efficient performance of duties assigned in prison, but only if the Board of Parole is of opinion that there is reasonable probability that, if such prisoner is released, he will live and remain at liberty without violating the law, and that his release is not incompatible with the welfare of society. If the Board shall so determine, it shall recommend that such prisoner shall be allowed to go upon parole outside of prison walls and inclosure upon such terms and conditions as the Board shall prescribe, but to remain while thus on parole in the legal custody of the Prison until the expiration of the maximum term specified in his sentence. [Acts 1927, 40th Leg., p. 217, ch. 147, as amended Acts 1929, 41st Leg., 1st C. S., p. 99, ch. 45.]

**Sec. 8. Method of Release.**—Application for parole when he shall become eligible may be made to the Board by or on behalf of a prisoner, or the Board may consider the parole of a prisoner on its own initiative or at the request of the Governor. At the last meeting of the Board prior to the expiration of the minimum time of each prisoner eligible for parole, it shall be the duty of the Board to cause to be brought before it all information with regard to such prisoner referred to in Section 5. In addition, it shall have before it a report from the Warden or Manager of each prison or prison farm on which such prisoner has been confined as to the prisoner's conduct in prison, with a detailed statement as to all infractions of prison rules and discipline, all punishments meted out to such prisoner and the circumstances connected therewith, as well as a report from each such official as to the extent to which such prisoner has responded to the efforts made in prison to improve his mental and moral condition. Such Board shall also have before it the report of such physical, mental and psychiatric examinations as have been made of such prisoner. No prisoner shall be recommended for release on parole except by a majority vote of the members of the Board nor unless the Board is satisfied that he will be suitably employed in self-sustaining employment if so released. [As amended Acts 1929, 41st Leg., 1st C. S., p. 99, ch. 45; Acts 1930, 41st Leg., 5th C. S., p. 126, ch. 11, § 1.]

**Sec. 9. Conditions of Parole.** When a prisoner is released on parole the Board shall specify in writing the conditions of his parole, and a copy of such conditions shall be given to the parolee. A violation of such conditions may render the prisoner liable to arrest and re-imprisonment for the full term of his sentence. The Board shall adopt general rules with regard to conditions of parole and their violation and may make special rules to govern particular cases, together with such other rules and regulations as may be necessary to carry out the purposes of the Act and the powers hereby conferred. Such rules, both general and special, may include, among other things, a requirement that the parolee shall not leave the State without the consent of the Board, that he shall contribute to the support of his dependents, that he shall make restitution for his crime, that he shall abandon evil associates, and ways, that he shall carry out the instructions of his parole officer, and in general so comport himself as such officers shall determine.

**Sec. 10. [Clothing and transportation.]** Upon the discharge of any prisoner upon parole, either under the provisions of this Act, or through the exercise by the Governor of executive clemency, independent of this Act, such person so paroled, shall be furnished by the proper officers of the State Prison Board with such clothing as is usually furnished to prisoners upon discharge from prison in this State together with a railroad

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non-transferable ticket from the place of his discharge to the place of his conviction and sentence, and in addition thereto the sum of \$5.00.

**Sec. 11. Violation of Parole.** If the parole officer having charge of a paroled prisoner, or any member of the Board, shall have reasonable [reasonable] cause to believe that such prisoner has lapsed, or is probably about to lapse, into criminal ways or company, or has violated the conditions of his parole, such parole officer or any member of the Board shall report such fact to the Governor, who thereupon shall issue a warrant for the retaking of such prisoner and his return to the prison designated in such warrant.

**Sec. 12. Retaking of a Violator of Parole.** Any officer authorized to serve criminal process, or any peace officer to whom such warrant shall be delivered is authorized and required to execute such warrant by taking such prisoner on parole, there to be held to await the action of the Board. Such officer, other than an officer of the prison or parole officer, shall be entitled to receive the same fees therefor as upon the execution of a warrant of arrest at the place where said prisoner shall be retaken, and as for transporting a convict from the place of arrest to the prison, in case such officer also transports said prisoner to the prison. Such fees of the officer, other than a prison officer or parole officer, and the expenses of a parole or prison officer in executing such warrants shall be paid by the Warden or Manager of the prison in which prisoner has been confined, out of the moneys standing to the credit of such paroled prisoner, if any, or sufficient therefor, and otherwise out of the funds of the prison, in which case such expenses shall be charged against and deducted from any moneys which may stand to the credit of such prisoner in the future.

**Sec. 13. Board to Act on Violations of Parole.** Whenever there is reasonable cause to believe that a prisoner who has been paroled has violated his parole, the Board shall declare such prisoner to be delinquent and time owed shall date from such delinquency. The Warden or Manager of the prison shall promptly notify the Board of the return of a paroled prisoner charged with violation of his parole. Thereupon such Board shall, as soon as practicable, hold a hearing and consider the case of such parole violator. The Board shall with [in] a reasonable time act upon such charges, and may if it sees fit, require such prisoner to serve out in prison the balance of the maximum term for which he was originally sentenced calculated from the date of delinquency.

**Sec. 14. Felony Committed while on Parole.** If any prisoner be convicted of a felony committed while on parole, he shall, in addition to the sentence which may be imposed for such felony, and before beginning to serve such sentence, be compelled to serve in State's prison the portion remaining of the maximum term of the sentence on which he was released on parole from the time of such release on parole to the expiration of such maximum. No such person shall be eligible for any further parole at any time.

**Sec. 15. No Discharge from Parol.** No person released on parole shall be discharged from parole prior to the expiration of the full maximum term for which he was sentenced. The Board, however, may relieve a prisoner on parole from making further reports and may permit such prisoner to leave the State, or county, if satisfied that this is for the best interests of society.

**Sec. 16. Records.** The Board shall cause complete records to be kept of every prisoner released on parole. Such records shall contain the finger prints, aliases and photograph of each such prisoner as far as available and the other information referred to in this Act, as well as all reports of parole officers with relation to such prisoner. The Board may make rules as to the privacy of such records and their use by others than the Board and its staff.

**Sec. 17. Co-operation: Right of Access to Prisons.** The Warden or Manager of each prison and all officers and employees thereof and all other public officials and employees shall at all times cooperate with the Board, and shall furnish to such Board, its officers and employees such information as may be necessary to enable it to perform its functions, and such Wardens and other employees shall at all times give the members of such Boards, its officers and employees, free access to all prisoners confined in the prisons of the State.

**Sec. 18. Long Term Sentences.** On and after the date this Act takes effect all prisoners who shall receive a sentence in excess of twenty-five years, including sentences of natural life, shall, at the expiration of nineteen calendar years servitude, with a clear prison record, be eligible to a parole under the provisions of this Act.

**Sec. 19. Credit for Time Earned and Overtime.** In computing the time of service of prisoners under this Act there shall be taken into consideration such commutation of time which may have been earned by such prisoners for good behavior for overtime service under the laws of this State.

**Sec. 20. Executive Clemency.** The provisions of this Act shall not be construed to prevent or limit the exercise by the Governor of this State of powers of executive clemency vested in him by the Constitution of this State, and the Board of Parole shall have no power to grant the right of parole to any prisoner except by and through the Governor of this State in the exercise of such power of executive clemency.

**Sec. 21. [Members of board.]** "The members of the Board of Pardons now serving when this Act takes effect shall constitute two members of the Board of Pardons and Paroles and shall continue in office as such for the full term for which they have been heretofore appointed." [As amended Acts 1929, 41st Leg., 1st C. S., p. 99, ch. 45.]

Section 2 of Acts 1929, 41st Leg., 1st C. S., p. 99, ch. 45, repeals all conflicting laws and parts of laws and provides, that if any por-

tion is held invalid, such holding shall not affect the remainder.

**[Art. 6203a. Lease of oil and gas in prison lands]**

**Sec. 1.** A Board is hereby created to consist of the Commissioner of the General Land Office, the Attorney General and the Chairman of the State Prison Board, who shall perform the duties hereinafter indicated; the Board shall be known as the "Board for Lease of Texas Prison Lands." The term "Board" wherever it appears hereafter in this Act shall mean the "Board for Lease of Texas Prison Lands." This Board shall keep a complete record of all its proceedings.

**Sec. 2.** All lands or any parcel of same now owned, or that may be owned and held by the State as State prison lands may be leased by the Board to any person, or persons, firms, or corporation, subject to and as provided for in this Act for the purpose of prospecting, or exploring for and mining, producing storing, caring for, transporting, preserving, and disposing of the oil and/or gas therein belonging to the State.

**Sec. 3.** The Board is hereby authorized to cause the State Prison Lands to be surveyed and sub-divided into such lots or blocks as will be conducive or convenient to facilitate the advantageous sale of oil and/or gas leases thereon, and identify such lots and blocks by permanent markings on the ground, and to make such maps and plats as may be thought necessary to carry out the purposes of this Act. The Board shall forthwith obtain authentic abstracts of Title to all prison lands, and cause same to be examined by the Attorney General, who shall file written opinions thereon, and said Board shall take such steps as may be necessary to perfect a merchantable title to such lands in the State of Texas. Such Abstracts of Title and the Attorney General's opinion thereon shall be held on file in the General Land Office as public documents for the inspection of any prospective purchaser of oil and gas leases on said lands.



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Sec. 4. Wherever, in the opinion of the Board there shall be such a demand for the purchase of oil and/or gas leases on any lot or tract of land as will reasonably insure an advantageous sale, the Board shall place such oil and gas in said land on the market in such blocks or lots as the Board may designate. It shall cause to be advertised a brief description of the land from which the oil and gas is proposed to be sold and that sealed bids for the purchase of said oil and/or gas by lease will be opened at a designated day, at ten o'clock, A. M., that day and that sealed bids received up to that time will be considered. Said advertisements shall be made:

(a) By mailing a copy thereof to the County Judge of every County in this State, two daily newspapers published in Texas.

(b) In addition the Board may in its discretion, cause said advertisement to be placed in oil and gas journals in and out of the State to be mailed generally to such persons as they think might be interested.

Sec. 5. All bids shall be directed to the said Board in care of the General Land Office of the State of Texas, and shall be retained by the Commissioner of the General Land Office until the day designated for the opening of bids and upon that day the said Board, or a majority of its members shall open said bids and shall list and file and register all bids and money received. A separate bid shall be made for each whole survey or subdivision thereof. No bid shall be accepted which offers a royalty of less than one-eighth of the gross production of oil and/or gas in the land bid upon, and this minimum royalty may be increased at the discretion of the Board, all members concurring, before the promulgation of the advertisement of the land. Every bid shall carry the obligation to pay an amount not less than One Dollar per acre for delay in drilling, such amount to be fixed by the Board in advance of the advertisement, and which shall be paid every year for five years, unless in the meantime production in paying quantities is had upon the land.

Sec. 6. Every bid shall be accompanied by a payment equal to the minimum price fixed on the land per acre for delay in the drilling if the bid is accepted. The bid shall further indicate the royalty the bidder is willing to pay, which royalty shall not be less than one-eighth of the gross production. The bid shall further name such amount as the bidder may be willing to pay in addition to the royalty and the annual payment herein provided for, and shall be accompanied by cash or checks collectable in Austin to cover said amounts.

Sec. 7. If any one of the bidders shall have offered a reasonable and proper price therefor, not less than the price fixed by the Board, the lands advertised, or any whole survey or subdivision thereof, may be leased for oil and/or gas purposes under the terms of this Act and such regulations as the Board may prescribe, not inconsistent with the provisions of this Act. If after any bidding by sealed bids the Board should reject all bids, as it is hereby authorized to do, it may thereafter offer for sale and sell the oil and/or gas in said lands, in separate whole surveys only or subdivisions thereof, by open public auction at a price less than the price offered by the sealed bids. All bids may be rejected. In the event of no sale at public auction, any subsequent procedure for the sale of said oil and gas leases shall be in the manner above provided.

Sec. 8. If the Board shall determine that a satisfactory bid has been received for said oil and gas, it shall be filed in the General Land Office. Whenever the royalty shall amount to as much as the yearly payment as fixed by the Board, the yearly payment may be discontinued. If before the expiration of three years oil and/or gas shall not have been produced in paying quantities, the lease shall terminate.

Sec. 9. If during the term of any lease issued under the provisions of this Act the lessee shall be engaged in actual drilling operations for the discovery of oil and/or gas on land covered by any such lease, no rentals

shall be payable as to the tract on which such operations are being conducted so long as such operations are proceeding in good faith; and in the event oil or gas is discovered in paying quantities on any tract of land covered by any such lease, then the lease as to such tract shall remain in force so long as oil or gas is produced in paying quantities from such tract. In the event of the discovery of oil and/or gas on any tract covered by a lease issued hereunder or on any land adjoining same, the lessee shall conduct such operations as may be necessary to prevent drainage from the tract covered by such lease and to properly develop the same. Failure to comply with the obligations provided by this section shall subject the holder of the lease to the penalties provided in Sections 12 and 13 of this Act.

Sec. 10. Title to all rights purchased may be held by the owners so long as the area produces oil and gas in paying quantities. All rights purchased may be assigned in quantities of not less than forty acres, unless there be less than forty acres remaining in any survey, in which case such lesser area may be so assigned. All assignments shall be filed in the General Land Office within one hundred days after the date of the first acknowledgement [acknowledgment] thereof, accompanied by ten cents per acre for each acre assigned, and if not so filed and payment made, the assignment shall be ineffective. All rights to any whole survey and to any assigned portion thereof may be relinquished to the State at any time by having an instrument of relinquishment recorded in the county or counties, in which area may be situated and filed in the Land Office accompanied with one dollar for each acre assigned, but such assignment shall not relieve the owner of any past due obligations theretofore accrued thereon. The Board shall authorize the laying of pipe line, telephone lines, and the opening of such roads over the Prison lands as may be deemed reasonably necessary for and incident to the purpose of this Act.

Sec. 11. Royalty as stipulated in the sale shall be paid to the General Land Office at Austin, Texas, for benefit of the General Revenue Fund on or before the 20th day of each succeeding month[s] for the preceding month during the life of the rights purchased and it shall be accompanied by the sworn statement of the owner, manager or other authorized agent showing the gross amount of oil produced and saved since the last report and the amount of gas produced and sold off the premises and the market value of the oil and gas, together with a copy of all daily gauges of tanks, gas meter readings, pipe line receipts, gas line receipts, and other checks and memoranda of the amounts produced and put into pipe lines, tanks or pools and gas lines or gas storage. The books and accounts and all bids, receipts and discharges of all wells, tank pools, meters, pipe lines, and all contracts and other records pertaining to the production, transportation, sale and marketing of the oil and/or gas shall at all times be on file in the General Land Office and be subject to inspection and examination [examination] by the Commissioner of the General Land Office, the Attorney General, the Governor or any member of the State Prison Board.

Sec. 12. In every case where the area in which oil and/or gas sold shall be contiguous or adjacent to land not Prison land, the acceptance of the bid and the sale made thereof to adequately protect the land leased from drainage from adjacent lands. In cases where the area in which the oil and/or gas is sold, as a lesser royalty, the owner shall likewise protect the State from drainage from the land so leased or sold for lesser royalty. Upon failure to protect the land from drainage as herein provided the sale and all rights thereunder may be forfeited by the Board in the manner elsewhere provided herein for forfeitures [forfeitures].

Sec. 13. If the owner of the rights acquired under this Act shall fail or refuse to make the payment of any sum due thereon, either as rental or royalty on the production within thirty days after same shall be-

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come due, or if such owner or his authorized agent should make any false return or false report concerning production, royalty or drilling, or if such owner shall fail or refuse to drill any offset well or wells in good faith, as required by his lease, or if such owner or his agent should refuse the proper authority to access to the records and other data pertaining to the operations under this Act, or if such owner, or his authorized agent, should fail or refuse to give correct information to the proper authorities, or fail or refuse to furnish the log of any well within thirty days after production is found in paying quantities, or if any of the material terms of the lease should be violated, such lease shall be subject to forfeiture by the Board by an order entered upon the minutes of the Board reciting the facts constituting the default, and declaring the forfeiture. The Board may, if it so desires, have suit instituted for forfeiture through the Attorney General of the State. Upon proper showing by the forfeiting owner, within thirty days after the declaration of forfeitures, the lease may, at the discretion [discretion] of the Board and upon such terms as it may prescribe, be reinstated. In case of violation by the owner of the lease contract, the remedy of the State by forfeiture shall not be the exclusive remedy, but suit for damages or specific performance, or both, may be instituted. The State shall have a first lien upon all oil and/or gas produced upon the leased area and upon all rigs, tanks, pipe line, telephone line, and machinery and appliances used in the production and handling of oil and gas produced thereon, to secure any amount due from the owner of said lease.

Sec. 14. All surveys, files, records, copies of sale and lease contracts, and all other records pertaining to the sales and leases hereby authorized shall be filed in the General Land Office and constitute archives thereof. Payment hereunder shall be made to the Commissioner of the General Land Office at Austin, Texas, who shall transmit to the State Treasurer all royalty for deposit to the credit of the General Revenue Fund and all rentals for delay in drilling and all other payments including all filing assignments and relinquishment fees hereunder to the credit of the General Revenue Fund.

Sec. 15. The expenses of executing the provisions of this Act shall be paid monthly by warrants drawn by the Comptroller on the State Treasurer, and for that purpose the sum of Two Thousand (\$2,000.00) Dollars or as much thereof as may be necessary is hereby appropriated out of any money in the Treasury not otherwise appropriated until September 1, 1930.

Sec. 16. If any provision hereof should be held unconstitutional, the balance of the Act shall not be affected thereby.

Sec. 17. The Board shall adopt proper forms and regulations rules and contract as will in its best judgment protect the income from lands leased hereunder. A majority of the Board shall have power to act in all cases, except where otherwise herein provided. The Board may reject any and all bids, and shall have the further right to withdraw any lands advertised for lease prior to receiving and opening bids. Any and all or parts of laws in conflict with this Act are hereby repealed. [Acts 1930, 41st Leg., 4th C. S., p. 16, ch. 13.]

#### [Art. 6203b. Schooling for state convicts]

Sec. 1. The Texas Prison Board shall immediately arrange for the teaching of reading, writing, spelling and arithmetic to all inmates of the penitentiary of the State of Texas. All illiterates shall receive instruction the equal of five hours per week and all other prisoners may at their option receive such instruction. The hours fixed for such instruction shall be other than those hours now fixed by law for labor. Nothing herein contained shall prevent the literate prisoners from organizing for

themselves special instruction or classified instruction of a higher class than that enumerated herein above.

Sec. 2. Each prisoner attending such instruction in good faith, or who shall act as an instructor of such prisoners, shall be allowed as a credit on the term of his sentence one-half hour additional than that now allowed by law for good behavior for each hour in attendance either as receiver of [or] giver of instructions.

Sec. 3. It shall be the duty of the Chaplains of the prison system to organize [organize] under the direction of the Texas Prison Board such instruction, and to supervise the same after organization. Prisoners with the aid of the Chaplains shall be the teachers and instructors.

Sec. 4. The Texas Prison Board is hereby authorized to and shall prescribe and promulgate such rules and regulations as may be necessary to make the provisions of this Act effective, but said Texas Prison Board shall not be required to build any additional buildings for said purpose. The Texas Prison Board shall arrange with the State Superintendent of Public Instruction for a sufficient number of second-hand text books for said purpose.

Sec. 5. There shall be read and explained for at least one hour of each school week portions of the Constitutions of the United States and the State of Texas. [Acts 1930, 41st Leg., 4th C. S., p. 54, ch. 31.]

#### [Art. 6203c. Improvement of prison system]

Sec. 1. The purpose of this Act is to renovate, improve and rehabilitate the Central Unit of the Texas Prison System at Huntsville and to construct and modernize the prison farm units of said system to the end that the prison population of Texas may be adequately housed, and securely confined, and gainfully employed in such enterprises as will, in the opinion of the Prison Board, prove most remunerative to the State and beneficial to the prisoners, it being the Legislative intent to first relieve the emergency now existing in the walls at Huntsville by providing for reasonable sanitation and hospitalization within this unit and by supplying needed and practicable industrial equipment therein, and then to relieve prison congestion by erecting permanent housing facilities on and for designated farm units.

Sec. 2. To accomplish the purposes enumerated herein the Texas Prison Board is authorized and directed as follows:

A. To equip the present property within the walls with reasonable sanitary devices including the installation of a sewer system for all cell blocks and at other points therein if needed.

B. To provide adequate hospitalization within the walls, including equipment for the scientific diagnosis and treatment of diseases and the installation of an adequate medical supply depot.

C. To acquire and install emergency mechanical devices, equipment, and machinery for shops and industries now operated or that may be operated profitably in said Central Unit.

D. To erect and equip such prison farm units, as in the opinion of the Prison Board, are necessary to relieve the present prison congestion. The Board is hereby authorized to erect and equip one modern, sanitary fire-proof farm unit on either the Imperial, the Darrington or the Harlem Farm. Or, in the alternative, if the said Board so elects, it is hereby authorized to erect two such units and locate same on any two of said farms, or if the Board deems expedient, it is hereby authorized to erect three such plants and place one on each of said farms. If one unit is erected it shall be sufficiently commodious to accommodate the number of persons reasonably required for agricultural enterprises on all accessible farms when used in conjunction with the present tenantable and usable facilities now on said farms. If two or three units are erected they shall be so constructed as to accommodate enough prisoners to care for and

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tend all land accessible thereto. Such unit or units shall be equipped with modern, sanitary devices and supplied with such facilities as are necessary to insure comfortable and humane living conditions for prison inmates. Each unit shall be equipped with a hospital ward adequate for all anticipated needs.

E. The Prison Board is further directed to renovate, remodel and repair the present improvements on the Goree Farm, and to make such additions thereto as may be necessary to provide adequate housing facilities for all female inmates of the prison system, and to supply industrial employment for such of the female inmates as may be used profitably in such employment. Adequate hospital facilities shall be provided on this farm for all female prisoners. White and Colored prisoners shall be segregated in separate living quarters, work shops, and hospitals.

F. The Prison Board is further directed to take such steps, other and additional, as are incident or necessary to effectuate any and all of the several undertakings herein specially delineated [delineated].

Sec. 4. In the erection of the improvements authorized by this Act, it shall be the duty of the Prison Board to use prison labor where practicable, but if such labor is found impracticable, then the Board may contract for such free labor as is necessary. For these enterprises the Board is also directed to use the services of any experts, engineers, architects, or specialists now employed by the State in any Department or Institution, and if not inconsistent with pre-existing duties, it shall be incumbent upon any and all such experts, engineers, architects, and specialists to render such aid as may be requested by such oBard [Board].

Sec. 5. The Prison Board and the State Highway Commission are hereby directed to construct such adequate hard surfaced roads as may be necessary to connect the three prison farms specially mentioned in this Act, to-wit: the Imperial, Darrington, and Harlem Farms with existing improved or hard surfaced State or County highways, it being the intention of the Legislature to make these farm units accessible to vehicular traffic at all times. The Highway Department will lay out the necessary roads, make all plans and specifications, necessary therefor, and furnish all such material and equipment as may be necessary for their construction, and also furnish all such supervising, engineering service as may be necessary for such road building projects. The Prison Board is hereby [hereby] authorized to provide portable housing facilities and road camps for the purpose of utilizing prison labor on these road building projects. The Prison Board is directed to furnish all labor for these road building enterprises and to cooperate with the Highway Department in their construction, to the end that these projects may be built out of prison labor as nearly as practicable. The expense incurred by the State Highway Department in the construction of these roads shall be borne by said Department and paid out of any funds in its hands available for building or for aiding the construction of public highways in this State.

Sec. 6. The Prison Board is here directed to remodel, repair and renovate the present improvements on the Wynne farm and to make such additions to the present housing and hospital equipment thereon as may, in the opinion of the Board, be necessary to convert same into a modern and sanitary prison unit for all tubercular inmates of the prison system, it being the intention of the Legislature to authorize the Prison Board to so equip this unit as to make the same available for the proper housing, treatment and employment of prisoners afflicted with tuberculosis.

Sec. 7. The Prison Board may in its discretion, sell the Shaw Farm located in Bowie County, (same being all the prison owned land in said County,) at any time after having given public notice in as many as four daily newspapers published in the State, stating the time, place, and terms of sale, and terms being for not less than one-fifteenth cash, with remainder divided into fifteen equal annual payments, maturing in one

to fifteen years, with interest payable annually at the rate of 5% per annum, said deferred payments to be secured by vendor's lien. The proposals for purchase shall be in the form of sealed bids accompanied by Cashier's Check, payable to the State Treasurer, for the initial cash payment. All conveyances of such land shall be signed and acknowledged by the Governor of Texas and by the Chairman of the Prison Board. All oil, gas and mineral rights in and to said land shall be reserved to the State of Texas, with the provision that as and when such oil, gas or other minerals are sold, either by lease or otherwise, an equal one-eighth portion of the net proceeds of such sale or sales, shall be paid to the State's vendee of the surface, or the heirs or assigns of said vendee. The State shall reserve the usual rights of ingress and egress, and such other rights as are incident and necessary for the proper exploration of said lands for mineral deposits and for the development and sale of such deposits. The mineral rights reserved to the State shall be under jurisdiction of the Prison Land Leasing Board, and all sales of minerals in and under said Shaw Farm shall be made by said Land Leasing Board as provided in Senate Bill No. 29, passed at the Fourth Called Session of the 41st Legislature. All money derived from the sale of the surface or mineral rights in said prison land shall be paid into the General Revenue Fund.

Sec. 8. The Prison Board is directed to provide for the levying, drainage and reclaiming of any overflow lands owned by the prison system, and for clearing any uncleared tillable land and for this purpose prison labor shall be used, and the portable road camps and equipment shall be utilized where practicable.

Sec. 9. Authority is hereby given to the Prison Board and to the Board of Control to enter into contracts whereby the Prison Board may sell to the Board of Control any products produced by the prison system, whether such products be agricultural, or manufactured products, and it is hereby made the duty of the Board of Control to purchase all needed prison products when such purchase is economical. When goods, wares, merchandise, or supplies are procured, bought or manufactured and then furnished any department or unit of the prison system, the charge against such department or unit for such goods, wares, merchandise or supplies shall be the identical cost price of such article whether bought or manufactured and with no cost for labor or overhead [overhead] charge included. When farm products are transferred from one unit or department of the prison system to another the charge to such receiving unit or department shall be at the market price of such product on the day delivered at the place delivered. [Acts 1930, 41st Leg., 5th C. S., p. 215, ch. 67.]

Acts 1930, 41st Leg., 6th C. S., p. 215, ch. 67, contains no section 3. \$450,000 for the purposes of the act and sections 11, 12 and 13 distributes the expenditures. Section 10 makes an appropriation ofitures.

[Art. 6203d. Right of way for irrigation canals, laterals, etc., over lands of Penitentiary System]

Sec. 1. That the Texas Prison Board, by and with the consent of the Governor and the Attorney General of the State of Texas, is hereby authorized and empowered to grant permanent and temporary right-of-way easements for irrigation canals, laterals, flumes and ditches, not in excess of 150 feet in width, along, across and over any and all lands now owned by the State of Texas as a part of the Penitentiary System, and/or to lease such rights-of-way, to districts, companies, firms and individuals carrying on, or formed for the purpose of carrying on, an irrigation business.

Sec. 2. Such grants and leases shall be executed only upon a fair and adequate consideration and shall contain full reservation of all minerals in and under said lands sufficient guarantees as to the use of the waters conveyed through said irrigation canals by the State Prison Board for irrigation and other purposes and such other covenants, conditions and

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provisions as to the Texas Prison Board, together with the approval of the Governor and the Attorney General, shall appear to be fair, wise and reasonable. Provided, however, that all of such grants or leases shall require that the person or corporation securing a right-of-way or easement shall pay all costs of any improvements at any time made necessary in crossing canals or laterals. [Acts 1931, 42nd Leg., p. 285, ch. 166.]

[Art. 6203e. State Prison Psychopathic Hospital established and maintenance provided]

Sec. 1. That there shall be built, established and maintained, as a part of the Prison System of Texas, an Institution for the examination, observation, treatment and incarceration of all persons who have been convicted of felony, and who have been duly adjudged insane by any competent Court at Law in the State of Texas; and, who have been acquitted by a Court of Competent Jurisdiction upon the grounds of insanity; said institution to be known as the State Prison Psychopathic Hospital.

Sec. 2. The construction, support and maintenance of said institution shall be made by appropriation to the Prison System of Texas for that purpose. Said Institution shall be located on any land adjacent to, or within the walls of the prison system at Huntsville, Walker County, Texas.

Sec. 3. The Texas State Prison Manager or other person in charge of the management of said prison shall, upon the advice of any prison physician send any prisoner to said Hospital for observation, care and treatment for thirty (30) days, and upon final examination he shall either be returned to confinement or an affidavit of insanity shall be filed against him as is provided by law.

Sec. 4. When any person shall be confined in any jail, asylum or other institution of confinement, who is charged by indictment and has been convicted of felony in this State and who has been duly adjudged insane by a Court of Competent Jurisdiction, upon the grounds of insanity shall be confined in said Institution and all persons who are now confined in the State Hospital for the insane who are classified by the superintendents of said different Hospitals for the insane as criminally insane shall upon proper certificate from the superintendent be transferred from said Hospital for the Insane to the State Prison Psychopathic Hospital.

Sec. 5. No patient in the State Prison Psychopathic Hospital shall be discriminated against by virtue of any fact but they shall all be treated alike, given equal facilities, equal attention and equal treatment, and no patient in said Hospital or Institution shall be permitted to give any officer, servant, agent or employee in such Hospital or Institution any tip, gift, pay or reward of any kind or character whatsoever, and if it is so discovered, the person accepting the tip, gift, pay or reward shall be discharged for accepting the same.

Sec. 6. The State Prison Board shall appoint with the advice of the General Manager of the State Prison System a Superintendent for said Hospital or Institution, a regularly licensed physician, well qualified in the science of psychiatry who shall receive a fixed salary to be fixed by the Legislature not to exceed the sum of Three Thousand Three Hundred (\$3,300.00) Dollars per year, with provisions for himself and family not to exceed Five Hundred (\$500.00) Dollars per year with water, lights, fuel, laundry and housing. The General Manager of the State Prison shall appoint such assistant physicians, well qualified in psychiatry as he may deem best, and said assistant physicians shall receive a salary to be fixed by the Legislature not to exceed Two Thousand Seven Hundred (\$2,700.00) Dollars per year with provisions for board and laundry for himself and family. The manager of the Prison System shall supply the necessary guards.

Sec. 7. That if in any Court proceedings in any portion of this Act shall be unconstitutional, it shall not affect the other portions of this Act. [Acts 1931, 42nd Leg., p. 420, ch. 253.]

## TITLE 109—PENSIONS

### Art. 6204. [6267] Tax

There shall be levied and collected in the same manner and at the same time that other ad valorem taxes are levied and collected for the year 1925, and annually thereafter, an ad valorem tax of seven (7) cents on the One Hundred Dollar (\$100.00) valuation thereof on all property owned in the State on the 1st day of January of 1925, and of every year thereafter, and on all property sent out of the State prior to the 1st day of January of any of said years for the purpose of evading the payment of taxes thereon and afterwards returned to the State, except so much thereof as may be exempted by the Constitution and laws of this State or of the United States, which valuation shall be made in the manner prescribed by law for the assessment, levy, and collection of other State and County taxes, which said tax so levied and collected shall be paid into the Treasury of the State of Texas, in the same manner as other State taxes, and shall constitute a special fund for the payment of pensions, as may be provided by law, to Confederate soldiers and their widows, and to other Texas soldiers and militiamen who served during the War between the States entitled to pensions under the laws of Texas, and their widows, and shall constitute a special fund for the payment of such pensions in the manner and under the rules and regulations as are and may be prescribed by law. Said fund is hereby expressly appropriated by the Legislature of the State of Texas for the purpose herein stated, and this Act shall not affect or release liability of any person for taxes, penalties, interest, or costs accruing under prior laws, or the right to collect or enforce collection thereof by suit or otherwise. [As amended Acts 1931, 42nd Leg., p. 262, ch. 262, § 1.]

Effective May 28, 1931. This article was C. S., p. 251, ch. 82, § 4 (effective 90 days also amended by Acts 1930, 41st Leg., 5th after March 20, 1930, date of adjournment.)

If said pension fund shall at any time when said pensions are due and payable as provided by law be insufficient in amount to pay the pensions provided by law, a sufficient amount shall be advanced by the State Treasury out of the General Revenues of the State in the State Treasury other than revenues derived from ad valorem taxes on property to make up such deficit, and the amount so advanced shall be repaid out of the Pension Fund to the General Revenue Fund by the State Treasury when there shall be a surplus in the Pension Fund over and above the amount required to pay the pensions due as provided by law, provided that the total amount advanced to the Pension Fund shall not exceed the Constitutional amount collected for the Pension Fund for any one year. [Acts 1931, 42nd Leg., p. 262, ch. 262, § 1.]

### Art. 6205. [6267a] To whom granted

Out of the Pension Fund to be created and maintained under the provisions of Article 6204 as amended, there shall be paid on the 1st day of each calendar month a pension in the amounts provided for in Article 6221, to every Confederate soldier or sailor whose application has heretofore been approved and also those who came to Texas prior to January 1, 1928, and whose application shall hereafter be approved, and to their widows whose applications have heretofore been approved and also those who have been bona fide residents of this State since January 1, 1923, and whose application shall hereafter be approved and who were married to such soldiers or sailors prior to January 1, 1921, and who lived with such soldier or sailor continuously for at least ten (10) years immediately prior to the death of such sailor or soldier and to soldiers who, under the Spe-



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cial Laws of the State of Texas during the War between the States, served in organizations for the protection of the frontier against Indian raiders or Mexican marauders, and to soldiers of the militia of the State of Texas who were in active service during the War between the States, and to soldiers of the militia of any other Confederate State who were in active service during the War and who came to Texas at least ten (10) years prior to the approval hereafter of his application for a pension, and to soldiers appointed to official or other service in the State of Texas, requiring the carrying of arms during the War between the States, and all soldiers and sailors and widows of all soldiers and sailors eligible to be placed upon the pension rolls and participate in the distribution of the Pension Fund of this State under any existing law or laws hereafter enacted; provided, that no widow born since January 1, 1873, shall be entitled to a widow's pension; a widow entitled to a pension under this Act, but who remarries a man other than a Confederate soldier or sailor shall not be entitled to a pension, but shall not be barred from receiving a pension in the event she should be left a widow after such remarriage, so long as she remains a widow.

Soldiers or widows who are over 88 years of age, who have been bona fide citizens of Texas since prior to January 1, 1930, shall be entitled to pensions under this Act, if otherwise pensionable. [As amended Acts 1931, 42nd Leg., p. 434, ch. 262, § 2.]

This article was also amended by Acts C. S., p. 251, ch. 82, § 1 (effective 90 days after March 20, 1930, date of adjournment). 1929, 41st Leg., p. 330, ch. 153, § 1 (effective March 5, 1929) and Acts 1930, 41st Leg., 5th

#### Art. 6208. [6268] Application requirements

Persons entitled to a pension under this Title shall make application for same in writing and under oath to the County Judge of his or her county. Such application shall state the name, age, residence of the applicant, and occupation, if any, and every fact necessary to entitle the applicant to the pension. If the applicant is such a soldier or sailor as is prescribed herein, he shall state in his application the Company and Regiment in which he was enlisted; if he served in an organization for the protection of the frontier against Indian raiders or Mexican marauders, he shall name and identify such organizations; if he were an officer commissioned by the President of the Confederate States or by the Governor, or other proper authority of this State, in the Army, Navy, Militia, or frontier organization, he shall state the date of his commission and his rank therein; and if detailed directly under the provisions of the Conscript Law for duty in the armories or shops of the Confederate Government or for any other labor necessary for the maintenance of the army in the field, or if he served in the Confederate Navy, he shall state the time of service in each case. Each applicant shall furnish the testimony of at least one credible witness who personally knows that he enlisted in the service and performed the duties as claimed by him. If he cannot secure the testimony of such witness he may furnish documents or other evidence of his service. Provided that where the applicant was born prior to 1851, he may make his proof by submitting to the County Judge an affidavit stating his name, age, residence, and occupation, if any, together with every fact necessary to entitle him to a pension.

Such affidavit when executed shall be accompanied by a sworn statement of at least two (2) credible witnesses who have known the applicant for a period of not less than ten (10) years, and who are in no way related to or interested in the financial welfare of such applicant, and that he is a credible person and that they believe the statements entitling him to a pension are correct and true. [As amended Acts 1931, 42nd Leg., p. 434, ch. 262, § 5.]

Effective May 29, 1931. This article was, C. S., p. 251, ch. 82, § 4 (effective 90 days also, amended by Acts 1930, 41st Leg., 5th after March 20, 1930, date of adjournment).

**Art. 6214. [Repealed by Acts 1930, 41st Leg., 5th C. S., p. 251, ch. 82, § 5]**

This article repealed as above was amended by Acts 1927, 40th Leg., ch. 95, § 1, effective March 16, 1927, and by Acts 1929, 41st Leg., p. 330, ch. 153, § 2, effective March 5, 1929. The repeal expressly refers to the former, but omits any reference to the last amendment.

**Art. 6215. [6273] Payments; affidavit; warrant**

The payment of such pension shall be made on the 1st day of each calendar month to all pensioners whose applications for pensions shall have been duly approved as provided by law by warrant drawn by the Comptroller on the State Treasurer to be paid out of the money appropriated for that purpose as provided by law.

Such warrant shall be transmitted by mail to the payee thereof at his or her last known address. It shall be unlawful for any postmaster, delivery clerk, letter carrier, or other postal employee to deliver any such mail to any person whomsoever, if the addressee is known to have died or removed, or, in the case of a widow, if known to have remarried; and it shall be unlawful for any person or persons to open any such mail addressed to any such addressee who has died or removed, or to any such widow who has remarried, or to convert such warrant into cash; but in every such case, such mail shall forthwith be returned to the Comptroller at Austin, Texas, with a statement of the reasons for so doing, and if because of death or remarriage, the date thereof, if known, and all such warrants so returned to the Comptroller shall be cancelled. In the event a veteran is receiving the pension allowed under this Act to a married veteran, and his wife dies, it shall be his duty to immediately report such death to the Comptroller and he shall not thereafter present any pension warrant for payment when the amount of the same is intended for a married veteran, but shall immediately return the same to the Comptroller.

Any person who shall knowingly violate the provisions of this Article shall be guilty of a felony and on conviction shall be punished by fine of not less than One Hundred Dollars (\$100.00) or by imprisonment in the county jail for not less than three months, or by imprisonment in the penitentiary for not less than one (1) year. [As amended Acts 1931, 42nd Leg., p. 434, ch. 262, § 4.]

Effective May 29, 1931. This article was, also, amended by acts 1929, 41st Leg., p. 686, ch. 307, § 1 (effective 90 days after March 14, 1929, date of adjournment); acts 1930, 41st Leg., 5th C. S., p. 251, ch. 82, § 3 (effective 90 days after March 20, 1930, date of adjournment).

**Art. 6216: [Repealed by Acts 1930, 41st Leg., 5th C. S., p. 251, ch. 82, § 5]****Art. 6221. [6279] Appropriation, how allotted**

On the 1st day of each calendar month the Comptroller shall pay to each married veteran who is living with his wife, a pension of Fifty Dollars (\$50.00) per month for as long as they both may live, and after the death of either party, then the said veteran or his widow still living shall only draw an amount equal to other veterans or their widows. To each veteran now unmarried or a widower or widow who is drawing a pension or whose application may be hereafter approved, shall be paid the sum of Twenty-five Dollars (\$25.00) per month for each year, and the remainder of said pension fund (after reimbursing the General Revenue Fund for any advancement theretofore made to the Pension Fund) shall be equally prorated among all of said pensioners whose claims to pensions have been established and filed. All pensions shall begin on the 1st day of the calendar month following the approval of the application. [As amended Acts 1931, 42nd Leg., p. 434, ch. 262, § 3.]

Effective May 29, 1931. This article was, also, amended by Acts 1929, 41st Leg., p. 330, ch. 153, § 3 (effective March 5, 1929); Acts 1929, 41st Leg., 2nd C. S., p. 5, ch. 5, § 1 (effective June 21, 1929), and Acts 1930, 41st Leg., 5th C. S., p. 251, ch. 82, § 2 (effective 90 days after March 20, 1930, date of adjournment).

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**Art. 6222a.** [Repealed by Acts 1929, 41st Leg., 2nd C. S., p. 5, ch. 5, § 2]

The article repealed was Acts 1929, 41st Leg., p. 330, ch. 153, § 4, relating to the manner of establishing marriage by any Confederate veteran, soldier or sailor.

**Art. 6226.** [6284] Shall strike from roll

When it comes to the knowledge of the Comptroller that any person has been granted a pension through fraud or perjury, he shall strike the name of such person from the pension roll. [As amended Acts 1930, 41st Leg., 5th C. S., p. 251, ch. 82, § 4.]

Section 5 of Acts 1930, 41st Leg., 5th C. S., p. 251, ch. 82, repeals articles 6214 and 6216 and section 6 provides that if any part of the Act is held invalid, such holding shall not affect the remainder.

**Art. 6227.** Mortuary warrant

Amended by substituting "one hundred (\$100.00)" for "sixty five" after "not exceeding" in the eighth line, and "cancelled" for the quoted word "canceled" in the sixteenth. [Acts 1929, 41st Leg., p. 330, ch. 153, § 5.]

**Art. 6228.** Mothers' Aid

Any widow who is the mother of a child or children under sixteen years of age, and who is unable to support them and to maintain her home, may present to the Commissioners' Court of the county wherein she has resided for the preceding two years a sworn petition for aid showing:

First:—Her name, time and place of her marriage, date of the death of her husband, or date of his confinement in the penitentiary or in an insane asylum, or date of his abandonment of her; names, sex, and the dates and places of their birth.

Second:—Her length of residence in the State, her present residence, and her residence during each of the previous five years.

Third:—All the property belonging to her and to each of her children, including any future or contingent interest she or any of them may have.

Fourth:—The efforts made by her to support her children.

Fifth:—The name, relationship, and address of each of her husband's relatives that may be known.

By "widow", as used herein, means a mother who is widowed by death or divorce, or whose husband has abandoned her for more than the two preceding years, or whose husband is confined in the penitentiary or in a State Hospital for the insane.

A copy of said petition and a notice of the time and place it will be presented to said Court shall be served on or mailed to the County Judge of said county at least five days before the time the court shall be requested in said petition to hear the same. When service is complete said Court shall examine under oath those who desire to be heard, and may subpoena witnesses; or the Court may refer said matter to a Commissioner to be appointed by it to hear said witnesses. Such Commissioner shall make a report to the Court stating the facts as proven before him. If the Court concludes that unless relief is granted the widow will be unable to properly support and educate her children, and that they may become a public charge, it may make an order directing a monthly payment to her, out of the County Funds, for the support of such children, not more than Fifteen (\$15.00) Dollars for one child, and Six (\$6.00) Dollars additional for each other child. Such allowance shall be discontinued as to any such child who reaches the age of sixteen. The Court shall have the right to refuse any such petition, and its action in so doing shall be final. The Court shall see that any widow receiving such aid is properly caring for her children. When it is found that she is not properly caring for her children, or that she is an improper guardian for them, or when the Court finds that she no longer needs such aid, it shall thereupon revoke at

any time with or without notice any order made pursuant to this Article. [As amended Acts 1931, 42nd Leg., p. 425, ch. 256, § 1.]

**Art. 6234. Who may share in fund**

Any person who now shall have been duly appointed and enrolled in the fire department, police department or fire alarm operator's department of any such city or town, to which application is made for participation in said fund by such person, and who shall file his written application within thirty days from the date this Act becomes effective, or who shall file his application within one year and thirty days after becoming a member of either of such departments, and who shall have allowed said deductions from his salary, as well as the beneficiaries hereinafter named, shall be entitled to participate in said fund; provided however that before being entitled to receive a retirement pension from said fund, such participant shall contribute one (1%) per cent of his wages for each month he has been employed in either of said departments since the creation of said Pension Board and Fund. [As amended Acts 1931, 42nd Leg., p. 18, ch. 18, § 1.]

**TITLE 112—RAILROADS**

**Art. 6286. [6435] [4376] Change of general offices, etc., prohibited**

After the passage of this act, no railroad company shall change the location of its general offices, machine shops round houses, or home terminals, save with the consent and approval of the Railroad Commission of Texas, and this shall apply also to receivers, and to purchasers of the franchises and properties of railroad companies, and to new corporations, formed by such purchasers or their assigns. The Commission shall not consent to, or approve of, any removal or change of location in conflict with the restrictions of the first article of this chapter. No consent or approval of the Commission shall be required before the return of general offices, machine shops, roundhouses, or Home Terminals to previous locations, when ordered or required under judgments in suits now pending in trial or appellate courts. [Acts 1915, p. 33. As amended Acts 1929, 41st Leg., p. 337, ch. 156, § 1.]

**Art. 6371. [6564] [4507] [4232] Bell and whistle**

A bell of at least thirty (30) pounds weight and a whistle shall be placed on each locomotive engine, and the whistle shall be blown and the bell rung at a distance of at least eighty (80) rods from the place where the railroad shall cross any public road or street, and such bell shall be kept ringing until it shall have crossed such public road, or stopped; and each locomotive engine approaching a place where two lines of railway cross each other shall, before reaching such railway crossing be brought to a full stop; and the corporation operating such railways shall be liable for all damages which shall be sustained by any person by reason of any such neglect; the full stop at such crossing may be discontinued when the railroads crossing each other shall put into full operation at such crossing an interlocking switch and signal apparatus or shall have a flagman in attendance at such crossing. [As amended Acts 1931, 42nd Leg., p. 184, ch. 107, § 1.]

Effective May 5, 1931. Section 2 of said art. 1672. Section 3 repeals all conflicting Acts 1931, 42nd Leg., p. 184, ch. 107 being a laws and parts of laws. penal provision is published as Penal Code,

**[Art. 6418b. Extension of time for construction of railroads]**

Sec. 1. That the time in which any railway corporation chartered under the Laws of the State of Texas since the first day of January, 1892, or the charter of which has been amended since that date, is required to begin construction of its road, and construct, equip, and put the same in good running order as required by Article 6418 of the Revised Statutes of the State of Texas of 1925, be and the same hereby is, as to any

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unfinished portion of such road, extended two years from the taking effect of this Act; and any railroad company having been chartered since January 1, 1892, or the charter to which has been amended since said date, which shall have forfeited its corporate existence or any of its rights and powers, or is about to do so, by reason of the failure to comply with said Article 6418, or any part of said Article, shall have restored and preserved to it, its corporate existence, and it shall have and enjoy all the corporate franchises, property rights and powers held or acquired by it previous to any cause of forfeiture as aforesaid; provided that no railway company which shall be revived or the time extended by virtue of this act, shall claim or exercise any franchise not allowed, granted or permitted to other railway corporations under the Law as now in force in this State.

Sec. 2. Any railway corporation chartered since the first day of January, A. D. 1892, and which by its original charter or by amendment thereto, filed since said first day of January, A. D. 1892, has further provided for the locating, constructing, maintaining, owning and operating of any extension or branch line or lines of railway, and which has failed or is about to fail to complete the same, or any part thereof, within the time required by Law, shall, upon payment of all its franchise tax, be and is hereby restored to and granted all and singular the rights, privileges and franchises acquired by its original charter, or by such amendment to its Articles of Incorporation, as if the same was filed and recorded in the office of the Secretary of State on the day of the taking effect of this Act, and such corporation shall, upon payment of its franchise tax, be and is hereby authorized to project, complete, construct, own and operate any such extension and branch line or lines of railway under and as provided for in its charter or in any amendment to its Articles of Incorporation; provided, that such extension and branch line of railway shall be by such corporation completed and put in good running order at the rate of at least ten miles in two years from the taking effect of this Act, and twenty additional miles for each and every year thereafter, until all the branch line or lines of extension as provided for are completed; provided that the provisions of this Act shall not apply to any railroad company which has been chartered by the State of Texas for a period of ten years or more, and which has twenty miles or less of railroad to build in order to comply with its original charter, or any amendment thereto. [Acts 1929, 41st Leg., p. 663, ch. 296.]

[Art. 6472a. Depositions in matters pending before commission]

In all matters pending for hearing before the Railroad Commission of Texas, or any division thereof, the Commission or any interested party shall have the right to produce the testimony of witnesses by depositions instead of compelling the personal attendance of witnesses. For this purpose the Commission is hereby empowered and authorized to issue commissions and all other process necessary for the purpose of taking such depositions. Any depositions taken, under the provisions of this Act, shall be taken in accordance with the provisions of the Revised Statutes, regulating the taking of depositions in civil cases in so far as the same are applicable. [Acts 1930, 41st Leg., 5th C. S., p. 183, ch. 43, § 1.]

Section 2 of Acts 1930, 41st Leg., 5th C. S., p. 183, ch. 43, makes the act cumulative and provides that it is not to be construed as repealing any other law.

[Art. 6519a. Member of Commission or designated employé authorized to hold hearings, powers, etc.]

Any member of the Railroad Commission of Texas (or any authorized employee thereof) designated by the Commission for that purpose, shall have power in all cases coming before the Commission to hold hearings and conduct investigations and to make a record thereof for the use and

benefit of the Commission, the same as if the entire Commission were present, and such commissioner or designated employee is hereby given the authority to administer oaths, certify to all official acts, and compel the attendance of witnesses and the production of papers, waybills, books, accounts and all other pertinent documents and testimony, and said record when so made and properly certified to by such commissioner or employee, shall have the same force and effect as if made before the Commission, and cases in which such records are made shall be determined by the Commission as if the record had been made before the Commission itself.

Any person who shall in any way, refuse to comply with any provision of this Act or any person who shall in any way undertake to obstruct or interfere with any proceeding under this Act, shall be subject to punishment for contempt by the Commission.

This Act shall be cumulative of all other laws conferring jurisdiction and authority upon the Railroad Commission. [Acts 1929, 41st Leg., p. 539, ch. 262, § 1.]

### TITLE 113—RANGERS—STATE

#### Art. 6562. [6756] Compensation

The pay of officers and men shall be; Captains \$225.00 each per month; sergeants \$175.00 each per month; and private [privates] \$150.00 each per month, except as herein otherwise provided. The payment shall be made monthly at such times and in such manner as the Adjutant General may prescribe. The officers and enlisted men on the Ranger Force shall receive in addition to their regular salary an increase of five per cent after the first two years of continuous service and five per cent for each additional year not to exceed in all twenty per cent of their salary as above provided. For the violation or breach of such rules and regulations for the governing of the Ranger Force as may be prescribed by the Adjutant General and approved by the Governor, officers and enlisted men shall forfeit their right to participate in the increase or longevity pay, or in any portion thereof as provided for herein. [As amended Acts 1929, 41st Leg., p. 512, ch. 247, § 1.]

Section 2 of said Acts 1929, 41st Leg., p. 512, ch. 247, makes it effective Sept. 1, 1929. Section 3 repeals all conflicting laws and parts of laws.

### TITLE 115—REGISTRATION

#### Art. 6626. [6823] [4639] [4331] What may be recorded

The following instruments of writing, which shall have been acknowledged or proved according to law, are authorized to be recorded, viz., all deeds, mortgages, conveyances, deeds of trust, bonds for title, covenants, defeasances or other instruments of writing concerning any lands or tenements, or goods and chattels, or movable property of any description; provided, however, that in cases of subdivision or re-subdivision of real property no map or plat of any such subdivision or re-subdivision shall be filed or recorded unless and until the same has been authorized by the Commissioners' Court of the county in which the real estate is situated by order duly entered in the minutes of said Court, except in cases of partition or other subdivision through a Court of record; provided that within incorporated cities and towns the governing body thereof in lieu of the Commissioners' Court shall perform the duties hereinabove imposed upon the Commissioners' Court. [As amended Acts 1931, 42nd Leg., p. 371, ch. 217, § 1.]

**TITLE 116—ROADS, BRIDGES, AND FERRIES**

[Art. 6673a. Sale of abandoned highway route; fee simple owner of land dedicated for highway relieved from tax thereon]

Sec. 1. Wherever the State Highway Commission has acquired or shall hereafter acquire any land by purchase, condemnation, or otherwise to be used as a right of way for any State Highway and thereafter the route of such Highway was or shall be changed or abandoned, and any such right of way be no longer needed for such Highway, or needed for use of citizens as a road, the State Highway Commission may recommend to the Governor that such land be sold and that he execute a deed conveying all the State's right, title, and interest in such land so acquired. Upon the recommendation of the Commission, the Governor may execute a proper deed conveying and/or exchanging such land for different land belonging to the same person or persons. It shall be the duty of the Commission to fix the fair and reasonable value of all such land and advise the Governor thereof. Provided that where such land is given to the State, the Governor may return the same by proper deed to the person or persons from whom the same is received. All money derived from the sale of such land shall be deposited with the funds from which it was originally taken. The Attorney General shall approve all transfers under this Act.

Sec. 1a. In the event any public road or State Highway is located on land in which the fee simple title is not vested in the State or the County wherein such road is located, such land so dedicated and used for such road purpose shall not be assessed for ad valorem taxation, or the fee simple owner required to pay ad valorem taxes thereon for any purpose so long as same is used for such road purpose. It shall be the duty of the Tax Assessor whenever his attention is called thereto by the fee simple owner of lands so used for public road or State Highway purposes to note on the Assessment Sheet the amount of land so used. [Acts 1931, 42nd Leg., p. 170, ch. 99.]

[Art. 6674n. Condemnation of right of way, and materials]

Whenever in the judgment of the State Highway Commission the use or acquisition of any land, for road right-of-way purposes, timber, earth, stone, gravel, or other material, necessary or convenient to any road to be constructed, reconstructed, maintained, widened, straightened, or lengthened by the State Highway Commission, the same may be acquired by purchase or by condemnation by the State of Texas. Provided that should the owner of such land for road right-of-way purposes, or such materials, and the State Highway Commission, or its representatives, fail to agree upon the amount to be paid therefor, then the Attorney General, at the request of the State Highway Commission, shall proceed to condemn the same for and on behalf of the State of Texas in the manner provided for condemnation of lands by the State of Texas in Title 52, Articles 3264 to 3271, inclusive, of the Revised Civil Statutes of 1925. The Highway Commission's portion of the expense of such proceedings shall be paid out of the State Highway Fund. Provided that the county in which the state highway is located may pay for same out of the county road and bridge fund, or any available county funds.

Any Commissioners' Court is hereby authorized to secure by purchase or by condemnation on behalf of the State of Texas any new or wider right-of-way or land or lands for material or borrow pits, to be used in the construction, reconstruction, or maintenance of state highways, and to pay for same out of the county road and bridge fund, or out of any special road funds or any available county funds. The State Highway Commission shall be charged with the duty of furnishing to the county commissioners' court the plats or field notes of such right-of-way or land and

the description of such materials as may be required, after which the commissioners' court may, and is hereby authorized to purchase or condemn same, with title to the State of Texas, in accordance with such field notes. Provided, that in the event of condemnation by the county the procedure shall be the same as that set out in Title 52, Articles 3264 to 3271, inclusive, Revised Civil Statutes of 1925. Provided that when condemnation proceedings are instituted, either by the Commissioners' Court of the County or the State Highway Commission, that such proceedings shall be instituted in the County where the land lies and venue is hereby fixed in such county. [As amended Acts 1929, 41st Leg., 3rd C. S., p. 243, ch. 10, § 1; Acts 1930, 41st Leg., 5th C. S., p. 243, ch. 79, § 1.]

The amendment by Acts 1929, 41st Leg., 3rd C. S., p. 243, ch. 10, § 1, effective 20 days after July 20, 1929, did not contain the last two provisos which were added by the last amendment by Acts 1930.

[Art. 6674o. Maintenance of detour roads]

Sec. 1. From and after the taking effect of this Act, it shall be the duty of the State Highway Department, wherever construction on any part of the State System of Highways is being carried on and it becomes necessary to close such roads under construction to traffic, to provide for the convenience of the public by the selection and improvement and maintenance of an all-weather detour road, to be used and controlled during the period of such State use under like conditions and authority as exercised over parts of the designated system of State Highways; and the Highway Commission shall provide for the equipment of such detour roads in a manner adequate to the convenience and safety of the normal traffic diverted thereupon; counties are hereby required to render the State Highway Commission such cooperation as may be necessary for adequate provision for the traffic requirements of the public in the selection and maintenance of all such detour roads in or through the county.

Sec. 2. That from and after the taking effect of this Act, it shall be the duty of any County Commissioners' Court in this State wherever construction upon any part of the County System of Public Roads, not parts of the designated State System of Highways, is being carried on and it becomes necessary to close such roads under construction to traffic, to provide for the convenience of the public by the selection and use of a detour road, to be controlled and maintained during the period of such county use under like conditions of authority as exercised over an established public road.

Sec. 3. In all such provisions for detour roads by the State Highway Commission, and in all provisions for detour roads by County Commissioners' Courts it shall be the duty of the State Highway Commission, or Commissioners' Court, as the case may be, to post all necessary signboards for the convenience and guidance of the public at each end of such detour road, and provide with reasonable adequacy for the maintenance of the detour roads in a manner to respond to normal traffic requirements passing over such State highways or such county roads. [Acts 1929, 41st Leg., p. 59, ch. 25.]

[Art. 6674p. Minimum wage for highway labor; citizens' preference in employment]

Sec. 1. Hereafter the State Highway Commission in letting contracts for the construction, maintenance or improvement of any designated State Highway, shall be authorized to require that all contracts for any such work, contain a provision that no person will be employed, by the contractor, to perform manual labor in the course of the construction, maintenance or improvement of any such highway at a wage of less than thirty cents per hour, and that any violation of any such provision of the contract by the contractor, sub-contractor, or other person subject to such provision of the contract, shall authorize the Commission to withhold from any money



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due the contractor a sufficient sum to pay any person such minimum wage for any labor performed, or the Commission may, for the benefit of any such person, recover such sum on the bond of the contractor, if it does not have in its possession money owing the contractor, applicable for such purposes. That citizens of the United States and of the county wherein the work is being proposed shall always be given preference in such employment; provided also that all other departments, bureaus, commissions and institutions of the State of Texas in all construction work of every character requiring employment of day labor shall likewise be authorized and empowered to exercise the same authority herein conferred on the State Highway Commission.

Sec. 2. Hereafter, in advertising for bids for the construction, maintenance or improvement of any designated State Highway, the Commission, in the event it desires to exercise the authority herein conferred to require a provision for such minimum wage, shall so state in the advertisement, so that all bidders may be aware of such requirement in submitting bids for such work. [Acts 1931, 42nd Leg., p. 69, ch. 46.]

Art. 6675. [Repealed by Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 16]

[Art. 6675a—1. Definitions of terms]

The following words and terms, as used herein, have the meaning respectively ascribed to them in this Section, as follows:

(a) "Vehicle" means every device in, or by which any person or property is or may be transported or drawn upon a public highway, except devices moved only by human power or used exclusively upon stationary rails or tracks.

(b) "Motor Vehicle" means every vehicle, as herein defined, that is self-propelled.

(c) "Motor Cycle" means every motor vehicle designed to propel itself on not more than three wheels in contact with the ground.

(d) "Truck-tractor" means every motor vehicle designed or used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(e) "Farm-tractor" means every motor vehicle designed and used primarily as a farm implement for drawing other implements of husbandry.

(f) "Road-tractor" means every motor vehicle designed or used for drawing other vehicles or loads, and not so constructed as to carry a load independently or any part of the weight of the drawn load or vehicle.

(g) "Trailer" means every vehicle designed or used to carry its load wholly on its own structure and to be drawn by a motor vehicle.

(h) "Semi-trailer" means vehicles of the trailer type so designed or used in conjunction with a motor vehicle that some part of its own weight and that of its load rests upon or is carried by another vehicle.

(i) "Commercial Motor Vehicle" means any motor vehicle other than a motor cycle designed or used for the transportation of property, including every vehicle used for delivery purposes.

(j) "Passenger Car" means any motor vehicle other than a motor cycle or a bus, as defined in this Act, designed or used primarily for the transportation of persons.

(k) "Department" means the State Highway Department or its duly authorized officers or agents.

(l) "Owner" means any person who holds the legal title of a vehicle or who has the legal right of possession thereof, or the legal right of control of said vehicle.

(m) "Public Highway" shall include any road, street, way, thoroughfare or bridge in this State not privately owned or controlled for the use of vehicles over which the State has legislative jurisdiction under its police power.

(n) "Motor Bus" shall include every vehicle except those operated by muscular power or exclusively on stationary rails or tracks, which is used in transporting persons between or through two or more incorporated cities and/or towns and/or villages for compensation (or hire) whether operated over fixed routes or otherwise; except such of said vehicles as are operated exclusively within the limits of incorporated cities and/or towns or suburban additions to such towns.

(o) "Farm-trailer" means every "trailer" as defined in Subsection (g) herein, designed and used primarily as a farm vehicle.

(p) "Farm-semi-trailer" means every semi-trailer as defined in Subsection (h) herein, designed and used primarily as a farm vehicle.

(q) By "operated or moved temporarily upon the highways" is meant the operation or conveying between different farms, and the operation or conveyance from the owner's farm to the place where his farm produce is prepared for market or where same is actually marketed and return. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 1, as amended Acts 1930, 41st Leg., 5th C. S., p. 151, ch. 23, § 1.]

This article was amended by Acts 1930, 41st Leg., 4th C. S., p. 40, ch. 21, § 1, by adding subsection o defining "farm trailer" and subsection p defining the phrase "operated or moved temporarily upon the highways," but such amendment was repealed by section 3, of Acts 1930, 41st Leg., 5th C. S., p. 151, ch. 23, cited to the text, which further amended the article by amending subsection o, adding subsection p defining "farm-semi-trailer" and adding subsection q defining the phrase "operated or moved temporarily on the highways."

Section 16 of Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, repeals all conflicting laws and parts of laws and specially repeals Civ. St. arts. 6675-6683, 6688-6693, 6697, and Pen. Code, arts. 807, 810, 818-820, and 825, and provides that the act shall not require payment of registration fees, or the registration of tractors or graders, or other machinery owned by cities or counties or the Federal Government and used on streets, alleys or roads.

Section 18 makes articles 6675a-1 to 6675a-14 effective Jan. 1, 1930. Sections 14a to 14f being penal provisions are published as Pen. Code, art. 807a.

## [Art. 6675a—2. Registration]

Every owner of a motor vehicle, trailer or semi-trailer used or to be used upon the public highways of this State, and each chauffeur, shall apply each year to the State Highway Department through the County Tax Collector of the County in which he resides for the registration of each such vehicle owned or controlled by him, or for a chauffeur's license, for the ensuing or current calendar year or unexpired portion thereof; provided, however, that owners of farm tractors, farm trailers, farm-semi-trailers, and implements of husbandry, operated or moved temporarily upon the highways shall not be required to register such farm-tractors, farm-trailers, farm-semi-trailers, or implements of husbandry; provided, however, that such farm-trailers and farm-semi-trailers are operated in conformity to all provisions of the law save and except the requirements as to registration and license; and providing further, that the exemptions in this Section shall not apply to any farm-trailer or farm-semi-trailer when the gross weight exceeds 4,000 pounds; provided, that no farm-trailer or farm-semi-trailer with metal tires shall be permitted to operate at a speed in excess of fifteen (15) miles per hour; and further provided, that the exemptions in this Section shall not apply to any farm-trailer or farm-semi-trailer with steel tires of a width less than three inches operating in excess of fifteen (15) miles per hour; and providing, further, that the exemption in this Section shall not apply to any farm-trailer or farm-semi-trailer when the same is used for hire. Provided, however, it shall be unlawful to operate any trailer or semi-trailer at night without a rear red light or red reflectors. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 2, as amended Acts 1930, 41st Leg., 5th C. S., p. 151, ch. 23, § 2.]

This article was amended by Acts 1930, 41st Leg., 4th C. S., p. 40, ch. 21, § 2, by adding a further proviso "provided, however, that such trailers are operated in conformity to all provisions of the law save and

except the requirement as to registration," but this amendment was repealed by section 3 of Acts 1930, 41st Leg., 5th C. S., p. 151, ch. 23 cited to the text.

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[Art. 6675a—2a. Exception from penalty]

Nothing in this Act shall authorize any person to be subject to penalty of this law on account of his place of residence in this State, nor the occupation pursued. [Acts 1930, 41st Leg., 5th C. S., p. 151, ch. 23, § 2a.]

[Art. 6675a—3. Application for registration]

Application for the registration of a vehicle required to be registered hereunder shall be made on a form furnished by the Department, each such application shall be signed by the owner of the vehicle and shall give his name and address in full, and shall contain a brief description of the vehicle to be registered. Said description, in case of a new motor vehicle, shall include: The trade name of the vehicle; the year model; the style, type of body and the weight, if a passenger car, or the net carrying capacity and gross weight if a commercial motor vehicle; the motor number; the date of sale by manufacturer or dealer to the applicant. The application shall contain such other information as may be required by the Department. It is expressly provided, however, that the owner of a vehicle previously registered in any State for the preceding or current year may in lieu of filing an application as hereinbefore directed, present the license receipt and transfer receipts, if any, issued for the registration or transfer of the vehicle for the preceding calendar year, and said receipt or receipts shall be accepted by the County Tax Collector as an application for the renewal of the registration of the vehicle, provided said receipts show that the applicant is the rightful owner thereof. Provided, however, that should an owner or a claimed owner of a motor vehicle or automobile offer to register same but has lost or misplaced the registration receipt or transfer, then upon his furnishing satisfactory evidence to the Tax Collector by affidavit or otherwise that he is the real owner of same, then shall it become the duty of the Tax Collector to issue him license therefor. It shall be the duty of the Tax Collector to date each registration receipt issued for a vehicle the same date that application is made for registration of such vehicles. Owners of motor vehicles, trailers and semi-trailers, which are the property of, and used exclusively in the service of the United States Government, the State of Texas, or any county or city thereof, shall apply annually to register all such vehicles, but shall not be required to pay the registration fees herein prescribed provided that affidavit is made at the time of registration by a person who has the proper authority that such vehicles are the property of and used exclusively in the service of the United States Government, the State of Texas, or county or city thereof. Application shall be made for the registration of a new vehicle for the unexpired portion of the year in which it is acquired before it is operated on the public highways; except that a new vehicle may be operated temporarily by a dealer under a dealer's license number or by its purchaser under a special dealer's card board number as provided in Chapter 211, General and Special Laws of the Regular Session of the 40th Legislature. Application for the renewal of registration of a vehicle and for each chauffeur's license for any calendar year shall be made not later than February 1st of that year and not later than December 1st of the next preceding calendar year; and during the month of January of each year it shall be lawful to operate any such vehicle under license number plates and license issued for such vehicle for the preceding calendar year. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 3.]

[Art. 6675a—3a. Delinquency]

The payment of the license fee prescribed herein for any vehicle shall become delinquent immediately upon the use of said vehicle on any public highway without said fee having been paid in accordance with this Act [Arts. 6675a-1 to 6675a-14; P. C. Art. 807a]. In the event the payment of any such fee has become delinquent on any such vehicle, no license or license number plates shall be issued therefor by any County Tax Collector

unless the owner of said vehicle pay an additional charge equal to twenty (20%) per cent of the total amount of said prescribed fee. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 3a.]

[Art. 6675a—3aa. State Highway Department to approve license plates for government vehicles]

Before the delivery of license plates to anyone engaged exclusively in the service of and operating vehicles which are the property of the United States Government, or the State of Texas, or any counties, or cities thereof, such application shall have the approval of the State Highway Department before said plates are issued to any such applicant, and if it appears that said vehicle was transferred to any such agency for the sole purpose of evading the payment of registration fees, or that the same was not made in good faith, such plates shall not be issued. If, after the issuance of such, said vehicles cease to be, or are found to not be the property of such agencies, then such license fee receipt may be revoked, said plates may be recalled, and taken into possession by the State Highway Department. Said Department may provide for the issuance of specially designated plates to those exempt by Law, and may provide rules and regulations for the issuance thereof, and for the enforcement hereof, and it shall be unlawful for any person to operate a vehicle if the license fee receipt has been revoked, and any such person shall be liable for the penalties prescribed for the failure to register a motor vehicle, which is being driven upon public highways. [Acts 1931, 42nd Leg., p. 14, ch. 14, § 1.]

[Art. 6675a—3b. Refund of license fee on vehicles destroyed or demolished]

(A) If any motor vehicle be registered in Texas for any current year, and license fee paid thereon for such year, and such vehicle shall be destroyed and demolished to such an extent that the same cannot thereafter be used upon the highways of this State, the owner thereof may take the license fee receipt, together with the license plates for such vehicle, to the Tax Collector or such officer issuing the same, and said officer shall, upon satisfactory proof being given of such destruction and demolishment, refund the fee paid thereon representing the full months during which said vehicle will not be used, but no refund shall be made for the fractional part of any month.

(B) In the event such receipt or plates have been lost or destroyed, then proof shall be made thereof upon such forms and in such manner as the State Highway Department may prescribe, and if either of said plates have been destroyed, the Highway Department shall have the right to require its approval of any such refund. The form of such application shall be prescribed by such Department, and shall be accompanied by a fee of twenty-five cents, which fee shall be retained by such officer, which shall be accounted for as fees of office. Such collector shall retain the restored receipts and plates or send same to the said Department, or dispose of same as said Department may prescribe.

(C) No refund provided for herein shall be made in cash, but a credit memorandum on a form to be prescribed by the Highway Department shall be issued for the amount of such refund, which shall be accepted by the Tax Collector for the face value thereof, by such person or his assignee on the registration of another vehicle for the current year, for which the destroyed or demolished vehicle was registered, but not otherwise. Such credit shall be allowed out of the county's part of said funds and not the State's. [Acts 1931, 42nd Leg., p. 215, ch. 127, § 1.]

[Art. 6675a—4. Registration dates]

Each application filed hereunder for registration or chauffeur's license during January shall be accompanied by the full amount of the annual fee; each application filed after January shall be accompanied by the full

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amount of the annual fee if the vehicle was operated on the public highways or streets during any portion of January of that year, each application for re-registration filed during February or any subsequent month shall be accompanied by affidavit that such vehicle has not been previously operated upon the highways of this State during any portion of the current year and shall be accompanied by eleven-twelfths, ten-twelfths, nine-twelfths, eight-twelfths, seven-twelfths, six-twelfths, five-twelfths, four-twelfths, three-twelfths, two-twelfths, or one-twelfth respectively of the annual fee. [Acts 1929, 41st Leg., 2nd C. S., p. 178, ch. 88, § 4.]

[Art. 6675a-5. Fees; motor cycles and passenger vehicles]

The annual license fee for the registration of a motor cycle shall be Five (\$5.00) Dollars and for each side-car Three (\$3.00) Dollars.

The annual license fee for the registration of a passenger car shall be based upon the weight of a vehicle as follows:

Weight in pounds	Fee per 100 pounds or Fraction thereof
1—2000 .....	\$.28
2001—3500 .....	.36
3501—4500 .....	.48
4501 and up .....	.50

The weight of any passenger car, for purposes of registration shall be the weight generally accepted as its correct shipping weight plus one hundred pounds. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 5.]

[Art. 6675a-6. Fees; commercial motor vehicles or truck-tractors]

The annual license fee for the registration of a commercial motor vehicle or truck-tractor shall be based upon the gross weight and tire equipment of the vehicle as follows:

Gross Weight in Pounds	Fee per 100 pounds or fraction thereof	
	Equipped with Pneumatic Tires	Equipped with Solid Rubber Tires
1— 6,000 .....	[\$] .40	[\$] .50
6,001— 8,000 .....	.50	.60
8,001—10,000 .....	.60	.70
10,001—12,000 .....	.70	.90
12,001—14,000 .....	.80	1.00
14,001—16,000 .....	.90	1.20
16,001—22,000 .....	1.30	1.50
22,001—26,000 .....	1.60	2.00
26,001—and up .....	4.00	5.00

The term gross weight as used in this Section shall mean the actual weight of the vehicle fully equipped with body and other equipment, as certified by any official public weigher or any license and weight inspector of the State Highway Department, plus its net carrying capacity. "Net carrying capacity" of any vehicle except a bus as used in this Section shall be the weight of the heaviest net load to be carried on the vehicle being registered; provided said net carrying capacity shall in no case be less than the manufacturer's rated carrying capacity. "The net carrying capacity of a bus as defined in this Act [Arts. 6675a-1 to 6675a-14; P. C. art. 870a] shall be computed by multiplying its seating capacity by 150 pounds. The seating capacity of any such vehicle shall be the manufacturer's rated seating capacity exclusive of the driver's or operator's seat. The seating capacity of any such vehicle not rated by the manufacturer shall be determined by allowing one passenger for each sixteen inches that such vehicle will seat, exclusive of the driver's or operator's seat." [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 6.]

[Art. 6675a—7. Fees; road tractors]

The annual license fee for the registration of a road-tractor shall be based upon the weight of the tractor, as certified by any official Public Weigher or any License and Weight Inspector of the State Highway Department, as follows:

1— 4,000 pounds	.....	\$ .25 per cwt.
4,001— 6,000 pounds	.....	.50 per cwt.
6,001— 8,000 pounds	.....	.60 per cwt.
8,001—10,000 pounds	.....	.75 per cwt.
10,001—16,000 pounds	.....	1.00 per cwt.
16,001—20,000 pounds	.....	2.00 per cwt.

[Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 7.]

[Art. 6675a—8. Fees; trailers or semi-trailers]

The annual license fee for the registration of trailer or semi-trailer shall be based upon the gross weight and tire equipage of the trailer or semi-trailer as follows:

Gross Weight in Pounds	Fees per 100 pounds or Fraction thereof		
	Equipped with Pneumatic Tires	Equipped with Solid Tires	Equipped with Steel Tires
1— 6,000	.....\$ .30	\$ .40	\$1.00
6,001— 8,000	..... .40	.50	1.25
8,001—10,000	..... .50	.60	1.50
10,001—12,000	..... .60	.80	2.00
12,001—14,000	..... .80	1.00	2.50
14,001—16,000	..... 1.20	1.50	3.00
16,001—20,000	..... 1.60	2.00	4.00
20,001—and up	..... 4.00	5.00	6.00

The term "gross weight" as used in this Section means the actual weight of the trailer or semi-trailer, as officially certified by any Public Weigher or any License and Weight Inspector of the State Highway Department, plus its net carrying capacity. "Net carrying capacity" as used in this Section shall be the weight of the heaviest net load to be carried on the vehicle being registered; provided, said net carrying capacity shall in no case be less than the manufacturer's rated carrying capacity. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 8.]

[Art. 6675a—8a. Fees; motor busses]

Annual license fees for the registration of motor buses shall be based upon the "gross weight" of the vehicle as follows:

Gross Weight in Pounds	Fee per 100 pounds or Fraction thereof	
	Equipped with Pneumatic Tires	Equipped with Solid Tires
1— 4,000	.....\$1.10	\$1.25
4,001— 6,000	..... 1.15	1.40
6,001— 8,000	..... 1.30	1.50
8,001—16,000	..... 1.40	1.60
16,001—24,000	..... 1.40	1.75
24,001—28,000	..... 1.40	2.00
28,000—and up	..... 4.00	6.00

[Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 8a.]

[Art. 6675a—8b. Weight of vehicles]

Provided that no vehicle shall be registered with four wheels, or less, whose gross weight, including load, exceeds 22,000 pounds; that no vehicle shall be registered with six wheels, whose gross weight, including load, exceeds 30,000 pounds; (axles of the latter type to be spaced not less than 40 inches apart).

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And provided further that no motor vehicle shall be registered and licensed which has a total outside width, including any load thereon, of more than ninety-six inches, except that the width of a farm-tractor shall not exceed 9 feet, and excepting further, that the limitations as to size of vehicle stated in this Section shall not apply to implements of husbandry and highway building and maintenance machinery temporarily propelled or moved upon the public highway; provided, that a six wheel vehicle whose gross weight is between 26,001 and 30,000 shall be registered at a fee of \$1.60 per cwt. if equipped with pneumatic tires and a fee of \$2.00 per cwt. if equipped with solid tires; provided further, that said vehicle does not exceed the axle or wheel weight as provided for by law. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 8b.]

[Art. 6675a—9. Schedule of fees furnished tax collectors]

The Department shall compile and furnish to the County Tax Collectors a complete and detailed schedule of license fees to be collected on the various makes, models and types of vehicles required to be registered hereunder; and the weight, net weight, or gross weight of any vehicle required to be registered, as determined by the Department, shall be accepted as correct for registration purposes to the exclusion of any and all other purported weights of said vehicle. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 9.]

[Art. 6675a—10. Apportionment of funds]

On Monday of each week each County Tax Collector shall deposit in the County Depository of his county to the credit of the County Road and Bridge Fund an amount equal to one hundred (100%) per cent of net collections made hereunder during the preceding week until the amount so deposited for the current calendar year shall have reached a total sum of Fifty Thousand (\$50,000.00) Dollars.

Thereafter, and until the amount so deposited for the year shall have reached a total of One Hundred Seventy-five Thousand (\$175,000.00) Dollars he shall deposit to the credit of said Fund on Monday of each week an amount equal to fifty (50%) per cent of collections made hereunder during the preceding week.

Thereafter, he shall make no further deposits to the credit of said Fund during that calendar year. All collections made during any week under the provisions of this Act [Arts. 6675a-1 to 6675a-14; P. C. Art. 870a] in excess of the amounts required to be deposited to the credit of the Road and Bridge Fund of his county shall be remitted by each County Tax Collector on each Monday of the succeeding week to the State Highway Department, together with carbon copies of each license receipt issued hereunder during the preceding week. He shall also on Monday of each week remit to the Department as now provided by Law, all transfer fees and chauffeurs' license fees collected by him during the preceding week, together with carbon copies of all receipts issued for said fees during the week.

He shall also accompany all remittances to the Highway Department with a complete report of such collections made and disposition made thereof, the form and contents of said report to be prescribed by the State Highway Department. None of the monies so placed to the credit of the Road and Bridge Fund of a county shall be used to pay the salary or compensation of any County Judge or County Commissioner, but all said monies shall be used for the construction and maintenance of lateral roads in such county under the supervision of the County Engineer, if there be one, and if there is no such engineer, then the County Commissioners' Court shall have authority to command the services of the Division Engineer of the State Highway Department for the purpose of supervising the construction and surveying of lateral roads in their respective counties. All funds allocated to the counties by the provisions of this Act [Arts. 6675a-1

to 6675a-14; P. C. Art. 807a] may be used by the counties in the payment of obligations, if any, issued and incurred in the construction or the improvement of all roads, including State Highways of such counties and districts therein; or the improvement of the roads comprising the County Road system. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 10.]

**[Art. 6675a—10a. Remittance of funds, interest]**

All funds required by this Act to be remitted to the State Highway Department, which are not so remitted within sixty days after being collected, shall thereafter bear interest for the benefit of the State Highway Fund at the rate of ten (10%) per cent per annum, which interest shall be charged to each County Tax Collector failing or refusing to remit said funds within said period of sixty days. The exact amount of said interest charge shall be determined by the State Highway Department by a careful audit of the license fees received and disbursed by said Tax Collector pursuant to the laws relating to the registration and transfer of vehicles; and the State of Texas shall have a valid claim against the County Tax Collector and his official bondmen for the amount of such interest as determined by said audit, provided, however, that no person shall be authorized or permitted to collect any license fees under the provisions of this Act except the Tax Collector or a duly authorized and appointed deputy. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 10a, as amended Acts 1930, 41st Leg., 5th C. S., p. 167, ch. 33, § 1.]

The Act of 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 10a contained a provision omitted by the amendment prohibiting any county tax collector from maintaining more than one office at which vehicles may be registered, but permitting the maintenance of one or more branch offices in any city having a population of ten thousand or more in his county.

**[Art. 6675a—11. Fees of tax collector]**

As compensation for his services under the provisions of this and other laws relating to the registration of vehicles and chauffeurs and the transfer of vehicles, each County Tax Collector shall receive a uniform fee of fifty cents for each of the first one thousand receipts issued by him each year pursuant to said laws; he shall receive a uniform fee of forty cents for each of the next nine thousand receipts so issued, a uniform fee of thirty cents for each of the next fifteen thousand receipts so issued and a uniform fee of twenty cents for each of the balance of said receipts so issued during the year. Said compensation shall be deducted weekly by each County Tax Collector from the gross collections made pursuant to this Act [Arts. 6675a-1 to 6675a-14; P. C. Art. 807a] and other laws relating to the registration of vehicles and chauffeurs and the transfer of vehicles. Out of the compensation so allowed County Tax Collectors, it is hereby expressly provided and required that they shall pay the entire expense of issuing all license receipts and number plates and chauffeurs badges issued pursuant hereto, including the cost of labor performed in issuing said receipts, number plates and badges and the cost of postage used in mailing same to applicants. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 11.]

**[Art. 6675a—12. License receipt]**

The Department shall issue, or cause to be issued, to the owner of each vehicle registered under the provisions of this Act [Arts. 6675a-1 to 6675a-14; P. C. Art. 807a] a license receipt which shall indicate the date of its issuance, the license number assigned the registered vehicle, the name and address of the owner and such other information or statement of facts as may be determined by the Department. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 12.]

**[Art. 6675a—12a. Duplicate license receipt]**

The owner of a vehicle, the license receipt for which has been lost or destroyed, may obtain a duplicate thereof, by filing with the State Highway Department or the County Collector who issued the original receipt



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and [an] affidavit that it has been lost or destroyed and by paying a fee of twenty-five cents for said duplicate. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 12a.]

[Art. 6675a—12b. Rebuilt vehicles]

It shall be the duty of each Tax Collector before registering a rebuilt vehicle to require from the owner or applicant an affidavit stating that such vehicle is rebuilt and giving the names of the persons or firms from whom the parts used in assembling the vehicle were obtained. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 12b.]

[Art. 6675a—13. Number plates]

Sec. 13. The Department shall issue or cause to be issued, one license number plate for, each motor cycle, road-tractor trailer or semi-trailer, and two license number plates for any other vehicle registered under this Act [Arts. 6675a-1 to 6675a-14; P. C. Art. 807a]. In case one number plate is assigned to a vehicle, it shall be attached thereto at the rear thereof; and in case two are assigned, one shall be attached at the front and one at the rear. Said plates shall be kept clearly visible and securely attached during the year for which they are issued. License number plates issued for vehicles required to be registered under the provisions of this Act [Arts. 6675a-1 to 6675a-14; P. C. Art. 807a] shall not be attached thereto before the beginning of the calendar year for which they are issued. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 13.]

[Art. 6675a—13a. Replacement number plates]

The owner of a registered motor vehicle may obtain from the Department through the County Tax Collector replacement number plates for such vehicle by filing with said collector an affidavit showing that said number plate or plates have been lost, stolen or mutilated, and by paying a fee of one dollar for each set of plates issued. In case one or more plates are left in possession of such owner same shall be returned to the Tax Collector when making this affidavit. Said affidavit shall state that such plate or plates have been lost, stolen or mutilated [mutilated] and will not be used on any vehicle owned or operated by the person making this affidavit. No Tax Collector shall issue replacement plates without requiring compliance with the provisions of this Section. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 13a.]

[Art. 6675a—14. Distribution of funds between state and counties]

Provided, further, that if the method of distributing between the State and the counties the funds collected under this Act [Arts. 6675a-1 to 6675a-14; P. C. art. 807a] shall be declared invalid because of inequality of collection or distribution of motor vehicle license fees, then said funds shall be distributed sixty (60%) per cent to the counties making the collections and forty (40%) per cent be remitted to the State in the same manner as herein provided. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 15.]

Arts. 6676-6683. [Repealed by Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 16]

Arts. 6688-6693. [Repealed by Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 16]

Art. 6697. [Repealed by Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 16]

[Art. 6701a. Permits for heavy trucks on highways]

Sec. 1. When any person, firm or corporation shall desire to operate over a state highway super-heavy or over-size equipment for the transport-

tation of such commodities as cannot be reasonably dismantled, where the gross weight or size exceeds the limits allowed by law to be transported over a state highway the State Highway Department may, upon application, issue a permit for the operation of said equipment with said commodities, when said State Highway Department is of the opinion that the same may be operated without material damage to the highway. Provided, however, that nothing in this Act shall prevent the full control of such movements or operations on the streets of cities and towns by the ordinances of such municipalities.

Sec. 1-a. In order to facilitate the issuance of such special permits, the Highway Department shall designate in each county a special agent or agents who shall at all times be available for the purpose of issuing such permits in compliance with this law.

Sec. 2. The application for a permit as provided for in this Act, shall be in writing and contain the following:

(a) The kind of equipment to be operated, with complete description of the same, and the weight of same.

(b) The kind of commodity to be transported, and the weight of same.

(c) The highway and the distance over which the same is to be operated.

(d) The same shall be dated and signed by the applicant.

Sec. 3. Before a permit is issued the applicant for the same shall file with the State Highway Department a bond in an amount to be set and approved by the Department, payable to the State Highway Department of Texas, and conditioned that the applicant will pay to the State Highway Department any damage that might be sustained to the highway by virtue of the operation of the equipment, for which a permit is issued to operate, and venue of any suit for recovery upon said bond may be any court of competent jurisdiction of Travis county. There shall also accompany the bond a fee of \$5.00 payable to the State Highway Department which fee shall be, by the State Highway Department, deposited in the treasury of the State of Texas, to the credit of the Highway Maintenance Fund.

Sec. 4. Any permit provided for in this Act issued by the State Highway Department, shall be substantially in the following form:

(a) It shall contain the name of the applicant and shall be dated and signed by the State Highway Engineer or a Division Engineer.

(b) It shall state the kind of equipment to be transported over the highway, together with the weight and dimensions of same and the kind and weight of the commodity to be transported.

(c) It shall state the highway and distance over which the same is to be transported.

(d) It shall state any condition upon which the permit is issued. [Acts 1929, 41st Leg., 2nd C. S., p. 71, ch. 41.]

[Art. 6701b. Liability for injuries to gratuitous guest in motor vehicle limited; public carrier and motor vehicle demonstrators excepted]

Sec. 1. No person transported over the public highways of this State by the owner or operator of a motor vehicle as his guest without payment for such transportation, shall have a cause of action for damages against such owner or operator for injuries, death or loss, in case of accident, unless such accident shall have been intentional on the part of said owner or operator, or caused by his heedlessness or his reckless disregard of the rights of others.

Sec. 2. This Act shall not relieve a public carrier or any owner or operator of a motor vehicle while the same is being demonstrated to a prospective purchaser, of responsibility for any injuries sustained by a passenger being transported by such public carrier, or by such owner or operator. [Acts 1931, 42nd Leg., p. 379, ch. 225.]

**Art. 6704. [6871-2-3-4] Classes of roads**

The Commissioners' Court shall classify all public roads in their counties as follows:

1. First class roads shall be clear of all obstructions, and not less than forty feet nor more than one hundred feet wide; all stumps over six inches in diameter shall be cut down to six inches of the surface and rounded off, and all stumps six inches in diameter and under, cut smooth with the ground, and all causeways made at least sixteen feet wide, no first or second class road shall be reduced to a lower class.
2. Second class roads shall conform to the requirements of first class roads except that they shall be not less than forty feet wide.
3. Third class roads shall not be less than twenty feet wide and the causeways not less than twelve feet wide; otherwise they shall conform to the requirements of first class roads. [As amended Acts 1929, 41st Leg., p. 429, ch. 197, § 1.]

**Art. 6711. [6889-6900] Neighborhood roads**

Any lines between different persons or owners of lands, any section line, or any practicable route, that the Commissioners' Court may agree upon, in order to avoid hills, mountains or streams through any and all inclosures, may be declared public highways upon the following conditions:

1. Ten freeholders, or one or more persons living within an inclosure, who desires a nearer, better or more practicable road to their church, county seat, mill, timber, or water, may make sworn application to the Commissioners' Court for an order establishing such road, designating the lines sought to be opened and the names and residences of the persons or owners to be affected by such proposed road, and stating the facts which show a necessity for such road.

2. Upon the filing of such application the clerk shall issue a notice reciting the substance thereof directed to the sheriff or any constable of the county, commanding him to summon such land owners, naming them, to appear at the next regular term of the commissioners' court and show cause why said lines should not be declared public highways. Said notice shall be served in the manner and for the length of time provided for the service of citations in civil actions in justice courts, and shall be returned in like manner as such citation.

3. At a regular term of the court, after due service of such notice, if the commissioners' court deems said road of sufficient public importance, it may issue an order declaring the lines designated in the application, or the lines fixed by the commissioners' court, to be public highways, and direct the same to be opened by the owners thereof and left open for a space of fifteen feet on each side of said line, but the marked trees and other objects used to designate said lines, and the corners of surveys, shall not be removed nor defaced. Notice of such order shall be immediately served upon such owners, and return made thereon, as before provided.

4. The damages to such land owners shall be assessed by a jury of freeholders, as for other public roads, and all costs attending the proceedings in opening neighborhood roads, if the application is granted shall be paid by the county.

5. The commissioners' court shall not be required to keep any such road worked by the road hands as in the case of other public roads. [As amended Acts 1930, 41st Leg., 5th C. S., p. 207, ch. 62, § 1.]

**[Art. 6770a. Road duty; payment exempting]**

Sec. 1. In all counties in Texas having more than thirty-one thousand inhabitants and less than thirty-two thousand inhabitants as shown by the 1920 census, every able-bodied male person between the ages of twenty-

one and forty-five years shall be liable for road duty, and every such person shall, on or before the first day of February of each year pay to the Tax Collector of said counties, the sum of Three Dollars (\$3.00) and every person making such payment shall be exempt from road duty for one year next succeeding such first day of February. The County Tax Collector shall receive and receipt for all monies so paid him and shall pay same over to the County Treasurer by deposit warrant, retaining one of said warrants as his receipt therefor; the same to be placed to the credit of the Road and Bridge Fund in such county and a separate account shall be kept for each precinct from which said money is received by the Tax Collector.

Sec. 2. The Tax Assessor of such counties shall procure a list of all persons liable for road duty and residing in said counties on or before the first day of January of each year, but shall not include residents of incorporated cities which said list shall be examined and approved by the Commissioners' Court and turned over to the Tax Assessor who shall place same on a separate roll and turn same over to the Tax Collector and other rolls; and the Tax Collector is required to furnish a monthly statement of such taxes collected, and after February 1, of each year, shall furnish to the Commissioners' Court a statement of all persons failing to pay such road tax, specifying the precincts in which they are assessed. Provided that the Commissioners' Court of said county, or the Tax Collector, when their attention is called to the matter, may add any other names to said list as prepared and submitted by the members of the Commissioners' Court, or Tax Collector, where such names of the parties were omitted from the said list through inadvertence or otherwise, or where such parties have moved into said precinct within the last fifteen days.

Sec. 3. The residence in any such county of any able-bodied male person between the ages of twenty-one and forty-five for a period of fifteen days shall subject him to the above mentioned road tax, except such persons as have already worked, or paid said tax for said year, and the Tax Collector of each such county is authorized and empowered to collect from such party, or parties, said Three Dollar tax, whether or not their names are upon the list furnished by the Commissioners' Court of said county, or Tax Assessor of said county. [Acts 1929, 41st Leg., 3rd C. S., p. 234, ch. 4.]

Effective 20 days after July 20, 1929, date of adjournment. Section 5 of Acts 1929, 41st Leg., 3rd C. S. p. 234, ch. 4, repeals all

conflicting laws and parts of laws. Section 4 being a penal provision is published as Pen. Code, art. 835a.

[Art. 6797b. Acceptance of Federal aid for construction of toll bridges]

Sec. 1. That the provisions and benefits of the Act of Congress authorizing the extension of Federal Aid for construction of toll bridges on highways forming a part of the Federal system, under certain conditions and limitations, 44 United States Statutes 1398, approved March 3, 1927, be and the same is hereby accepted; and the State Highway Department of this State is authorized and empowered to cooperate with the Federal Bureau of Roads in the construction of such toll bridges under the provisions of said Act of Congress, including inter-state bridges over streams constituting the boundary line between the State of Texas and an adjoining State; to appropriate and use State Highway Funds for such purpose; to fix, levy and collect such tolls as provided by the said Act of Congress, to the end that such bridges may become free, as contemplated or provided by the said Act of Congress; and to do all such acts and things as may be necessary or proper to give effect to the intent and purpose of this Act.

Sec. 2. This Act shall include inter-state bridges over streams forming the boundary line of the State of Texas and another state and when such bridge or bridges are constructed jointly by the State of Texas and an adjoining State the Highway Commission shall have authority to cooperate and join with the appropriate authorities of such adjoining state

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in fixing, levying and collecting such tolls to carry out the provisions of this Act and the Act of Congress. [Acts 1929, 41st Leg., p. 382, ch. 173.]

Effective March 6, 1929. Section 3 of said Acts 1929, 41st Leg., p. 382, ch. 173, provides that the act is cumulative of and not intended to repeal other laws on the subject, but to enable the Highway Commission to accept the benefits of the act of Congress.

## TITLE 117—SALARIES

Art. 6818. [Repealed by Acts 1931, 42nd Leg., p. 8, ch. 6, § 1]

Art. 6823. Traveling expenses

The traveling and other necessary expenses incurred by the various officers, assistants, deputies, clerks and other employees in the various departments, institutions, boards, commissions, or other subdivisions of the State Government, in the active discharge of their duties shall be such as are specifically fixed and appropriated by the Legislature in the general appropriation bills providing for the expenses of the State Government from year to year. When appropriations for traveling expenses are made, any allowances or payments to officials or employees for the use of privately owned automobiles shall be on a basis of actual mileage traveled for each trip or all trips covered by the expense accounts submitted for payment or allowance from such appropriations, and such payment or allowance shall be made at a rate not to exceed five (5) cents for each mile actually traveled, and no additional expense incident to the operation of such automobile shall be allowed. [As amended Acts 1931, 42nd Leg., p. 372, ch. 218, § 1.]

Art. 6824. [7086] [4853] Change in salary

The salaries of officers shall not be increased nor diminished during the term of office of the officers entitled thereto, provided, however, that the members of the Legislature by majority vote may at any time set their salaries at any amount within the Constitutional limit. [As amended Acts 1931, 42nd Leg., p. 9, ch. 7, § 1.]

## TITLE 118—SEAWALLS

Art. 6834. [5589] Election: [Commissioners' court to secure list of voters]

For the purpose of ascertaining whether two-thirds of the qualified voters who are taxpayers in said county or city have voted in favor of said proposed taxation the Commissioners' Court or Governing Body shall secure from the Tax Collector of the county a list of all of the qualified voters in said county or city, as the case may be, and in addition to any other notice required by law, the Commissioners' Court or Governing Body shall mail to each qualified voter therein a copy of such proposition as submitted at least ten days before the date of such election. Before any bonds shall be issued hereunder, the proposition to levy a tax to pay the interest and sinking fund on such bonds shall be submitted to the qualified voters who are property tax payers of such county or city; said election to be held and said bonds issued and sold as provided in Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925. The ballots in said election shall contain the words in substance: "In Favor of the Proposed Tax", or "Against the Proposed Tax". [As amended Acts 1930, 41st Leg., 5th C. S., p. 160, ch. 28, § 1.]

Section 1 of Acts 1930, 41st Leg., 5th C. S., p. 160, ch. 28, amended section 1 of Acts 1930, 41st Leg., 4th C. S., p. 73, ch. 35, which amended article 6834.

The amendment by the 5th C. S., ch. 28 supplied the words "submitted to" before "qualified voters" which were omitted in the amendment by the 4th C. S., ch. 35.

**Art. 6835. [5590] Result of election**

The Commissioners' Court or Governing Body as soon as practicable after said election shall meet and canvass the returns thereof and ascertain and record in the Minutes the result as shown by said returns. If said Commissioners' Court or Governing Body shall find that due notice of said election and submission of said question has been made to all of the qualified voters who are taxpayers in said County or City as herein provided and that in said election two-thirds of the qualified voters who are taxpayers voting in said election voted in favor of the said tax, such Commissioners' Court or Governing Body shall find that two-thirds of the taxpayers of said County or City voted in favor of the tax and thereupon said Commissioners' Court or Governing Body shall be authorized to issue the bonds and levy the tax for the purposes provided in this Title. [As amended Acts 1930, 41st Leg., 4th C. S., p. 73, ch. 35, § 2.]

**Art. 6838. [5593] Custodians of funds**

All funds, revenues and moneys derived from the sale of the bonds herein authorized shall be deposited with the County or City Treasurer, as the case may be, and shall be held in trust exclusively for the purposes named in this Title. All moneys derived from the assessment and levy of taxes as aforesaid are declared to be a trust fund for the payment of principal and interest of bonds to be issued under this Title. [As amended Acts 1930, 41st Leg., 4th C. S., p. 73, ch. 35, § 3.]

**[Art. 6839a. Grant of sea wall right of way]**

Any county may donate and grant to the State of Texas or to any eleemosynary institution incorporated under the laws of the State of Texas and operated without profit, but for the benefit of the public, such portions of any seawall right of way as may have been heretofore acquired by such county, and by the Commissioners' Court of such county deemed proper to be so granted, and upon any such Commissioner's Court so determining, the county judge of such county may convey such property in accordance with the order of said Commissioners' Court. [Acts 1929, 41st Leg., p. 308, ch. 144, § 1.]

Effective Feb. 25, 1929. Section 2 of repeals all conflicting laws and parts of said Acts 1929, 41st Leg., p. 308, ch. 144, laws.

**[Art. 6839b. Validating seawall bonds]**

Sec. 1. That wherever the Commissioners' Court of any County, or the Governing Body of any City, District or political subdivision of this State has ordered an election for the issuance of Seawall Bonds, pursuant to Section 7 of Article 11 of the State Constitution, and a two-thirds majority of the qualified property tax paying voters of such County, City, District, or Political Subdivision, voting at such election, authorize the issuance of said bonds and the levy of the tax in payment thereof, and the Commissioners Court of such County, or the Governing Body of such City, District or Political Subdivision, has canvassed the returns of the election held for such purpose, and by order, ordinance or resolution, duly passed and entered of record, has found and declared that such bonds were authorized by a two-thirds majority of the qualified property tax paying voters, voting at such election, and, thereupon, by proper order, ordinance or resolution, has authorized the issuance of bonds for the construction of such Seawalls and levied an ad valorem tax to pay the principal and interest thereof at maturity, and has prescribed the date, maturity, rate of interest such bonds are to bear, the place of payment of principal and interest, each such election and all acts and proceedings had and taken in connection therewith by such Commissioners' Court, or the Governing Body of any City, District or Political Subdivision in this State, the levy of taxes and the provision made for the payment of the interest and the sinking fund for the payment of the principal of such

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bonds, are hereby legalized, approved and validated; and such bonds so authorized are hereby validated and constituted the legal obligations of such County, City, District or Political Subdivision, and all acts of such bodies in respect to the issuance of such bonds are hereby legalized and validated, and the Commissioners' Court, or the Governing Body of any such City, District or Political Subdivision, is hereby expressly authorized and directed to provide for the payment of the interest and principal of any such bonds by the levy of taxes and appropriations of revenues in the time and manner prescribed by statute.

Sec. 2. The Legislature hereby specifically exercises the power vested in it by Section 7 of Article 11 of the State Constitution to provide for the authorization upon a two-thirds vote of the taxpayers in Counties and Cities bordering on the Coast of the Gulf of Mexico, and hereby finds that the manner in which any such County, City, District, or Political Subdivision has ascertained that a two-thirds vote of such taxpayers was had, is legal and valid. The Legislature specifically finds that where two-thirds of the taxpayers voting at such election voted for the levy and collection of such taxes and the issuance of bonds, said taxes and bonds have been validly and legally authorized. [Acts 1930, 41st Leg., 5th C. S., p. 119, ch. 6.]

[Art. 6839c. Validating bond authorization for sea wall construction]

Sec. 1. That wherever the Commissioners' Court of any county, or the governing body of any city, district, or political subdivision of this State has ordered an election for the issuance of Seawall Bonds, pursuant to Section 7 of Article 11 of the State Constitution, and a two-thirds majority of the qualified property tax paying voters of such county, city, district, or political subdivision, voting at such election, authorize the issuance of said bonds and the levy of the tax in payment thereof, and the Commissioners' Court of such county, or the governing body of such city, district, or political subdivision, has canvassed the returns of the election held for such purpose, and by order, ordinance, or resolution, duly passed and entered of record, has found and declared that such bonds were authorized by a two-thirds majority of the qualified property tax paying voters, voting at such election, and thereupon, by proper order, ordinance, or resolution, has authorized the issuance of bonds for the construction of such seawalls and levied an ad valorem tax to pay the principal and interest thereof at maturity, and has prescribed the date, maturity, rate of interest such bonds are to bear, the place of payment of principal and interest, each such election and all acts and proceedings had and taken in connection therewith by such Commissioners' Court, or the governing body of any city, district, or political subdivision in this State, the levy of taxes and the provision made for the payment of the interest and the sinking fund for the payment of the principal of such bonds, are hereby legalized, approved and validated; and such bonds so authorized are hereby validated and constituted the legal obligations of such county, city, district, or political subdivision; and all acts of such bodies in respect to the issuance of such bonds are hereby legalized and validated, and the Commissioners' Court, or the governing body of any such city, district, or political subdivision, is hereby expressly authorized and directed to provide for the payment of the interest and principal of any such bonds by the levy of taxes and appropriations of revenue in the time and manner prescribed by Statute.

Sec. 2. The Legislature hereby specifically exercises the power vested in it by Section 7 of Article 11 of the State Constitution to provide for the authorization upon a two-thirds vote of the taxpayers in counties and cities bordering on the Coast of the Gulf of Mexico, and hereby finds that the manner in which any such county, city, district, or political subdivision has ascertained that a two-thirds vote of such taxpayers was had, is

legal and valid. The Legislature specifically finds that where two-thirds of the taxpayers voting at such election voted for the levy and collection of such taxes and the issuance of bonds, said taxes and bonds have been validly and legally authorized. [Acts 1931, 42nd Leg., 1st C. S., p. 82, ch. 38.]

## TITLE 120—SHERIFFS AND CONSTABLES

### Article 6866. [7121-2] Oath and bond

Every person elected to the office of sheriff shall, before entering upon the duties of his office, give a bond with two or more good and sufficient sureties, to be approved by the Commissioners' Court of his county, for such sum as may be directed by such Court, not less than Five Thousand (\$5,000.00) Dollars nor more than Thirty Thousand (\$30,000.00) Dollars payable to the Governor and his successors in office, conditioned that he will account for and pay over to the persons authorized by Law to receive the same, all fines, forfeitures and penalties that he may collect for the use of the State or any county, and that he will well and truly execute and make due return of all process and precepts to him lawfully directed, and pay over all sums of money collected by him by virtue of any such process or precepts, to the persons to whom the same are due, or their lawful attorney, and that he will faithfully perform all such duties as may be required of him by Law, and further conditioned that he will pay over to his county all moneys illegally paid to him out of county funds, as voluntary payments or otherwise, and said sheriff shall also take and subscribe the official oath, which shall be indorsed on said bond, together with the certificate of the officer administering the same. When any person elected or appointed sheriff, in accordance with this Article, shall have given bond and taken the official oath, he may enter at once upon the discharge of his duties, and his acts shall be as valid in Law before receiving his commission as afterward; said bond shall not be void on the first recovery, but may be sued on from time to time in the name of any person injured until the whole amount thereof is recovered; provided, however, that no sheriff or his duly and legally appointed deputies shall be responsible on their official bond or personally by reason of having received from or confined any prisoner delivered or surrendered to them by any State Ranger. [As amended Acts 1931, 42nd Leg., p. 430, ch. 260, § 1.]

### Art. 6869. [7125] [4896] May appoint deputies, etc.

Sheriffs shall have the power, by writing, to appoint one or more deputies for their respective counties, to continue in office during the pleasure of the sheriff, who shall have power and authority to perform all the acts and duties of their principals; and every person so appointed shall, before he enters upon the duties of his office, take and subscribe to the official oath, which shall be indorsed on his appointment, together with the certificate of the officer administering the same; and such appointment and oath shall be recorded in the office of the County Clerk and deposited in said office. The number of deputies appointed by the sheriff of any one county shall be limited to not exceeding three in the Justice precinct in which is located the county site of such county, and one in each Justice precinct, and a list of these appointments shall be posted up in a conspicuous place in the Clerk's office. An indictment for a felony of any deputy sheriff appointed shall operate a revocation of his appointment as such deputy sheriff. Provided further, that if in the opinion of the Commissioners' Court fees of the sheriff's office are not sufficient to justify the payment of salaries of such deputies, the Commissioners' Court shall have the power to pay the same out of the General Fund of said county. [Acts 1929, 41st Leg., 1st C. S., p. 283, ch. 113, § 1.]



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### Art. 6869A. May Appoint Additional Deputies

The sheriff in any county in this State may employ not to exceed three (3) additional deputies in excess of those now authorized by law, for the purpose of enforcing the law in counties with a population of three hundred forty thousand (340,000) or over, according to the last Federal Census; the compensation of such deputies shall be fixed by the Commissioners' Court of said County, and the same shall be paid out of the general fund of said county. Provided that said deputies when so appointed shall each before entering upon his duty execute a good and sufficient bond with two or more sureties, to be approved by the Commissioners' Court of said County in the sum of \$2,500.00 each, payable to the County Judge of the County and his successors in office, conditioned that he will well, truly and faithfully execute and due return make of all process and precepts to him lawfully directed, and pay over all sums of money collected by him by virtue of such process or precept to the persons to whom the same are due, or to their lawful attorney, that he will fairly and faithfully perform all such duties as may be required of him by Law, which bond when so executed shall be recorded in the office of the Clerk of the County Court and deposited in said office. Said bond shall not be void on the first recovery, but may be sued on from time to time in the name of any person injured until the whole amount thereof is recovered. [Acts 1931, 42nd Leg., p. 818, ch. 337, § 1.]

### Art. 6869a[B]. [Appointment and number of deputies in certain counties]

Provided that in any county having a population of more than one hundred and thirty thousand (130,000) and less than one hundred and fifty thousand (150,000) inhabitants, as shown by the latest United States Census, and containing two cities of fifty thousand (50,000) population, or more, each, as shown by the said Census, said county composing two or more Judicial Districts, the sheriff shall have power, by writing, to appoint sixteen (16) deputies for his said county, to continue in office during the pleasure of the sheriff, who shall have power and authority to perform all the acts and duties of their principal; and every person so appointed shall, before he enters upon the duties of his office, take and subscribe to the official oath which shall be endorsed on his appointment, together with the certificate of the officer administering the same; and such appointment and oath shall be recorded in the office of the county clerk and deposited in said office. A list of these appointments shall be posted up in a conspicuous place in the county clerk's office. An indictment for a felony of any deputy sheriff appointed shall operate a revocation of his appointment as such deputy sheriff. The salaries of the deputies herein provided for shall be paid monthly by the sheriff out of the Fees of Office as provided in Article 3891 and Article 3902 Revised Civil Statutes, Texas, 1925. [Acts 1931, 42nd Leg., p. 809, ch. 332, § 1.]

Effective April 30, 1931. Section 2 of said act 1931 repeals all conflicting laws and parts of laws.

### Art. 6879. [7138] Appointment of deputies

See art. 6879a.

### [Art. 6879a. Deputy constables in Justice Precincts having city or town of certain population; appointment]

Sec. 1. The duly elected Constable in each Justice Precinct having a city or town of less than eight thousand (8,000) population according to the preceding Federal Census may appoint one (1) Deputy and no more; and each Justice Precinct having a city or town of eight thousand (8,000) and less than forty thousand (40,000) population according to the preceding Federal Census may appoint two (2) Deputies and no more; and in each

Justice Precinct having a town or city of forty thousand (40,000) population or more according to the preceding Federal Census may appoint five (5) Deputies and no more, and in each and every instance said Deputy Constables shall qualify as required of Deputy Sheriffs.

Sec. 2. When the Constable in each and every instance named and described in the preceding section of this Act shall desire to make appointment of a Deputy or Deputies, as the case may be, said Constable shall first make written application to the Commissioners' Court of his County showing that it is necessary for such Constable to have the Deputy or Deputies requested in order to properly handle the business of his office originating in the Precinct in which such Constable has been elected, giving the name of each proposed appointee; and if the Commissioners' Court shall find that the Constable is in need of the Deputy or Deputies requested to handle the business originating in his Precinct then and in that event, and in that event only, the Commissioners' Courts shall approve and confirm the appointment of the Deputy or Deputies provided by this Act.

Sec. 3. Any person who serves as a Deputy Constable without the provisions hereof having been complied with relative to his appointment or any Constable who issues a Deputyship without the consent and approval of the Commissioners' Court shall be fined not less than Fifty (\$50.00) Dollars nor more than One Thousand Dollars (\$1,000.00). [Acts 1931, 42nd Leg., p. 503, ch. 280.]

Effective 90 days after May 23, 1931, date of adjournment. Section 3a of said Acts 1931, 42nd Leg., p. 503, ch. 280, being a penal provision, is published as Penal Code, art. 803b. See also, art. 6879.

## TITLE 121—STOCK LAWS

Art. 6899. [Repealed by Acts 1929, 41st Leg., p. 55, ch. 22, § 1]

Art. 6899a. [Marks and brands of live stock in Matagorda County]

This Act shall apply to Matagorda and Wharton Counties only. In said Counties each owner of any livestock mentioned in Chapter 1 of Title 121 of the Revised Civil Statutes of 1925, shall within six months after this Act takes effect have his mark and brand for such stock recorded in the office of the County Clerk of the County. Such owners shall so record such marks and brands whether the same have been heretofore recorded or not. The owner shall have the right to have his mark and brand recorded in his name who according to the present records of said County first recorded the same in the County, or in event it can not be ascertained from the records who first recorded same in the County, then the person who has been using such mark and brand the longest shall have the right to have the same recorded in his name. After the expiration of six months from the taking effect of this Act all records of marks and brands now in existence in said County shall no longer have any force or effect and after the expiration of six months only the records made after this Act takes effect shall be examined or considered in recording marks and brands in said County. Immediately upon the taking effect of this Act the County Clerk of the County shall have this Act published in some newspaper of general circulation in the County for a period of thirty days, which publication shall be paid for by the County out of the General County Fund. [As amended Acts 1931, 42nd Leg., p. 791, ch. 318, § 1.]

Arts. 6900-6902. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 114, ch. 52, § 29]

Sections 1-28 of Acts 1929, 41st Leg., 1st C. S., p. 114, ch. 52, containing numerous penal provisions is published as Pen. Code, art. 1525b.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

#### Art. 6954. [7235] Petition

Upon the written petition of one hundred (100) freeholders of any of the following Counties: Anderson, Aransas, Atascosa, Austin, Archer, Bastrop, Baylor, Bandera, Bee, Bell, Bexar, Blanco, Borden, Bosque, Brazos, Brewster, Briscoe, Brown, Brooks, Burleson, Burnet, Caldwell, Calhoun, Calahan, Cameron, Camp, Carson, Castro, Chambers, Cass, Clay, Cherokee, Childress, Collingsworth, Coleman, Collin, Colorado, Cooke, Comanche, Concho, Crockett, Coryell, Cottle, Crosby, Cochran, Crane, Dallas, Dawson, Deaf Smith, Delta, Dallam, Denton, DeWitt, Dimmit, Donley, Duval, Eastland, Ector, Edwards, Ellis, Erath, El Paso, Falls, Fannin, Fayette, Floyd, Foard, Fort Bend, Franklin, Fisher, Freestone, Gaines, Galveston, Goliad, Gray, Gregg, Guadalupe, Garza, Glasscock, Gillespie, Gonzales, Grimes, Grayson, Hale, Hamilton, Hansford, Harris, Harrison, Hays, Haskell, Hall, Hardeman, Hartley, Henderson, Hidalgo, Hill, Hood, Hopkins, Howard, Hockley, Hudspeth, Hunt, Hutchinson, Jeff Davis, Jim Hogg, Jim Wells, Jack, Jackson, Jones, Jefferson, Johnson, Karnes, Kaufman, Kimball, Knox, Kerr, Kendall, Kleberg, Lamar, Lampasas, Lavaca, Lamb, Lee, Leon, Limestone, Lynn, Lipscomb, Llano, Live Oak, Liberty, Lubbock, Madison, Mason, McLennan, Matagorda, McCulloch, Menard, Moore, Marion, Martin, Maverick, Medina, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Morris, Navarro, Nacogdoches, Nolan, Nueces, Ochiltree, Oldham, Palo Pinto, Parker, Pecos, Potter, Panola, Polk, Rains, Randall, Red River, Reeves, Real, Refugio, Robertson, Rockwall, Runnels, Rusk, Reynolds, San Patricio, San Saba, San Jacinto, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Stephens, Sterling, Starr, Sutton, Swisher, Tarrant, Tom Green, Taylor, Terrell, Throckmorton, Titus, Travis, Upshur, Uvalde, Victoria, Val Verde, Van Zandt, Washington, Walker, Waller, Webb, Williamson, Wilson, Wise, Ward, Wharton, Wood, Wheeler, Winkler, Wichita, Wilbarger, Young, Zapata, and Zavala, or upon the petition of fifty freeholders of any such subdivision of a County as may be described in the petition, and defined by the Commissioners' Court of any of the above named Counties, Commissioners' Court of said County shall order an election to be held in such County or such subdivision of a County as may be described in the petition and defined by the Commissioners' Court on the day named in the order for the purpose of enabling the freeholders of such County or subdivision of a County as may be described in the petition and defined by the Commissioners' Court to determine whether horses, mules, jacks, jennets, and cattle shall be permitted to run at large in such County or such subdivision of a County as may be described in the petition and defined by the Commissioners' Court. [As amended Acts 1931, 42nd Leg., p. 781, ch. 313, § 1.]

Effective April 9, 1931. This article was also amended by Acts 1926, 39th Leg., 1st C. S., p. 17, ch. 11, § 1; 1927, 40th Leg., p. 363, ch. 245, § 1; 1929, 41st Leg., p. 9, ch. 5, § 1; 1929, 41st Leg., 1st C. S., p. 185, ch. 71, § 1; 1929, 41st Leg., 3rd C. S., p. 240, ch. 8, § 1; 1930, 41st Leg., 4th C. S., p. 25, ch. 15, § 1 (effect 20 days after Feb. 18, 1930, date of adjournment).

Acts 1929, 41st Leg., p. 423, ch. 194, §§ 1-18, effective 90 days after March 14, 1929, date of adjournment provides a similar mode by which horses, mules, jacks, jennets, cattle, hogs, sheep and goats may be prevented from running at large in Limestone County.

#### Art. 6955. Exceptions

The provisions of the preceding article shall not apply as a whole to Wharton County but shall apply only to such subdivision thereof as may be designated in the manner herein provided; provided, however, that the provisions of this Act shall not apply to Jefferson County as a whole, but shall apply only to such subdivision thereof as may be designated in the manner herein provided; provided, however, that the provisions of this Act shall not apply to Hudspeth County as a whole, but shall apply only to such subdivisions thereof as may be designated in the manner herein provided; provided, however, that the provisions of the preceding article shall not apply to Culberson County as a whole, but shall apply

only to such subdivisions thereof as may be designated in the manner herein provided. [As amended Acts 1930, 41st Leg., 4th C. S., p. 28, ch. 17, § 1.]

#### Art. 7005. [7305] [5043] Counties exempt

The Counties of Anderson, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Borden, Bowie, Bosque, Brazoria, Brazos, Brewster, Brown, Burleson, Burnet, Caldwell, Calahan, Calhoun, Camp, Carson, Cass, Chambers, Cherokee, Childress, Clay, Cochran, Coke, Collin, Collingsworth, Colorado, Comal, Comanche, Cooke, Coryell, Cottle, Crockett, Crosby, Dallam, Delta, Denton, DeWitt, Dickens, Donley, Eastland, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Galveston, Gillespie, Goliad, Gonzales, Gray, Grayson, Gregg, Guadalupe, Hall, Hamilton, Hardeman, Harris, Harrison, Hartley, Hays, Hemphill, Henderson, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hunt, Irion, Jackson, Jack, Jasper, Jeff Davis, Johnson, Karnes, Kaufman, Kendall, Knox, Kinney, Lamar, Lamb, Lampasas, Lavaca, Leon, Limestone, Lipscomb, Live Oak, Llano, Loving, Lubbock, Lynn, Madison, Marion, Mason, Maverick, Medina, McLennan, Midland, Milam, Mills, Mitchell, Montague, Morris, Motley, Nacogdoches, Navarro, Newton, Oldham, Orange, Palo Pinto, Panola, Parker, Pecos, Polk, Raines, Reagan, Red River, Refugio, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Patricio, Schleicher, Shelby, Smith, Shackelford, Somervell, Starr, Scurry, Stephens, Sterling, Tarrant, Terrell, Terry, Throckmorton, Titus, Tom Green, Trinity, Tyler, Uvalde, Upshur, Upton, Val Verde, Van Zandt, Victoria, Ward, Washington, Wharton, Wheeler, Williamson, Wilson, Wise, Winkler, and Young are hereby exempted from the provisions of this Chapter, and from all laws regulating the inspection of hides and animals. [As amended Acts 1931, 42nd Leg., p. 852, ch. 360, § 1.]

Acts 1931, 42nd Leg., 2nd C. S., p. 10, Ch. 3, § 1 repeals section 2 of Acts 1931, 42nd Leg., p. 799, ch. 325, providing for the ap-  
pointment of an inspector of hides and animals for Presidio County.

#### Art. 7008. Fees of inspector

Each inspector of hides and animals, or deputy inspector, provided for in this chapter shall be entitled to receive ten cents for each hide or animal personally inspected by him, but if more than fifty hides or animals are inspected in the same lot, then ten cents each for the first fifty, and three cents each for all above that number, provided that the commissioners court of any county not exempted from the provisions of this chapter may, upon hearing showing the necessity therefor after due notice of the time and place of such hearing having been published once each week for three consecutive weeks in a newspaper of general circulation in such county, by order entered upon the minutes of such commissioners court, authorize said inspector, or deputy inspectors, of said county to charge not to exceed twenty-five cents for each hide or animal inspected except in cases where more than fifty hides or animals are inspected in the same lot, in which event no more than twenty-five cents each for the first fifty hides or animals inspected and not to exceed ten cents each for all hides or animals above that number shall be authorized.

Sec. 2. Provided this Act does not apply to the following counties in Texas: Bowie, Marion, Morris, Titus, Cass, Brewster, Crockett, El Paso, Hudspeth, Culberson, Ward, Reeves, Winkler, Ector, Midland, Glasscock, Reagan, Upton, Crane, Real, Sutton, Edwards, Kinney, Val Verde, Terrell, Presidio, Jeff Davis, Pecos, Uvalde, Medina, Maverick, Taylor, Scurry, Eastland, Callahan, Throckmorton, Nolan, Mitchell, Fisher, Jones, Shackelford, Haskell, Stephens, Jefferson, Hardin, Liberty, Orange, Red River, Lamar, Delta, Hopkins, Franklin, Brazos, Robertson, Burleson, Lee, Washington, Bastrop, Kaufman, Henderson, Navarro, Freestone, Anderson, Bell, Erath, Bosque, Hamilton, Coryell, Galveston, Chambers, Matagorda,

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Wharton, Fort Bend, Travis, Williamson, San Saba, Llano, Lampasas, Burnet, Tarrant, Dallas, Hill, Ellis, Johnson, Hood, Somervell, Baylor, Wichita, Archer, Young, Clay, Hardeman, Foard, Knox, Wilbarger, Parker, Palo Pinto, Jack, Denton, Wise, Hunt, Collin, Rains, Rockwall, Harrison, Rusk, Gregg, Panola, Shelby, Bailey, Lamb, Hale, Floyd, Motley, Cottle, King, Dickens, Lubbock, Crosby, Hockley, Yoakum, Terry, Lynn, Kent, Stonewall, Borden, Dawson, Gaines, Andrews, Howard, Martin, Cochran, Leon, Montgomery, San Jacinto, Pope, Grimes, Houston, Trinity, Walker, Van Zandt, Smith, Wood, Upshur, Camp, Fayette, Lavaca, Colorado, Austin, Waller, Armstrong, Briscoe, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartley, Hemphill, Oldham, Hutchinson, Lipscomb, Moore, Ochiltree, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Atascosa, Goliad, Live Oak, Refugio, Bee, Karnes, Aransas, DeWitt, San Patricio, Wilson, Victoria, Jackson, Calhoun, Sabine, Tyler, Cherokee, Jasper, Newton, Nacogdoches, San Augustine, Angelina, Cooke, Grayson, Fannin, Bexar, Kerr, Kendall, Bandera, Blanco, Hays, Comal, Caldwell, Guadalupe, Gonzales, Falls, Limestone, McLennan, Milam, Harris, Comanche, Mills, Brown, Coleman, McCulloch, Mason, Menard, Coke, Concho, Runnels, Tom Green, Irion, Schleicher, Sterling, Gillespie and Kimble. [As amended Acts 1931, 42nd Leg., 1st C. S., p. 73, ch. 33.]

Arts. 7010-7014. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 128, ch. 53, § 38]

Act 1929, 41st Leg., 1st C. S., p. 128, ch. 53, §§ 1-37, containing numerous penal provisions is published as Pen. Code, art. 1525c.

Arts. 7015-7040 [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 128, ch. 53, § 38]

## TITLE 122—TAXATION

Art. 7043. [7351] Ascertaining tax rate

Within five days after the Comptroller has received such certified statements from every Assessor within this State, said Board shall meet for the purpose of calculating the ad valorem rate of taxes to be collected for the State and public free school purposes. In calculating said rates the Board shall calculate the same by the following rules and upon the following basis; they shall find by adding together all the property subject to taxation in all counties as shown by the certified statements returned by the Assessors, the total valuation of all property within this State subject to ad valorem taxes. They shall find by adding together the sums appropriated by the Legislature, which will or which may become due by the State during the following fiscal year, the total sum which will or which may become due by the State, during the following fiscal year. They shall find, by adding all sums paid into the State Treasury as delinquent ad valorem taxes and interest and penalties thereon during the first half of the current calendar year and the latter half of the preceding calendar year and all sums which may be expected to be paid as taxes for State purposes from all sources other than ad valorem taxes, the total sum expected to be collected from all said sources. They shall find by subtracting from the total sum which will or which may become due by the State during the succeeding fiscal year the total sum which may be expected to be paid as taxes for State purposes from all sources other than current ad valorem taxes, the total sum for State purposes which must be collected by current ad valorem taxes. They shall add to such remainder twenty per cent of said remainder. They shall divide the total sum for State purposes which must be collected by ad

valorem taxes added to twenty per cent of such total sum by the quotient of the total valuation of all property within this State divided by one hundred. The quotient shall be the number of cents on the One Hundred (\$100.00) Dollars valuation to be collected for the current year for State purposes; provided that said quotient shall not be run to more than three decimals. The rate for State purposes shall never exceed the rate fixed by law on the One Hundred (\$100.00) Dollars valuation of property; provided, however, that the rate to be fixed as provided herein for the years 1931 and 1932 shall not exceed sixty-nine (69) cents on the One Hundred (\$100.00) Dollars valuation of property; and provided further the sixty-nine (69) cents shall include the seven (7) cent Confederate Pension Tax. In calculating the rate to be collected for public free school purposes, said Board shall take into consideration the number of children in the State within the scholastic age, to be determined from the most recent official school census; and shall fix a rate that will yield and produce for such fiscal year Seventeen and One-Half (\$17.50) Dollars per capita for all the children within the scholastic age, as shown by said scholastic census; provided, the rate so fixed for any year shall never exceed the rate fixed by law. [As amended Acts 1931, 42nd Leg., 2nd C. S., p. 53, ch. 32, § 1.]

This article was also amended by Acts 1929, 41st Leg., 3rd C. S., p. 527, ch. 23, § 1 (effective Aug. 9, 1929.)

#### Art. 7047. [7355] [5049] Occupation taxes

4. [Repealed by Acts 1931, 42nd Leg., 2nd C. S., p. 61, ch. 37, § 1.]

The subd. repealed was last amended by Acts 1931, 42nd Leg., p. 355, ch. 212, § 1 (effective 90 days after March 20, 1930, date of adjournment.)

6. Auctioneers.—From every auctioneer, an annual tax of Fifty Dollars (\$50.00). [As amended Acts 1931, 42nd Leg., p. 355, ch. 212, § 1.]

7. Brokers.—Stocks and Bonds.—From every person, firm, association of persons, or corporations, dealing in bonds, and/or stocks, either exclusively or in connection with other business, the sum of Fifty Dollars (\$50.00) for each town or city in which such person, firm, association or corporation maintains an office. For the purpose of this Act, every person, firm, association of persons, or corporation whose business it is to negotiate purchases or sales of stocks, bonds, exchange, bullion, coin, money, bank notes, promissory notes, produce or merchandise, or anything else for sale, for others, shall be regarded as a broker. [As amended Acts 1931, 42nd Leg., p. 355, ch. 212, § 1.]

8. Brokers—Cotton and Cotton Factors.—From every person, firm, association of persons, or corporation following the business or occupation of a cotton broker and/or cotton factor, an annual tax of Fifteen Dollars (\$15.00) in all towns or cities whose population does not exceed twenty-five thousand (25,000) inhabitants; and in all cities whose population exceed twenty-five thousand (25,000) inhabitants, an annual tax of Twenty-five Dollars (\$25.00). [As amended Acts 1931, 42nd Leg., p. 355, ch. 212, § 1.]

9. Ship Brokers.—Every person, firm, association of persons or corporation 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 a ship broker for the purpose of this Act. Every ship broker shall pay an annual tax of Twenty-five Dollars (\$25.00). [As amended Acts 1931, 42nd Leg., p. 355, ch. 212, § 1.]

10. (a) Insurance Adjusters.—From every insurance adjuster, who adjusts insurance losses, whether employed by an insurance company, or companies, or by an adjustment bureau, or by the insured whether a member of a firm, association of persons, or whether an agent or officer of such firm, association, or of any corporation, whether the charge therefor be paid by the insured or the insurer, an annual tax of Fifty Dollars (\$50.00).

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(b) General and Special Agents.—From each and every person acting as a general or special agent of every insurance company that may transact any insurance business in this State, an annual occupation tax of Twenty-five Dollars (\$25.00). By "general agent" as used herein, is meant any person, whether a member of a firm or association, or as representative or employee, who may exercise a general supervision over the business of any insurance company in this State, or over local agencies of such insurance companies, or any person supervising such business, or any part thereof, as contradistinguished from a local agent or local agency. By "special agent" as used herein, is meant any person, whether a member of a firm or association, or as representative or employee, who may exercise supervision in any executive capacity, other than of an officer of such company, over the business of any insurance company in this State, or over the adjustment of losses or the placing of risks. But one payment of the annual occupation tax herein imposed shall be required of any one person under this subdivision. [As amended Acts 1931, 42nd Leg., p. 355, ch. 212, § 1.]

12. Brokers.—Merchandise and Commission Merchants.—From every person, firm, association of persons, or corporation, following the business or occupation of merchandise broker and/or commission merchant, either at wholesale or retail, in cities or towns of twenty-five thousand (25,000) or less population, an annual tax of Fifteen Dollars (\$15.00); and in cities of more than twenty-five thousand (25,000) population an annual tax of Twenty-five Dollars (\$25.00). A commission merchant in the meaning of this Act is every person, firm, association of persons, or corporation, receiving country produce, horses, cattle, sheep, hogs, grain, corn, hay, lumber, shingles, wood, coal, goods, wares and merchandise, or anything else for sale, to be accounted for to the owner when sold and charging a commission therefor. The provision of this Section shall not be construed as taxing the traveling salesmen. [As amended Acts 1931, 42nd Leg., p. 355, ch. 212, § 1.]

14. [15]. Money Lenders.—Money lenders as hereafter defined, an annual tax of One Hundred and Fifty Dollars (\$150.00) for each place of business. A money lender, for the purpose of this section, is a person, firm or corporation, or agent or agents for, or anyone representing a person, or persons, firm or corporation, who regularly pursues the business of lending money with or without security, and charges or receives therefor a fee, brokerage or other charge of any kind whatsoever, provided, this tax shall not apply to persons, firms, associations or corporations who lend money on or incident to real estate nor shall this tax apply to banks or banking institutions and life insurance companies regularly organized as such. [As amended Acts 1931, 42nd Leg., 2nd C. S., p. 68, ch. 41, § 1.]

Effective 90 days after Oct. 3, 1931, date of adjournment. Acts 1931 cited to the text amends. subd. 15 of art. 7047 instead of subd. 14 as stated.

This subd. was amended by Acts 1931, 42nd Leg., p. 355, ch. 212, § 1 (effective 90 days after March 20, 1930, date of adjournment.)

Subdivisions 17, 18 and 19 of this article are repealed by Acts 1930, 41st Leg. 5th C. S., p. 168, ch. 134, § 2, effective 90 days after March 20, 1930, date of adjournment, and subd. 22 is repealed by Acts 1930, 41st Leg., 5th C. S., p. 169, ch. 35, § 3, effective 90 days after March 20, 1930, date of adjournment.

22a. Theaters.—There shall be collected from the owner, proprietor or operator of every opera house, theatre, tent, airdome or other structure whose theatrical or dramatic presentations, musical comedy shows, moving pictures or other entertainments or exhibitions are given for profit in cities, towns and villages under 1,000 inhabitants, an annual tax of \$5.00; in towns and cities of 1,000 inhabitants and under 2,500 inhabitants, an annual tax of \$15.00; in towns and cities of 2,500 inhabitants and under 5,000 inhabitants, an annual tax of \$20.00; in towns and cities of 5,000 inhabitants and under 10,000 inhabitants, an annual tax of \$30.00; in towns and cities of [§] \$10,000 inhabitants and under 15,000 inhabitants, an annual tax of \$30.00; in towns and cities of 15,000 and under 20,000, an annual tax of \$40.00; in towns and cities of 20,000 inhabi-

tants and under 30,000 inhabitants, an annual tax of \$50.00; in towns and cities of 30,000 inhabitants and under 40,000 inhabitants, an annual tax of \$60.00; in towns and cities of [\$] \$40,000 or more, an annual tax of \$75.00. In each case the population shall be determined by the last preceding Federal Census.

Sec. 2. Said annual tax shall be collected from the owner, proprietor of every opera house, theatre, tent, airdome or other structure where theatrical or dramatic presentations, musical comedy shows, moving pictures or other amusements, entertainments or exhibitions are given for private profit in such cities, towns or villages of the sizes aforesaid; provided, further, if any opera house, theatre, tent, airdome or other such structure is transported from place to place, and is used in the manner and for the purposes herein set out in more than one city, town or village, only one annual occupation tax shall be collected from the owner, proprietor or operator of said opera house, theatre, tent, airdome or other structure, as set out in Section 1 hereof; provided, that in addition to the State Occupation Tax herein imposed, counties, incorporated cities, towns and villages shall each have the power and authority to collect one-half (1/2) of the amount of such State Occupation Tax. [Acts 1930, 41st Leg., 5th C. S., p. 169, ch. 35.]

Section 3 of Acts 1930, 41st Leg., 5th C. 7047 and all conflicting laws and parts of S. p. 169, ch. 35, repeals subd. 22 of article laws.

23. Coin Operated Vending Machines.—From every owner, manager, or exhibitor of every coin operated phonograph, electrical piano, electrical battery, graphophone, weighing machines, target pistol, miniature golf machine, miniature football machine, miniature baseball machine, miniature race track stereoscopic machine, gum machine, candy machine, cigarette machine, handkerchief machine, sandwich machine, or any other class or kind of machine, whether enumerated or not, where a fee is charged, which is used for the purpose of amusement, entertainment or for vending commodities, merchandise, confections, or service of any kind and which is operated by coins or metal slugs or tokens similar to coins, where such fee is in excess of Five (5) Cents, an annual tax of Ten Dollars (\$10.00), on each machine; where such fee is Five (5) Cents, an annual tax of Five Dollars (\$5.00), on each machine; and where such fee is One (1) Cent, an annual occupation tax of One (\$1.00) Dollar for each machine; provided that the provisions of this subdivision shall not apply to pay telephones and gas meters which are operated with coins. It shall be unlawful to operate, show or exhibit any of the machines or instruments covered by this subdivision without having annexed or attached thereto where same is plainly visible, the tax receipt covering such machine or instrument for the current year for which same is operated, shown or exhibited. [As amended Acts 1931, 42nd Leg., p. 355, ch. 212, § 1.]

24. Circus and Shows.—From every person, firm, association of persons or corporation exhibiting performances such as a circus, menagerie, wild west show, dog and/or pony show or show wherein broncho busting, rough riding, equestrian or acrobatic feats are performed, or any other show, exhibition or performance similar thereto, or any combination feats are performed, or any combination of any of the foregoing, for which admission fee is demanded or received for each day or part thereof on which performances or exhibitions are given, the following amount, respectively:

(a) Where such shows and/or exhibitions travel on railroads and require transportation of:

	Each Day
Not more than two (2) cars.....	\$ 25.00
Three (3) to five (5) cars, inclusive .....	40.00
Six (6) to ten (10) cars, inclusive.....	55.00
Eleven (11) to twenty (20) cars, inclusive.....	75.00
Twenty-one* to thirty (30) cars, inclusive.....	100.00
Thirty-one (31) cars and over.....	225.00



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(b) Where such shows and/or exhibitions travel by automobile trucks, or other conveyances, and require transportation of;

	Each Day
Not over two (2) loads.....	\$10.00
Three (3) to five (5) loads, inclusive.....	15.00
Six (6) to ten (10) loads, inclusive.....	20.00
Eleven (11) to twenty (20) loads, inclusive.....	25.00
Twenty-one (21) to thirty-five (35) loads, inclusive.....	35.00
Thirty-six (36) to fifty (50) loads, inclusive.....	50.00
Over fifty (50) loads, per load in excess thereof.....	2.00

Every show or exhibition which advertises itself as being any of those described in this Section shall be held to be such for the purpose of levying and collecting the occupation tax herein provided. [As amended Acts 1931, 42nd Leg., p. 355, ch. 212, § 1.]

25. (a) Menageries, Museum.—From every menagerie, waxworks, side-show, or exhibition connected with or exhibiting or showing in connection with a circus where a separate fee for admission is demanded or received Ten Dollars (\$10.00) for every day in which fees for admission are received; provided, that from any museum, menagerie, or zoological exhibition or combination thereof operated and maintained in any city or town and open for admission all day continuously, in which a charge for admission is demanded or received, an annual tax of Fifty Dollars (\$50.00).

(b) Carnivals—From every carnival, an annual tax of One Hundred Dollars (\$100.00), which State Tax shall be due and payable in each and every county in which such carnival shows or exhibits. [As amended Acts 1931, 42nd Leg., p. 355, ch. 212, § 1.]

26. Waxworks, etc.—From every menagerie, waxworks, exhibition exhibit or display of any kind where a separate fee for admission is demanded or received, not connected with a theatre or circus, Two Dollars (\$2.00) for every day on which fees for such admission are received. [As amended Acts 1931, 42nd Leg., p. 355, ch. 212, § 1.]

27. Wrestling Matches and Acrobatic Performances.—From every exhibition of a wrestling match or matches and every exhibition where other acrobatic feats are performed and an admission fee is charged or received, not connected with a circus or theatre, Ten Dollars (\$10.00) for each performance. [As amended Acts 1931, 42nd Leg., p. 355, ch. 212, § 1.]

31. Rodeos.—From every rodeo exhibition wherein broncho busting, rough riding, equestrian, acrobatic feats and roping contests are performed or exhibited for which an admission fee is charged or received, a tax of Ten Dollars (\$10.00) for each day or part thereof such rodeo is held or exhibited. This shall not apply to rodeos owned by private individuals and used only for training purposes, or in connection with agriculture fairs and exhibitions. [As amended Acts 1931, 42nd Leg., p. 355, ch. 212, § 1.]

32. Baseball Parks.—From every owner or lessee of a baseball park where admission fees are charged in cities or towns of less than ten thousand (10,000) inhabitants, or within five (5) miles thereof, an annual tax of Ten (\$10.00) Dollars; in cities or towns of ten thousand (10,000) and less than twenty-five thousand (25,000) inhabitants, or within five (5) miles thereof, an annual tax of Twenty-five Dollars (\$25.00); in cities or towns of twenty-five thousand (25,000) inhabitants and less than fifty thousand (50,000), or within five (5) miles thereof, an annual tax of Fifty<sup>1</sup> Dollars (\$50.00); in cities or towns of fifty thousand (50,000) inhabitants, or more, or within five (5) miles of any such city or town, an annual tax of One Hundred Dollars (\$100.00); provided, that this schedule shall not apply to baseball parks owned or maintained in good faith by educational institutions located in this State. [As amended Acts 1931, 42nd Leg., p. 355, ch. 212, § 1.]

35. Shooting Gallery.—From every person, firm, association of persons or corporation keeping a shooting gallery at which a fee is paid or demanded, an annual tax of Thirty Dollars (\$30.00). [As amended Acts 1931, 42nd Leg., p. 355, ch. 212, § 1.]

37. Hobby Horses, etc.—From all persons keeping or using for profit any hobby horse, flying jenny, or other device of that character, with or without name, an annual tax of Twenty-five Dollars (\$25.00). [As amended Acts 1931, 42nd Leg., p. 355, ch. 212, § 1.]

39. Cigarette Dealers. From all dealers in cigarettes in this State, Five Dollars (\$5.00), a cigarette being the same as defined by the laws of the United States Government. This tax shall be in addition to any other tax levied under the law. Each dealer shall be required to procure an annual license from the County Tax Collector of the county where he proposes to sell cigarettes, which shall be granted for no shorter or longer term than one year. The license shall describe the house and locality where the dealer proposes to sell cigarettes. [Acts 1931, 42nd Leg., p. 355, ch. 212, § 1, as amended Acts 1931, 42nd Leg., 2nd C. S., p. 55, ch. 33, § 1.]

\*[21.]

1[Fifty]

Subd. 39 of art. 7047 was repealed by

Acts 1931, 42nd Leg., p. —, ch. 73, § 12 (effective 90 days after May 23, 1931, date of adjournment).

40. Emigrant Agents.—From every person, firm, corporation or association of persons engaged in the business of an emigrant agent, an annual State tax of \$1,000.00 and in addition thereto, in each county where said emigrant agent operates or maintains an office, an annual tax, on a population basis, according to the preceding Federal census, as follows: In counties under 100,000 population the sum of \$100.00; in counties having a population from 100,000 to 200,000 inclusive, the sum of \$200.00; and in counties over 200,000 population, the sum of \$300.00. The term "Emigrant Agent" as used herein means the business of hiring, enticing, or soliciting laborers in this State to be employed beyond the limits of this State and is also meant to include every person, firm, partnership, corporation or association of persons maintaining an office to hire, entice, or solicit laborers to be employed beyond the limits of this State; and is also meant to include every person who, as an independent contractor or otherwise than as an agent of a duly licensed emigrant agent procures, or undertakes to procure, or assist in procuring laborers for an emigrant agent; and every emigrant agent shall be termed and held to be doing business as such in each and every county wherein he, in person, or through an agent, hires, entices, or solicits any laborer to be employed beyond the limits of the State. Provided, however, that the term "emigrant agent" as defined in this Act, does not mean any person, firm, association of persons or corporations or maritime [maritime] agent that hires, entices or solicits laborers for his or its own use beyond the limit of this State where an office is not maintained therefor. It is further provided that the provisions of Article 7048 authorizing the payment of an occupation tax quarterly shall not apply to emigrant agents as herein defined, but such agents shall pay in advance the tax for one entire year. Said tax shall be paid to the Tax Collector and upon production of a receipt showing the payment of the amount due the State, the Tax Collector is authorized to receive the amount due for each county. [Acts 1929, 41st Leg., 2nd C. S., p. 16, ch. 11, § 1.]

Effective June 24, 1929. Section 2 of Acts repeals Act 1929, 41st Leg., 1st C. S., p. 253, 1929, 41st Leg., 2nd C. S., p. 16, ch. 11, re- ch. 104, Pen. Code, art. 1137c.

40A. Sulphur producers.—Each person who owns, controls, manages, leases, or operates, any sulphur mine, or mines, wells or shafts, or who produces sulphur by any method, system, or manner within this State shall make quarterly on the first day of January, April, July and October of each year a report to the Comptroller sworn to by such person before an officer

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authorized to administer oaths in this State, or if such person be other than an individual, sworn to be its president, secretary, or other duly authorized officer, on such forms as the Comptroller shall prescribe showing the total amount of sulphur produced within this State by said person during the quarter next preceding; and at the time of making said report shall pay to the Treasurer of this State as occupation tax for the quarter ending on said date an amount equal to seventy-five cents (75¢) per long ton, or fraction thereof, of all sulphur produced by said person within the State of Texas during said quarter. Should any person subject to the occupation tax herein levied begin business after the beginning of a quarter, the amount of tax which such person or concern shall pay for the first quarter immediately succeeding the quarter in which the business was begun shall be ascertained by taking the total number of tons produced within the last quarter, dividing the same by the number of days such person or concern was engaged in the business during said preceding quarter and multiply the quotient by ninety, and multiplying the product by Seventy-five cents (75¢). Said tax shall be in lieu of the tax imposed by H. B. No. 2, Chapter 74, Acts of the 5th Called Session of the 41st Legislature, but said tax shall be paid in the same manner, subject to the same penalties, and under the same conditions as provided in said Act, except that fifty-five (55) cents of said funds shall go into the Available School Fund and the remainder to the General Fund. [Acts 1931, 42nd Leg., p. 355, ch. 212, § 1.]

41. Textbook publishers.—Each individual, company, corporation or association, whether incorporated under the laws of this State, or of any other State or Nation, engaged in publishing, printing and selling such text-books as are used, or will be used, in the schools of this State, or owning, controlling or managing any such business within the State or out of it, and having State agencies within this State for the purpose of selling any such books, to be used in any of the Schools of this State, shall make quarterly, on the first days of January, April, July and October of each year, a report to the Comptroller, under oath of the individual or of the president or treasurer or superintendent of such company, corporation or association, or of the person owning, controlling or managing such business, showing the gross amount received from such business done within this State from any and all sources during the quarter next preceding. Said individuals, companies, corporations and associations, at the time of making said report, shall pay to the State Treasurer an occupation tax for the quarter beginning on said date equal to one percent of said gross receipts as shown by said report. The provisions of this Article shall not apply to any corporation organized by the students and faculty of any State supported institution of learning and which has no capital stock and pays no dividends and is organized for the purpose of supplying books and other school supplies to the student of such institution and whose assets on the dissolutions of the corporation pass to the governing board of the institution as a trust fund to be used for the benefit of the institution. [Acts 1930, 41st Leg., 5th C. S., p. 175, ch. 37, § 1.]

41. [a] Cement distributors.—(a) There is hereby imposed a tax of one and one-fourth (1-1/4¢) cents on the one hundred (100) pounds, or fractional part thereof, of cement on every person in this State manufacturing or producing in and/or importing cement into this State, and who thereafter distributes, sells or uses the same in intrastate commerce. Said tax shall accrue on and is imposed on the first intrastate distribution, sale or use; provided, however, no tax shall be paid except on one sale, distribution or use. The person liable for said tax is hereby defined to be a "distributor."

(b) Such tax shall be due and payable at the Office of the Comptroller, at Austin, on the 25th day of each succeeding month, based on the business

done the preceding calendar month, and on or before said date such distributor shall also make and deliver to the Comptroller a report, sworn to, showing all cement distributed, used and sold, upon which a tax accrues as well as all produced within this State and imported into or exported out of this State, and such other information as the Comptroller may require.

(c) A complete record of the business done, together with any other information the Comptroller may require, shall be kept by each distributor; which said records shall be open to the Comptroller, Attorney General, Auditor, and their representatives. The Comptroller shall adopt rules and regulations for the enforcement hereof.

(d) No person shall act as distributor in this State who shall be delinquent in the payment of said taxes, and the Attorney General may enjoin his acting as such and may enforce the provisions hereof by suit instituted in Travis County, or other county having venue.

(e) If any person shall violate any of the provisions hereof, he shall forfeit to the State of Texas as a penalty not less than Twenty-five Dollars (\$25.00), and not more than One Thousand Dollars (\$1,000.00) for each violation, and each day's violation shall constitute a separate offense. If any person shall fail to pay said tax promptly, he shall forfeit two per cent (2%) thereof as a penalty, and, after the first twenty (20) days, he shall forfeit an additional eight per cent (8%). Delinquent taxes shall draw interest at the rate of eight per cent (8%) from due date. The State shall have a prior lien for all delinquent taxes, penalties and interest on all of the property used by the distributor in his business of distributing, selling and/or using cement.

(f) One-fourth (1/4) of the taxes imposed herein, unless otherwise provided, shall be placed to the credit of the Available School Fund. No tax shall be imposed upon any interstate sale or transaction, nor upon any sale, distribution or use exempt under either the State or Federal Constitutions, and no other like occupation tax shall be imposed by any municipal corporation on cement. [Acts 1931, 42nd Leg., p. 355, ch. 212, § 1.]

Subd. 41 was added by Acts 1930, 41st Leg., 5th C. S., p. 175, ch. 37, § 1.

42. Receipts.—All receipts issued to cover payment of occupation taxes herein provided, where issued to cover a place of business, shall be kept posted by the person to whom issued in a conspicuous place in said place of business so as to be subject to inspection at all times by State and County authorities. Those receipts issued to cover coin-operated vending machines or instruments shall be kept on, annexed or attached to such machines or instruments. All taxes shall be paid for the calendar year or remaining part thereof, due on January 1st, unless otherwise provided. [Acts 1931, 42nd Leg., p. 355, ch. 212, § 1.]

43. Penalty.—Whoever shall pursue or follow any occupation, calling or profession or do any act taxed by law, or exhibit any machine or instrument, for which a tax is required to be paid, without exhibiting and displaying the tax receipt issued to him in the manner provided in this Act shall be guilty of a misdemeanor and upon conviction, fined in any sum not exceeding Fifty Dollars (\$50.00). [Acts 1931, 42nd Leg., p. 355, ch. 212, § 1.]

44. Forfeiture.—If any person licensed under this Act shall purchase from any farmer or other producer of any of the commodities or other country produce described in Subdivision 4, Section 1, hereof, and give in payment thereof a check or draft or other written order intended to be in payment of any such commodities, which said check, draft, or written order intended to be in payment of any of such commodities is not promptly paid on presentation thereof in due course, the giver thereof shall forfeit the license as provided for herein and shall not be entitled to receive another license for one year after the giving of such check, draft, or other written or-

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der intended to be in payment of such commodities. [Acts 1931, 42nd Leg., p. 355, ch. 212, § 1.]

Effective 90 days after May 23, 1931, date of adjournment. Section 2 repeals all conflicting laws and parts of laws. Section 3 provides that if any section or part is declared invalid such decision shall not affect the remainder.

[Art. 7047a. Occupation tax on stock exchanges]

There shall be levied on and collected from every person, firm, corporation, or association of persons owning, operating, managing, controlling, or pursuing the business or occupation of any cotton exchange quotation service in this State, or furnishing quotations on the stock market on grain, cotton, or other commodities, or stocks and bonds, and who maintain an office or place of business, or branch office, and have a bulletin board or other means of furnishing quotations on the stock market, an annual State occupation tax of Two Hundred and Fifty (\$250.00) Dollars, which shall be paid annually in advance, or as otherwise provided by law for the payment of occupation taxes, on each and every separate establishment, office, branch office, or place of business; provided, the tax herein levied shall be only One Hundred (100.00) Dollars for each person, firm or corporation which is a member of only one commodity exchange; provided, this Article shall not apply to any person, firm or corporation, or association of persons who furnish gratuitously market quotations to any person desiring the same and who are not engaged in the business of furnishing market quotations and without intent to solicit or accept orders for contracts, or contracts for future deliveries or sales of any commodity, stock or bonds; provided, further, any person, firm or corporation liable for a tax under this Article shall not be required to pay the tax under Sections 8 and 12 of Article 7047, but shall pay the tax provided by this Article; provided, further, each county or city in which same is operated may levy one-half the occupation tax herein provided for in the manner now provided by Article 7048. [Acts 1930, 41st Leg., 5th C. S., p. 116, ch. 4, § 1.]

[Art. 7047b. Tax on producers of natural gas; definitions; reports to Comptroller]

Sec. 1. (a) That from and after the date herein fixed, every person engaging or continuing within this State, in the business of producing and saving in paying quantities, for sale or for profit, any natural gas, including casinghead gas, from the soil or waters of this State, and

(b) Every person who imports natural gas into this State and thereafter sells the same in intrastate commerce in this State, the tax to be imposed on the first sale; (provided, however, that if any gas is imported into this State from another State, in which latter State a severance, occupation or excise tax is imposed, the person importing such gas shall not be required to pay another tax thereon under the provisions of this Act),

(c) Are hereby declared to be "producers" and engaged in the business of producing natural gas within this State and shall make quarterly on the 25th day of January, April, July and October each year, a report to the Comptroller, under oath, of such person or his duly authorized agent or representative cognizant of the facts, showing the total amount of natural gas produced and saved by producer from each well, in this State or otherwise, and also all natural gas brought into this State through pipe lines and otherwise, and delivered to such producer, upon which gas this tax is computed during the quarter next preceding the first day of said months, and, said producer shall accompany said report with a remittance, in the form required by law, in the amount of the tax due.

(d) The Comptroller shall prescribe the form of said report, which, among other things, shall show the total amount of natural gas produced and saved by said producer, and the total amount of gas which has been

imported, the total amount of natural gas sold in intrastate commerce by such producer upon which the tax accrues, and said remittance shall be made on the gas produced, and a deduction of two (2%) per cent for evaporation and loss, and to cover the expense of keeping records by such producer shall be deducted.

Sec. 2. The terms "producer," "produced," and "producing" as defined herein shall include every person producing natural gas, upon which a tax accrues hereunder, and the tax shall be paid on the first sale of gas in intrastate commerce in this State where gas is imported. "Person" shall include every class of persons, including trustees, receivers, corporations, partnerships and associations of every kind. Quarters upon which said tax shall be computed shall be January, February and March, and the successive quarters of the year, and the tax shall be paid on the 25th day of the succeeding month after each quarter. It is intended to burden the industry with but a single tax, and no producer shall be required to pay a tax on any gas upon which a tax has previously been paid, or one against whom such a tax has theretofore accrued in Texas. Provided, that no producer shall be required to make a report on, or keep records of, or pay a tax on any natural gas, the requiring of which by the provisions of this Act would constitute a direct and unlawful burden on interstate commerce, or be obnoxious to the Constitution of the State or of the United States, and no tax shall be collected on sales made by producers directly to the Government of the United States or any branches, agencies, or instrumentalities thereof.

Sec. 3. A tax shall be paid quarterly by each such producer on the amount of gas produced and saved within this State, and on gas imported into the State, upon the first sale thereof in intrastate commerce upon the following basis: A tax equivalent to two (2%) per cent of the market value of the total amount of gas produced and saved within this State, or sold, if imported into this State, at the average market value thereof, as and when produced.

Sec. 4. Every producer required to pay a tax under the provisions of this Act shall keep a complete record on such forms as shall be required by the Comptroller showing the amount of gas produced within this State and disclosing such other information as the Comptroller may require by appropriate rules and regulations, and the Comptroller may also adopt rules and regulations requiring such distributor to give meter readings not more than once each month.

Sec. 5. (a) Any producer failing to pay the tax on the date due shall forfeit as a penalty two (2%) per cent of the amount of the tax due, and if not paid within thirty (30) days, shall forfeit an additional eight (8%) per cent; which tax and penalties accruing hereunder shall bear interest at the rate of ten (10%) per cent per annum from the date due.

(b) All taxes, penalties and interest due by any producer shall constitute a preferred lien on all of his wells, leases, and other property devoted to or used in his business as producer, not exempt under the Constitution, and if any producer shall fail to remit the proper taxes, penalties and interest due, or any of them, the Comptroller may employ auditors or other persons to ascertain the correct amount due, and the producer shall be liable, as an additional penalty, for the reasonable expenses or the reasonable value of such services of representatives of the Comptroller, incurred in such investigation and audit; provided, that all funds collected for audits and examinations shall be placed in a special fund in the Treasury and shall constitute a revolving fund which may be used from time to time by the Comptroller in making such audits in addition to the general appropriation made for such purpose, and all of said funds to be placed in said special fund are hereby appropriated for such purpose.

(c) The Attorney General shall enforce the provisions hereof and an injunction proceeding may be brought to enjoin any producer from producing natural gas, who fails or refuses to pay taxes when due, or comply with

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the provisions hereof. The Railroad Commission shall also assist in the enforcement of the provisions hereof, and the Comptroller, shall allow the Railroad Commission to inspect the reports or may require every producer to make same in duplicate and the Comptroller shall send one copy of such reports to the Railroad Commission each month.

(d) Any suit to collect taxes or to enforce any of the provisions hereof may be brought in Travis County, Texas.

Sec. 8. The Comptroller shall have the power to adopt any rules and regulations requiring the installation of meters of an approved design and the mode and manner of keeping and reading the same, and every producer is required, by the provisions of this Act, to install necessary meters.

Sec. 9. The first tax required to be paid hereunder shall be due October 25, 1931, computed and estimated on gas produced during the quarter next preceding, to-wit: July, August and September. [Acts 1931, 42nd Leg., p. 111, ch. 73.]

Articles 7047b, 7047c, effective 90 days after May 23, 1931, date of adjournment. Sections 6 and 7 being penal provisions are published as Penal Code art. 131a. Sections 14 and 15 are Penal Code art. 131b.

Section 16 makes the provisions separable and provides if any provision is held invalid, such decision shall not affect the remainder.

#### [Art. 7047c. Cigarette tax]

Sec. 11. In order to supplement the State's Available School Fund, and to reduce the burdens of ad valorem taxation on the farms and homes and other property of the people, there is hereby levied a tax on all sales in intrastate commerce, in this State of cigarettes, made of tobacco, or any substitute therefor, and weighing not more than three pounds per thousand of One Dollar and fifty cents (\$1.50) per thousand, and on those weighing more than three pounds per thousand of Three Dollars and sixty cents (\$3.60) per thousand. Such tax shall be paid only once, on account of any cigarettes so sold, by the person, firm or corporation making the first sale thereof in intrastate commerce in this State, and payment shall be evidenced by stamps purchased from the State Treasurer and properly cancelled and securely affixed to the package or parcel containing the same, covering the amount of the tax thereon as levied by this Act, provided that such stamps may be purchased and cancelled and affixed to such package or parcel by a manufacturer or distributor outside this State, in which case no further payment of tax shall be required.

Sec. 12. It is the purpose and intent of this Act to relieve retail dealers in cigarettes in this State from all accountability by reason of sales thereof, except to make it unlawful to sell cigarettes on which the tax here levied has not been paid, and which are not contained in packages or parcels to which are securely affixed the stamps evidencing payment of tax as required by this Act; and Paragraph 39 of Article 7047 of the Revised Civil Statutes of 1925, requiring dealers in cigarettes to obtain and pay for an annual license authorizing such sale is hereby repealed.

Sec. 13. It shall be the duty of the State Treasurer to have engraved or printed the stamps of the proper denomination necessary to comply with this Act and to sell the same to all manufacturers or dealers upon demand and payment therefor, and one-half of the proceeds of such sale shall be placed to the credit of the State Available School Fund, and one-half thereof to the General Fund, and the State Treasurer shall be responsible for the custody and sale of such stamps and for the proceeds of such sales under his official bond. Such stamps shall be of such design as the State Treasurer shall from time to time prescribe, and shall state the amount of tax, the payment of which is evidenced thereby and shall contain the words: "Texas State Tax paid." [Acts 1931, 42nd Leg., p. 111, ch. 73.]

**[Art. 7047d. Tax on dealers in pistols]**

Sec. 1. That hereafter there shall be collected from every person, firm or corporation engaging in the business of bartering, leasing, selling, exchanging, or otherwise dealing in pistols for profit, whether by wholesale or retail, an annual occupation tax of Ten Dollars (\$10.00), to be paid on or before January 1st of each year, and to be paid before continuing said business, within thirty (30) days from the effective date hereof. Before so engaging in said business, each such dealer shall obtain a license therefor, to be issued by the County Tax Collector of each county in which the applicant has a place of business, and for each separate place of business. The Comptroller of Public Accounts shall furnish said forms to the Tax Collectors.

Sec. 2. The Commissioners' Court of the several counties, as well as municipalities, shall also have the power to levy and collect such a tax, equal to one-half of the amount herein levied.

Sec. 3. Each such dealer shall keep a permanent record of all such pistols, bartered, leased, or otherwise disposed of, as above. Such record shall show the number of the pistol, name of the manufacturer, date of the transaction, salesman, purchaser, and their addresses, which said record shall at all times be accessible to the Comptroller, Prosecuting Attorney, Grand Jury, and Attorney General, and a copy of this record shall be mailed to and filed for record with the State Adjutant General's Department. This filing to be made each three (3) months.

"Pistol," as used herein, shall include every kind of pistol, revolver, automatic, semi-automatic, magazine pistol, and every other such short firearm intended or designed to be aimed or fired from one hand.

Sec. 6. Provided, however, that no such person shall be required to have a license or pay the tax where such person is engaged exclusively in selling pistols to the Militia of the United States or other agencies of the Federal Government authorized by law to purchase the same. [Acts 1931, 42nd Leg., p. 447, ch. 267.]

Effective May 28, 1931. Section 4 of said a Penal provision is published as Penal Acts 1931, 42nd Leg., p. 447, ch. 267 being Code art. 489a. Section 5 repeals art. 7068.

**Art. 7058. [7369] Express companies**

Each individual, company, association or corporation doing an express business by steam railroad, or by water, in this State, shall make quarterly, on the 1st days of January, April, July and October, of each year, a report to the Comptroller, under oath, of the individual or of the president, treasurer or superintendent of such company, association or corporation, showing the gross amount received from intrastate business done within this State in the payment of charges from express and freights, or from other sources of revenue received from intrastate business during the quarter next preceding. Said individuals, companies, associations or corporations at the time of making said report, shall pay to the State Treasurer an occupation tax for the quarter beginning on said date equal to Two and One-half (2½%) Per Cent of said gross receipts, as shown by said report. Provided, that those individuals, companies, associations or corporations now doing an express business in this State for which an annual gross receipts tax is now authorized by Article 7058 shall continue to pay the said annual tax for the year 1931, and shall make their first quarterly report on the 1st day of April, 1932, showing the gross receipts from the preceding months of January, February and March, and pay a tax equal to Two and One-half (2½%) Per Cent of such gross receipts, and said individuals, companies, associations and corporations thereafter shall make the quarterly report and pay the quarterly tax in the form and manner herein authorized; provided, however, no penalties shall accrue for the failure to make said reports or to pay said taxes if said reports are made and said taxes are paid within thirty (30) days after the first day



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of January, April, July and October of each year, as herein provided. [As amended Acts 1931, 42nd Leg., p. 376, ch. 222, § 1.]

**Art. 7060. [7371] Gas, electric light, power or waterworks**

Each individual, company, corporation or association, owning, operating or managing or controlling any gas, electric light, electric power or water works, or water and light plant, located within any incorporated town or city in this State, and used for local sale and distribution in said town or city, and charging for such gas, electric lights, electric power or water, shall make quarterly, on the first days of January, April, July and October of each year, a report to the Comptroller under oath of the individual or of the president, treasurer or superintendent of such company, corporation or association showing the gross amount received from such business done in each such incorporated city or town within this State in the payment of charges for such gas, electric lights, electric power or water for the quarter next preceding. Said individual, company, corporation or association, at the time of making said report for any such incorporated town or city of twenty-five hundred (2500) inhabitants and less than ten thousand (10,000) inhabitants, according to the last United States Census next preceding the filing of said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date equal to one-half of one percent of said gross receipts, as shown by said report; and for any incorporated town or city of ten thousand (10,000) inhabitants or more, according to the last United States Census next preceding the filing of said report, the said individual, company, corporation or association, at the time of making said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date an amount equal to one percent of said gross receipts, as shown by said report. Nothing herein shall apply to any such gas, electric light, power or water works or water and light plant within this State owned and operated by any city or town, nor to any county or Water Improvement or Conservation District. Nothing herein shall be construed to require payment of the tax on gross receipts herein levied more than once on the same commodity, and where the commodity is produced by one individual, company, corporation or association, and distributed by another, the tax shall be paid by the distributor alone. [As amended Acts 1930, 41st Leg., 5th C. S., p. 168, ch. 34, § 1.]

Section 2 of Acts 1930, 41st Leg., 5th C. S., p. 168, ch. 134, repeals sections 17, 18 and 19 of article 7047.

**Art. 7065. [Repealed by Acts 1931, 42nd Leg., p. 163, ch. 98, § 1]**

**Art. 7065a. [Definitions]**

(1) There is hereby imposed an occupation or excise tax of four (4) cents on each gallon of gasoline or fractional part thereof, on every "wholesale sale," or "sale at wholesale," as defined herein, and "wholesale sale" shall mean:

(a) The first distribution, sale or use in intrastate commerce of gasoline refined, blended, imported into, or otherwise produced in or brought into this State.

(b) The first distribution, sale or use in intrastate commerce of gasoline upon which no tax has previously accrued under subdivision (a) hereof.

(2) The tax shall accrue on the first distribution, sale or use, so that a single tax only will be collected on the same gallon of gasoline, it being intended to impose the tax at its source in Texas, or as soon thereafter as such gasoline may be subject to being taxed. No person, however, shall be required to pay a tax on gasoline imported into this State in the tank of a motor vehicle, connected with and which feeds the carburetor or sub-

stitute therefor, in quantities of fifty (50) gallons or less, when such gasoline is actually used in said vehicle, and is not extracted from said tank for distribution, or sale, or for use in another vehicle.

(3) If casing head gasoline, which shall include gasoline made from natural gas, is produced in, or imported into this State, a permit may be obtained from the Comptroller on a form to be issued by him, to export, sell or distribute for blending purposes in this State to another distributor, and in such event, such distributor shall make reports thereon as required by the provisions of this Act, but no remittance need be made where such producing distributor sells, distributes or delivers to another distributor, but in that event, the distributor blending the same shall pay the tax. Any such distributor having casing head gasoline, unless he exports, sells or delivers to another distributor, or delivers to his own plant, to be blended, shall pay the tax.

(4) No tax shall be imposed on any gasoline, the imposing of which would constitute an unlawful burden on interstate commerce, and which is not subject to be taxed under the Constitution of the State of Texas and the United States; and provided, that the tax imposed herein shall be in lieu of any other excise or occupation tax imposed by the State, or any political subdivision thereof, on gasoline.

(5) Any person making a "wholesale sale," or otherwise handling gasoline in such manner as to subject him to the payment of the tax hereunder, shall be a "distributor" and the sale, distribution, or use upon which said tax accrues constitute a "wholesale sale" or "sale at wholesale," and "sale" or "sell" by distributor, as used herein, shall mean the sale, use or distribution upon which the tax accrues.

(6) "Distributor" shall include, but not be limited to, the first shipping, transporting, delivery or placing at different points in intrastate commerce.

(7) Every distributor selling gasoline at "wholesale," as defined herein, shall pay to the State of Texas an occupation tax equal to four (4) cents per gallon or fractional part thereof so distributed, sold or used, and such tax shall be due and payable at the office of the Comptroller of Public Accounts at Austin, Texas, on the 25th day of each month, except the first month such distributor shall do business, and, in that event, the report and tax shall be due on the 10th of the month, the same to be based on such sales made during the calendar month next preceding, and at the same time such distributor shall make and deliver to the Comptroller of Public Accounts, a report properly sworn to and executed by such distributor or his representative in charge, on such forms as the Comptroller shall prescribe, which, among other things, shall give the number of gallons of gasoline sold at "wholesale," in interstate and intrastate commerce, and exported during the preceding calendar month, and the number of gallons of gasoline used, distributed or lost by evaporation, or otherwise, upon which no tax is paid.

(8) Provided, however, that the tax on one per cent (1%) of the taxable gallonage shall be deducted by the distributor to cover the expense of complying with the provisions hereof, and to take care of any loss by evaporation.

(9) If any distributor, or other person, shall export or lose by fire, or otherwise, any gasoline, so that the same may never be made use of within this State, after the tax has been paid on such gasoline, claim for refund may be made in the same manner as if said gasoline had been used for agricultural purposes, as provided by this Act, and provided that no claim shall be made for such loss due to any one accident or export of less than one hundred (100) gallons; provided, however, that showing must be made that said tax was paid, and the Comptroller shall deduct from all refunds made under the provisions of this Act the one per cent (1%) allowed above, which shall also be deducted from all other claims for refund.

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(10) The tax herein imposed shall be posted separately from the price of the gasoline, wherever sold in this State, and such tax shall be collected by each person upon the sale of each gallon of gasoline in this State, so that the tax will be paid by the ultimate consumer to the distributor.

(11) "Gasoline," as used herein, shall include any derivative of petroleum or any other inflammable liquid that will flash at 110° Fahrenheit or less, in the official closed testing cup method of the United States Bureau of Mines; and provided, further, that any other product which may be ordinarily, practically and commercially usable in internal combustion engines, used for the generation of power in propelling a motor vehicle over the highways of this State, shall be included in said definition. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 17, as amended Acts 1931, 42nd Leg., p. 163, ch. 98, § 2.]

#### Art. 7065b. [Distributor's application for permit]

All distributors of gasoline in this State now engaged in the sale of gasoline upon which such tax is required to be paid, shall, on or before thirty days, after the passage of this Act, and all persons engaging in the sale of gasoline as distributor thereafter, file a duly acknowledged application with the Comptroller of Public Accounts on a form prescribed by him, to be furnished upon written request of him, the failure to furnish which shall be no excuse for failure to file the same unless an absolute refusal is shown, which form shall set forth the name under which such distributor transacts or intends to transact such business as distributor, the principal office, residence or place of business in Texas, and if other than an individual the principal officers or members thereof not to exceed three, and their office, street, or post office addresses. The Comptroller may require any other such information as he may desire in said application. No distributor shall, after said thirty days, except herein provided, sell any gasoline until such application has been filed, together with bond and the obtaining of a permit. Provided that nothing in this Act shall be construed to require the filing of any application or securing of any permit where any sales are not subject to the tax. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 17.]

#### Art. 7065c. [Permits]

Upon receipt of the application and the bond hereinafter provided for the Comptroller shall issue to every distributor a permit authorizing the sale of gasoline or its substitute in this State from the date of the issuance of said permit, until and including the following December 31st, and on or before January 1st of each year, and before any distributor shall engage in selling gasoline after January 1st, an application shall be filed and a permit obtained for the calendar year, where such sale would be subject to the tax. Said permit shall provide that the same is revocable and shall be suspended upon violation of any provision of this Act or any reasonable rule or regulation adopted by the Comptroller, and if such permit is revoked or suspended said distributor shall not sell any gasoline until a new permit is granted or the suspension of the old permit removed. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 17.]

#### Art. 7065d. [Forfeiture of permits]

If any distributor has violated any provision of this Act and the Comptroller of Public Accounts desires to forfeit or suspend his permit; he shall give notice by registered mail, deposited in the United States mails, stating the reasons justifying forfeiture or suspension of such permit, and that the same shall be forfeited fifteen days from said date unless said distributor purge himself of such violation and pay any penalties that may be due. Provided, that if the Comptroller of Public Accounts illegally attempts to revoke or suspend said permit, said distributor, by giving at least two days notice to the Comptroller, may file a suit in eq-

uity in any court of Travis County having jurisdiction to enjoin the Comptroller's act and at any time after the expiration of said period the Comptroller may suspend or forfeit said permit unless enjoined. Any notice required to be given by the Comptroller may be mailed to the distributor at any place disclosed by the application required in Article 7065b hereof. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 17.]

**Art. 7065e. [Bond of distributor]**

(1) Before any permit shall be issued, and before engaging in the sale of gasoline in Texas, every distributor shall execute and file with the Comptroller a good and sufficient surety bond, with two sureties, if the Comptroller shall require the same, signed by said distributor, and a good and sufficient surety company or companies authorized to do business in this State, to be approved by the Comptroller in an amount not less than Two Thousand Five Hundred Dollars (\$2,500.00), nor more than One Hundred Thousand Dollars (\$100,000.00), payable to the State of Texas, and conditioned for the full, complete and faithful performance of all of the conditions and requirements of this Act, on a form to be prescribed by the Comptroller, with the approval of the Attorney General, expressly providing for the payment of all taxes, costs, penalties, and interest at Austin, Texas. The amount of the bond required of any distributor shall be fixed by the Comptroller, and additional bond may be required by him at any time, subject to the limitations herein provided, but the distributor may demand a reduction of his bond after six (6) months from the effective date hereof in a sum to be not more than three times the highest tax said distributor has paid for any month during the preceding six (6) months, but which shall never be less than the minimum nor more than the maximum aforesaid. Provided, further, that no distributor shall be required to give more than the minimum bond the first month this Act becomes effective or the month he shall first engage in business as a distributor, but thereafter the Comptroller may demand additional bond. No recoveries on any bond, or execution or any new bond or renewal of a permit shall invalidate any bond. A new bond may be demanded when any new permit is issued or revived, but no revocation or revival shall affect the validity of any bond.

(2) That in lieu of giving a bond, any distributor may deposit in the Suspense Account of the State Treasury; money in the amount of the bond that may be required, which shall never be released until securities are substituted for the same or a bond executed in lieu thereof, or until the Comptroller has made a complete and thorough investigation and authorized the same to be released; and provided, in lieu of cash or the bond required by this Act, such distributor may deposit securities with the Comptroller, if acceptable to him, which shall be placed in the Treasury as other securities, but in all events such securities shall be of the same class as the funds of the University of Texas may be invested in.

(3) Provided, however, that if any distributor, as defined herein, shall begin business, and upon due investigation by the Comptroller, it shall appear that the properties belonging to said distributor are free from all liens upon which the State would have a lien, are not of the value of Twenty-five Thousand (\$25,000.00) Dollars, then, and in that event, only, the Comptroller of Public Accounts may require a minimum bond, cash or securities, as provided by this Act, in the sum of Twenty Thousand (\$20,000.00) Dollars. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 17, as amended Acts 1931, 42nd Leg., p. 163, ch. 98, § 3.]

Effective May 5, 1931.

**Art. 7065f. [State's lien on property of distributor]**

All taxes, fines, penalties and interest due by any distributor to the State shall be a preferred lien upon all of the property of any distributor devoted to or used in his business as distributor, not exempt under the

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Constitution, and if any distributor shall fail to remit proper taxes due, the Comptroller may employ auditors or other persons to ascertain the correct amount due, and if such taxes have not been properly remitted, the distributor, as a penalty, shall pay the reasonable expenses incurred in such investigation and audit as additional penalty. Provided, however, that all funds paid to the auditor of the Comptroller as expenses incurred in making audits, shall be placed in a special fund in the State Treasury, which shall be used until exhausted, for making other audits, and said sums are hereby appropriated for that purpose. Provided that nothing herein shall prevent the Comptroller, when said fund is exhausted, from using other funds available for that purpose. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 17, as amended Acts 1931, 42nd Leg., p. 163, ch. 98, § 7.]

**Art. 7065g. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 17]**

This article being a penal provision is published as Penal Code, art. 141a.

**Art. 7065h. [Records required; suit by Attorney General to enforce tax and penalties]**

(1) Every distributor required to obtain a permit, for the purpose of selling gasoline at wholesale, shall be required to keep a complete set of records and books, showing all such sales made upon which the tax herein levied is measured or computed, which record shall be kept in a bound book or books and shall show the date of sale of each sale, use or distribution and the amount thereof, and the same to be preserved as a permanent and complete record of all gasoline received, distributed, used or sold at wholesale by such distributor, whether the same be subject to the tax required to be paid herein or not; all of which records and books shall be open at all times to the official inspection, audit and examination of the Comptroller, the Attorney General, or their duly authorized agents.

(2) If any distributor fails or refuses to pay any tax, penalties or interest within the time and manner provided by this Act, and it becomes necessary to bring suit or to intervene in any manner for the establishment or collection of said claim, in any judicial proceedings any report filed in the office of the Comptroller by such distributor or his representative, or a certified copy thereof, certified to by the Comptroller or Chief Clerk, showing the amount of gasoline sold at "wholesale," by such distributor or his representative, on which such tax, penalties or interest have not been paid, or any audit made by the Comptroller or his representative from the books of said distributor, when signed and sworn to by such representative as being made from the records of said distributor or persons from whom such distributor has bought, received or delivered gasoline, whether from a transportation company or otherwise, such report or audit shall be admissible in evidence in such proceedings, and shall be prima facie evidence of the contents thereof; provided, however, that the incorrectness of said report or audit may be shown.

(3) In the event the Attorney General shall file suit or claim for taxes provided for in the foregoing section, and attach or file as an exhibit any report or audit of said distributor, and an affidavit shall be made by the Comptroller or his representative that the taxes shown to be due by said report or audit are past due and unpaid, that all payments and credits have been allowed, then, unless the party resisting the same shall file an answer in the same form and manner as required by Article 3736, said audit or report shall be taken as prima facie evidence thereof, and the proceedings of said Article are hereby made applicable to suits to collect taxes hereunder. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 17, as amended Acts 1931, 42nd Leg., p. 163, ch. 98, § 4.]

**Art. 7065i. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 17]**

This article being a penal provision is published as Pen. Code, art. 141b.

**Art. 7065j. [Penalty recoverable by Attorney General]**

(1) If any distributor shall (a) sell any gasoline upon which a tax is required to be paid by this Act without at the time having a valid permit, or (b) fail to keep any of the records required to be kept by the provisions of this Act, or (c) fail to make the report or remittance required by Article 7065-a, or (d) if any distributor or other person affected by this Act shall fail or refuse to abide by the provisions hereof, and the rules and regulations promulgated hereunder, or violate the same, he shall forfeit to the State as a penalty, the sum of not less than Five (\$5.00) Dollars, nor more than One Thousand (\$1,000.00) Dollars, and each day's violation shall constitute a separate offense and incur another penalty, which, if not paid, shall be recovered in a suit by the Attorney General in a court of competent jurisdiction in Travis County, Texas, or any other court having jurisdiction, provided, however, that in addition to the penalties above, if the distributor does not make the remittance within the time prescribed by law, he shall forfeit two (2%) per cent of the amount of the tax due, if not paid within twenty (20) days from the due date, (e) and if the same is not paid at the expiration of said time, he shall forfeit an additional eight (8%) per cent penalty, and all past due taxes and penalties shall draw interest at the rate of ten (10%) per cent, and the State shall have a prior lien upon all of the property of such person used in the business of distributing or selling gasoline. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 17, as amended Acts 1931, 42nd Leg., p. 163, ch. 98, § 5.]

**Art. 7065k. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 17; Acts 1931, 42nd Leg., p. 163, ch. 98, § 6]**

This article being a penal provision is published as Penal Code, art. 141c.

**Art. 7065l. [Remittance of tax]**

Every distributor at the time of making the report required by Article 7065, shall attach legal tender or make proper form of money order or exchange thereto payable to the State Treasurer in the amount of tax for the period covered by such report, provided, however, that in computing the tax a deduction for evaporation and loss of motor fuels reported shall be all owed [allowed] for evaporation and loss, which shall be deducted from the amount of the tax remitted. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 17.]

**Art. 7065m. [Access to records of common carriers]**

(a) Every common carrier in this State having the custody of books or records showing the transportation of gasoline in this State, shall give and permit the Comptroller or his representatives free access to such books and records.

(b) All persons operating railroads, trucks, pipelines and other conveyances as common carriers in the transportation of gasoline into this State, shall render a sworn report to the Comptroller not later than the 25th of each month, showing a description of the tank, car, truck or other conveyance in which the same was transported on such forms as shall be prescribed by the Comptroller, which was transported by such persons during the preceding month; provided, that no report be made by any such persons transporting gasoline in containers of capacity less than twenty (20) gallons. Such report shall show the points of origin and destination, the number of gallons shipped, the date, the consignee and the consignor and the kind of gasoline.

(c) Any person violating any provision of this Section shall be liable for the penalty prescribed in Article 7065i [P. C. art. 141a]. Provided,

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no report or information is required herein, the requiring of which would be a violation of the Laws and Constitution of the United States or Texas, or an unlawful burden on interstate or foreign commerce. [Acts 1929, 41st Leg., 2nd C. S., p. 172; ch. 88, § 17.]

**Art. 7065n. [Exemptions, refunds and distribution of funds]**

(1) Any person who purchases gasoline in the State of Texas and any distributor who appropriates gasoline for use, which such gasoline purchased by such person or used by such distributor for operating or propelling any stationary gas engine or tractor used for agricultural purposes, motor boats, air craft, or for any other purpose other than use in a motor vehicle operated or intended to be operated in whole or in part upon any of the public highways, roads and streets of the State of Texas, on which gasoline tax has been paid either directly or indirectly, shall be refunded the amount of such taxes so paid by the distributor, including the deduction for evaporation and loss in the manner and subject to the limitations and conditions described herein; provided, however, that no greater amount shall be refunded than has been paid into the State Treasury on any gasoline. The tax actually paid by any distributor or person shall be refunded as provided herein on gasoline not subject to the tax.

(2) Upon each purchase by such person, and upon each appropriation for use of gasoline by a distributor, an invoice or ticket shall be made out at the time, which shall state the number of gallons of gasoline thus appropriated or purchased, the purpose for which it will be used, or is intended to be used, the date and place of the purchase or appropriation, the name of the purchaser or user, and the name of the agent or employee actually making the purchase or appropriation, if any, the seller and place of business of seller, the manner of delivery, the place of delivery, and that the tax was then and there paid upon the sale, if a sale, and the price of the gasoline and the tax stated separately, and give such other information as the Comptroller may require, and no refund shall be allowed unless the seller at the time and not thereafter executes such an invoice or ticket as provided above. If a distributor use his own gasoline and no sale take place upon which a refund is due, then in addition to the ticket above, the distributor shall keep a record either in a separate bound book or by binding said tickets or invoices, or otherwise permanently binding or storing said tickets so that they may be kept for a period of two years, as other records are required to be kept by the provisions of this Act, and said records shall be kept in such manner not inconsistent with the provisions hereof, as the Comptroller may require and prescribe. If such distributors cannot give the information required of purchasers above, he shall give such information as can be given.

(3) When a claimant purchases or acquires for use gasoline upon which a refund may be due, he shall within six months from the purchase of motor fuels, upon which a refund is claimed, and not thereafter, such claimant shall file with the Comptroller an affidavit on such forms as may be prescribed by the Comptroller of Public Accounts, and which affidavit shall include a statement as to the source or place of purchase or acquisition of such gasoline used for purposes other than in propelling motor vehicles over the highways of this State, that the information stated in the attached invoice or ticket is correct, and the manner, mode and instrumentalities in which said gasoline was used, if such information can be given, and that no part of said gasoline was used in propelling motor vehicles over the highways of this State, that the tax claimed has actually been paid directly or indirectly by the claimant, and said affidavit shall be accompanied by the invoice or ticket above referred to, together with a filing fee of One Dollar (\$1.00), and the Comptroller, may require other affidavits in such form and time as he may deem advisable, and if he finds that such claims are just, and that the taxes claimed have actually been

paid by the claimant, then he shall within sixty (60) days issue warrant or warrants for the amounts due claimant, but no warrant shall be paid by the Treasurer after twelve (12) months from the date thereof, and if such warrant is not presented within twelve (12) months from the date thereof, claimant shall forfeit his right to a refund. No refund shall be made where gasoline is used later than six (6) months from the purchase of\* appropriation for use. No refund of the tax shall be allowed on gasoline used in any registered or licensed motor vehicle or in any motor vehicle operated or intended to be operated on any of the highways, roads and streets of this State. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 17, as amended Acts 1931, 42nd Leg., p. 177, ch. 104, § 1.]

\*[or]

Effective May 5, 1931. Section 3 of said act allows any person who has a valid claim for refund and who has failed for good cause to make report and file affidavit as required, 90 days after the passage

of this act in which to file such report and affidavit. Section 4 provides that if any section of the act is held invalid, such decision shall not affect the remainder.

(4) All filing fees shall be paid into the State Treasury and be paid out on vouchers and warrants on appropriations made by the Legislature as prescribed by law.

(5) All of the moneys paid into the Treasury under the provisions of this Act, except the filing fees above, shall be set aside in a special fund to be known as the Highway Gasoline Tax Fund, and no part of said Fund shall be credited to the Available School Fund until a report is made by the Comptroller to the Treasurer, showing the total maximum amount of refunds that may be required to be paid by the State out of said Funds. The Comptroller shall on the 25th day of each month, or as soon thereafter as is possible compute and ascertain the maximum amount of funds that may be due by the State on sale of gasoline during the preceding month, upon which a refund may be due, and shall certify to the Treasurer the maximum amount, and the Treasurer shall reserve said amount each month out of which to pay refunds, and shall not distribute that part of said Fund until the expiration of the time in which a refund can be made out of said Fund, but as soon as said report has been made by the Comptroller, and the maximum amount of refunds determined, he shall deduct said maximum amount from the total taxes paid for such month, and apply the remainder of such Fund, one-fourth to the Available School Fund, and three-fourths to the Highway Fund, as provided by law. If claimant has lost or loses, or for any reason failed or fails to receive warrant after warrant was or has been issued by the Comptroller, and upon satisfactory proof of such, the Comptroller may issue claimant duplicate warrant as provided for in Article 4365, Revised Civil Statutes of 1925, but in no event shall a duplicate warrant be issued after one year from expiration date of original warrant. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 17, as amended Acts 1931, 42nd Leg., p. 177, ch. 104, § 2.]

(6) So much of said fund is hereby appropriated and set aside as may be necessary to pay the refunds provided for herein, and if a specific amount be necessary then there is hereby appropriated and set aside for said purpose the sum of Two Hundred Thousand (\$200,000.00) Dollars or so much thereof as may be necessary. In no event shall any refund be made to any person in excess of the actual amount paid by such person, and the amount deducted originally by the distributor shall be deducted in computing the refund.

(7) If the courts should hold that the provisions of this Act relating to the refund of taxes paid is invalid, then it is hereby declared as the Legislative intent that said tax would have been imposed on all gasoline sold and without allowing any refunds to be made, and if the courts further hold that said refunds cannot be made out of moneys in the treasury, then said tax shall be levied on all gasoline, and no refunds shall be allowed to be made. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 17.]



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

**Art. 7065o. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 17]**

This article being a penal provision is published as Penal Code, art. 141d.

**[Art. 7065p. Operation and effect of act]**

No permit shall be required of any distributor under the provisions of this Act until, as hereinbefore provided, thirty (30) days from the taking effect hereof. None of the other provisions of this Act shall be effective, except as herein provided, until the expiration of said period. Immediately upon the taking effect of this Act the tax herein imposed shall be levied and collected on the wholesale sale, as defined herein, of gasoline. A report shall be made under Article 7065 of all wholesale sales of gasoline up to the taking effect of this Act, and all sales, as defined herein, thereafter shall be reported as provided herein. All taxes imposed under Article 7065 heretofore, and having accrued, and that have not been paid, shall be in no wise affected by this Act, but all such taxes, penalties, and interest shall be paid, and all suits to collect the same shall be prosecuted.

Sections 1 to 16 of this Act [arts. 6675a-1 to 6675a-14; P. C. art. 807a] shall take effect and be in force from and after January 1st A. D. 1930, and the remainder shall take effect and be in force from and after its passage, as above provided. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 18.]

**[Art. 7065q. Construction]**

The provisions of this Act are severable, and if any of the provisions hereof shall be held void, the decision of the court shall not affect or impair any of the remaining provisions, and it is hereby declared as the Legislative intent that this Act would have been adopted, increasing the tax from two (2) cents to four (4) cents without the levying of a tax on the use, and without the exemption clause, should either be held invalid, and that such tax would have been levied on the use without the exemption provided for herein, and should any of the objects be held not subject to such tax the remaining objects and subjects would have been included, and the tax would have been increased and levied upon those objects without inclusion of the other. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 19.]

**[Art. 7066a. Occupation tax on sulphur]**

Sec. 1. Each person who owns, controls, manages, leases, or operates, any sulphur mine, or mines, wells or shafts, or who produces sulphur by any method, system, or manner within this State shall make quarterly on the first day of January, April, July, and October of each year a report to the Comptroller sworn to by such person before an officer authorized to administer oaths in this State, or if such person be other than an individual so sworn to by its president[,], secretary, or other duly authorized officer, on such forms as the Comptroller shall prescribe showing the total amount of sulphur produced within this State by said person during the quarter next preceding; and at the time of making said report shall pay to the Treasurer of this State as occupation tax for the quarter ending on said date an amount equal to Fifty-five (55c) Cents per long ton, or fraction thereof, of all sulphur produced by said person within the State of Texas during said quarter. Should any person subject to the occupation tax herein levied begin business after the beginning of a quarter, the amount of tax which such person or concern shall pay for the first quarter immediately [immediately] succeeding the quarter in which the business was begun shall be ascertained by taking the total number of tons produced within the last quarter, dividing the same by the number of days such person or concern was engaged in the business during said preceding

quarter and multiplying the quotient by ninety, and multiplying the product by fifty-five (55c) cents.

Each person subject to the payment of this tax shall cause to be made, kept, and preserved a full and complete record of all sulphur produced in this State by it, all of which record shall be open at all times to official inspection and examination by the Comptroller or the Attorney General, or any employee of or representative of the Comptroller or the Attorney General. Said records may be destroyed after three years from the last entry appearing in any such record. Any person failing to keep such record, or records, as herein required, shall forfeit to the State of Texas as a penalty any sum not less than Five Hundred (\$500.00) Dollars nor more than Five Thousand (\$5,000.00) Dollars payable to the State of Texas, and each ten days of failure to keep such records shall constitute a separate offense and subject the offender to additional penalties for each such period of failure to keep such records. Any person subject to the payment of said tax on sulphur failing to pay the tax levied in this Article within thirty (30) days after same is due and payable shall pay to the State as a penalty an additional amount equal to ten per cent of the taxes due, and such tax and penalty shall draw interest at the rate of six per cent per annum from the due date until paid. The Attorney General or any district or county attorney at the direction of the Attorney General shall bring suit in behalf of the State to recover the amount of taxes, penalties, and interest past due and payable by any person affected by this law. The word "person" as used in this law shall include persons, firms, partnerships, companies, corporations, associations, common law trusts, or other concern by whatever name or howsoever organized, formed, or created.

The Comptroller may require such other information and such additional reports as he may deem advisable.

Sec. 2. (The one-fourth ( $\frac{1}{4}$ ) of the occupation tax hereby imposed and collected constitutionally allocated to the available public free school fund, shall be set aside to such purposes, with the remaining three-fourths ( $\frac{3}{4}$ ) of the said revenues to accrue to the credit of the general revenue fund of the State, until July 1, 1931, after which date the said three-fourths ( $\frac{3}{4}$ ) of the revenues derived from such tax shall be set aside to the available school fund to be used for public free school purposes in the payment of the per capita for all the children within the scholastic age.) It being expressly provided that the State Tax Board shall take into consideration in their determination of the rate to be collected for public free school purposes as provided in Article 7043, Revised Civil Statutes, the amount of money paid into said available school fund under the provisions of this Act in the following manner, that said Tax Board shall determine the rate which will be sufficient to yield and produce for the fiscal year under consideration, the necessary per capita for all the children within the scholastic age as shown by the most recent official scholastic census, as provided in said Article 7043, Revised Statutes, and deduct from such rate so determined, such a percentage and rate as would be necessary to produce a sum of money equal to the amount paid into the Treasury under the provisions of this Act during the first half of the current calendar year and the latter half of the preceding calendar year, and the rate and percentage so found shall constitute the ad valorem rate to be levied and collected for public free school purposes. [Acts 1930, 41st Leg., 5th C. S., p. 233, ch. 74.]

Section 3 of acts 1930, 41st Leg., 5th C. S., p. 233, ch. 74, requires the first report and payment of tax under the act on July 1, 1930, and provides that the act shall not prevent the collection and payment of taxes due on April 1, 1930, under art. 7066 re-

pealed by section 4 of this act, which repeals, also, all conflicting laws and parts of laws. Section 5 provides that if any provision of the act is held invalid, such decision shall not affect the remaining provisions.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Art. 7068. [Repealed by Acts 1931, 42nd Leg., p. 447, ch. 267, § 5]

Art. 7084. Amount of tax

(A) Except as herein provided, every domestic and foreign corporation heretofore or hereafter chartered or authorized to do business in Texas, shall, on or before May 1st of each year, pay in advance to the Secretary of State a franchise tax for the year following, based upon that proportion of the outstanding capital stock, surplus and undivided profits, plus the amount of outstanding bonds, notes and debentures, other than those maturing in less than a year from date of issue, as the gross receipts from its business done in Texas bears to the total gross receipts of the corporation from its entire business, which tax shall be computed at the following rates for each One Thousand Dollars (\$1,000.00) or fractional part thereof; One Dollar (\$1.00) to One Million Dollars (\$1,000,000.00), sixty cents (60¢); in excess of One Million Dollars (\$1,000,000.00), thirty cents (30¢); provided that such tax shall not be less than Ten Dollars (\$10.00) in the case of any corporation, including those without capital stock. Where a foreign corporation applying for a permit has theretofore done no business in Texas, such tax shall not be payable until the end of one year from the date of such permit, at which time the tax shall be computed according to first year's business; and, at the same time, such corporation shall also pay its tax in advance, based upon the first year's business, for the period from the end of the first year to and including May 1st following. In all other cases, the tax shall be computed from the data contained in the reports required by Articles 7087 and 7089. Capital stock as applied to corporations without capital stock shall mean the net assets.

(B) Corporations which are now required by law to pay annually a tax upon intangible assets, corporations owning or operating street railways in or upon the public streets of any town or city, and corporations organized to maintain or owning or operating electric interurban railways, shall be required to hereafter pay a franchise tax equal to one-fifth ( $\frac{1}{5}$ ) of the franchise tax herein imposed against all other corporations under Section (A) herein.

(C) Provided, however, that this Act shall not apply to corporations organized as terminal companies not organized for profit, and having no income from the business done by them.

(D) Except as provided in preceding Clauses "B" and "C" all public utility corporations, which shall include every such corporation engaged solely in the business of a public utility whose rates or service is regulated, or subject to regulation, in whole or in part, by law, shall pay a franchise tax as provided in this Act, except the same shall be based on that proportion of the issued and outstanding capital stock, surplus, and undivided profits, which the gross receipts of the business of said corporation done in this State bears to its total gross receipts, instead of the gross assets; and in lieu of the rate hereinbefore prescribed said tax shall be computed as follows:

One Dollar (\$1.00) to One Million Dollars (\$1,000,000.00) sixty-five cents (65¢) for each One Thousand Dollars (\$1,000.00) or fractional part thereof;

Forty-five cents (45¢) for each One Thousand Dollars (\$1,000.00) or fractional part thereof in excess of One Million Dollars (\$1,000,000.00) and not exceeding Ten Million Dollars (\$10,000,000.00);

And thirty-five cents (35¢) for each One Thousand Dollars (\$1,000.00) or fractional part thereof in excess of Ten Million Dollars (\$10,000,000.00).

For the purpose of computing the tax of corporations issuing no par stock, such stock shall be taken and considered as being of the value actually received at the time of the issuance thereof; and foreign corpora-

tions issuing such stock shall furnish the Secretary of State with the same information now required of domestic corporations issuing such stock.

(E) Corporations engaged partly in the business of a public utility as defined in Clause "D" and partly in businesses embraced in Clause "A" shall pay the franchise tax in the following manner; as to those businesses which come under Clause "A" the tax shall be computed as provided in Clause "A" on that proportion of the entire taxable capital under said Clause "A" as the Texas gross receipts from such business or businesses bear to the entire Texas gross receipts of such corporation; and to those businesses which come under Clause "D" the tax shall be computed as provided in Clause "D" on that proportion of the entire taxable capital under said Clause "D" as the Texas gross receipts from such business or businesses bear to the entire Texas gross receipts of such corporation. The period for which such gross receipts are taken shall be the same period used in computing the proportion of Texas taxable capital under Clauses "A" and "D".

(F) Corporations which are now required to pay a separate franchise tax for each purpose or business authorized by their charters, shall hereafter pay only the tax provided hereunder for one purpose, and one-fourth ( $\frac{1}{4}$ ) of such amount for each additional purpose named in their charters. [As amended Acts 1931, 42nd Leg., p. 441, ch. 265, § 1.]

Effective 90 days after May 23, 1931, date of adjournment. Section 3 of said Acts 1931, 42nd Leg., p. 441, ch. 265, being a penal provision is published as Penal Code, art. 141e.

This article was, also, amended by Acts 1930, 41st Leg., 5th C. S., p. 220, ch. 68, § 2 (effective 90 days after March 20, 1930, date of adjournment).

#### Art. 7085. [7394] Paid by foreign corporations

Section 2 of Acts 1930, 41st Leg., 5th C. S., p. 220, ch. 68, amends and combines this article with article 7084.

#### Art. 7088. [Repealed by Acts 1930, 41st Leg., 5th C. S., p. 220, ch. 68, § 1]

#### Art. 7089. Report of corporation

Except as herein provided, all corporations now required to pay an annual franchise tax shall, between January 1st and March 15th of each year, make a sworn report to the Secretary of State, on blanks furnished by that officer, showing the condition of such corporation on the last day of its preceding fiscal year. The Secretary of State may for good cause shown by any corporation extend such time to any date up to May 1st. Said report shall give the cash value of all gross assets of the corporation, the amount of its authorized capital stock, the capital stock actually subscribed, and the amount paid in, the surplus and undivided profits or deficit, if any, the amount of mortgage, bonded and current indebtedness, the amount and date of payment of the last annual, semi-annual, quarterly, or monthly dividend, the amount of all taxes paid, or due and payable separately to the State of Texas, or to any county, city or town, school district, road district, or other taxing subdivision of Texas, for the preceding tax year, the total gross receipts of such corporation from all sources and the gross receipts from its business done in Texas for the fiscal year preceding, with a detailed balance sheet and income and profit and loss statement in such form as the Secretary of State may prescribe. Where a foreign corporation has not theretofore done business in this State and is granted a permit to do business in Texas, it shall file its first report as of the end of one year from the day such permit was granted, within ninety (90) days of such date. Any corporation which shall fail or refuse to make its report shall be assessed a penalty of ten per cent (10%) of the amount of franchise tax due by such corporation, payable to the Secretary

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

of State, together with its franchise tax. Said report shall be deemed to be privileged and not for the inspection of the general public, but a bona fide stockholder owning one per cent (1%) or more of the outstanding stock of any corporation, may examine such returns upon presentation of evidence of such ownership to the Secretary of State. No other examination, disclosures, or use shall be permitted of said reports except in the course of some judicial proceedings in which the State is a party or in a suit by the State to cancel the permit or forfeit the charter of such corporation or to collect penalties for a violation of the laws of this State, or for information of any officer of this State charged with the enforcement of its laws, including the Comptroller of Public Accounts, State Auditor and the State Tax Commissioner. Each report shall be sworn to by either the president, vice president, secretary, treasurer or general manager, and shall give the name and address of each officer and director. In order to provide a means for service of process to collect any franchise tax or penalties, and in all other cases, each foreign corporation shall, for such purposes, designate some person residing in this State whose name and address shall be given in each report. The State shall have a prior lien on all corporate property for all franchise taxes, penalties and interest. [As amended by Acts 1931, 42nd Leg., p. 441, ch. 265, § 2.]

Effective 90 days after May 23, 1931, date of adjournment. This article was, also, amended by Acts 1930, 41st Leg., p. 220, ch. 68, § 3 (effective 90 days after March 20, 1930, date of adjournment).

#### [Art. 7089a. Forms prescribed]

Sec. 4. The forms prescribed shall contain other information as the Secretary of State may deem advisable and he may adopt rules and regulations providing for the enforcement of the provisions hereof and may require corporations to cause such records as may be necessary in determining the amount of taxes that may be due hereunder. No tax shall be paid which may not be collected under the State and Federal Constitution. [Acts 1930, 41st Leg., 5th C. S., p. 220, ch. 68.]

Section 1 of Acts 1930, 41st Leg., 5th C. S., p. 220, ch. 68, repeals articles 1538i, 7088 and 7090.

Section 6 provides "for the tax year ending April 30, 1931, in order to give sufficient time to meet the requirements of this Act, no penalties or forfeitures or reports shall accrue or be made under the provisions of Articles 7091 and 7092, Revised Civil Statutes of 1925, until August 1, 1930. If any corporation shall have paid its franchise tax for the year ending April 30, 1931, before this Act takes effect, and under the provisions hereof an additional sum for such year shall be due, such corporation shall be required to pay such additional sum on or

before August 1, 1930, or, if the amount already paid is in excess of the tax that would be due for such year, then the excess payments shall be credited on next year's tax."

Section 7 makes the act severable and if any provision is held invalid, such invalidity shall not affect the remainder and section 8 provides that the act shall not affect or abridge any law now existing which exempts any corporation from the payment of franchise tax.

Section 4 of Acts 1931, 42nd Leg., p. 441, ch. 265, repeals all conflicting laws and parts of laws and section 5 of Acts 1930, 41st Leg., 5th C. S., p. 220, ch. 68.

#### Art. 7090. [Repealed by Acts 1930, 41st Leg., 5th C. S., p. 220, ch. 68, § 1]

#### Art. 7117. Property subject

All property within the jurisdiction of this State, real or personal, corporate or incorporate, and any interest therein, whether belonging to inhabitants of this State or to persons who are not inhabitants, regardless of whether property is located within or without this State, which shall pass absolutely or in trust by will or by the laws of descent or distribution of this or any other State, or by deed, grant, sale or gift made or intended to take effect in possession or enjoyment after the death of the grantor or donor, shall upon passing to or for the use of any person, corporation or association, be subject to a tax for the benefit of the State's general revenue fund in accordance with the following classifications;

provided, however, that the tax imposed by this Article in respect to personal property of non-residents (other than tangible property having an actual situs in this State) shall not be payable: (1) if the grantor or donor at the time of his death was a resident of a State or territory of the United States or of a foreign country, which, at the time of his death, did not impose a transfer or inheritance tax of any character in respect of personal property of residents of this State (other than tangible personal property having an actual situs in said State); or, (2), if the laws of the State or territory or foreign country of the residence of the grantor or donor at the time of his death, contained a reciprocal provision under which nonresidents were exempted from transfer or inheritance taxes of every character in respect to personal property (other than tangible personal property having an actual situs therein) provided the State or territory or foreign country of residence of such non-residents allowed a similar exemption to residents of the State or territory or foreign country of residence of such a grantor or donor. For the purpose of this Article the District of Columbia and possessions of the United States shall be considered territories of the United States, and Provinces of the Dominion of Canada shall be considered foreign countries. Provided further that the provisions of this Act shall not apply to residents of those states which have no inheritance tax law. [As amended Acts 1929, 41st Leg., 1st C. S., p. 109, ch. 50, § 1.]

#### Art. 7122. Class E—Foreign bequest

If passing to or for the use of any other person within or without this State or to any religious, educational or charitable organization or institution located without the State of Texas, or to any religious, educational or charitable organization or institution located in the State of Texas or to the United States, and the bequest, devise or gift is to be used without this State, or to any other person, corporation or association not included in any of the classes mentioned in the preceding portions of the original Act known as Chapter 29 of the General Laws of the 2nd Called Session of the 38th Legislature, the tax shall be five (5%) per cent on any value in excess of Five Hundred (\$500.00) Dollars, and not exceeding Ten Thousand (\$10,000.00) Dollars; six (6%) per cent on any value in excess of Ten Thousand (\$10,000.00) Dollars, and not exceeding Twenty-five Thousand (\$25,000.00) Dollars; eight (8%) per cent on any value in excess of Twenty-five Thousand (\$25,000.00) Dollars, and not exceeding Fifty Thousand (\$50,000.00) Dollars; ten (10%) per cent on any value in excess of Fifty Thousand (\$50,000.00) Dollars, and not exceeding One Hundred Thousand (\$100,000.00) Dollars; twelve (12%) per cent on any value in excess of One Hundred Thousand (\$100,000.00) Dollars and not exceeding Five Hundred Thousand (\$500,000.00) Dollars; fifteen (15%) per cent on any value in excess of Five Hundred Thousand (\$500,000.00) Dollars and not exceeding One Million (\$1,000,000.00) Dollars; and twenty (20%) per cent on any value in excess of One Million (\$1,000,000.00) Dollars. [As amended Acts 1931, 42nd Leg., p. 109, ch. 72, § 1.]

Effective April 21, 1931. Section 2 repeals conflicting laws and parts of laws.

#### Art. 7125. Deductions

The only deductions permissible under this law are the debts due by the estate, funeral expenses, expenses incident to last illness of deceased, all Federal, State and County and Municipal Taxes due at the time of the death of decedent and an amount equal to the value of any property forming a part of the gross estate situated in the United States of any person who died within five years prior to the death of the decedent; this deduction, however, shall only be allowed where an inheritance tax imposed under this or any prior act of the Legislature was paid by the estate of the prior decedent and only in the amount of the value placed by the Comp-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

troller on such property in determining the value of the gross estate of such prior decedent. A full statement of the facts authorizing deductions must be made in duplicate under oath by the executor, administrator or trustee, and one copy filed with the County Clerk and the other with the Comptroller, before any deductions will be allowed." [As amended Acts 1929, 41st Leg., p. 60, ch. 26, § 1.]

**Art. 7150. [7507] [5065] Exemption from taxation**

1. Schools and Churches.—Public school houses and actual places of religious worship, also any property owned by a church or by a strictly religious society, for the exclusive use as a dwelling place for the ministers of such church or religious society, the books and furniture therein and the grounds attached to such buildings necessary for the proper occupancy, use and enjoyment of the same, and which yields no revenue whatever to such church or religious society; provided that such exemption as to the dwelling place for the ministers shall not extend to more property than is reasonably necessary for a dwelling place and in no event more than one acre of land. All public colleges, public academies, and all endowment funds of institutions of learning and religion not used with a view to profit, and when the same are invested in bonds or mortgages, and all such buildings used exclusively and owned by persons or associations of persons for school purposes; provided that when the land or other property has been, or shall hereafter be, bought in by such institutions under foreclosure sales made to satisfy or protect bonds or mortgages in which said endowment funds are invested, that such exemption of such land and property shall continue for two years after the purchase of the same at such sale by such institutions and no longer. This provision shall not extend to leasehold estate of real property held under authority of any college or university of learning.

Provided, however, that said schools and churches desiring the right of exemption of the properties hereinabove mentioned, shall first prepare and file with the Tax Assessor of the County in which such property is situated, a complete itemized statement of all of said property, any and every kind whatsoever, which is claimed to be exempt from taxation under the provisions of this particular law, and all property not so listed shall be assessed and it shall be the duty of the Tax Assessor to make levy on the same, and for the Tax Collector to collect the said taxes.

Said itemized list of exemptions when made by the said schools or churches shall be sworn to by some officer of the said schools or church familiar with the facts, and when the same has been filed with the Tax Assessor same shall be by him filed in his office, subject to inspection at any time by any person desiring to see the same. [As amended Acts 1931, 42nd Leg., p. 211, ch. 124, § 1.]

[18]

Sec. 2-A. Provided that any territory that has been acquired or may hereafter be acquired, by the State of Texas, as a part of any State Prison Farm or property, shall not hereafter be exempt from the payment of its pro rata part of any bond tax of a public school district of which the said territory was a part at the time bonds of the said district which are now outstanding were issued, or which is a part of said district at the time of the issuance of bonds which may hereafter be voted; and the pro rata part of said tax that shall be paid by said territory shall be the proportionate part that the assessed valuation of such territory for county purposes is of the total assessed valuation of the school district for the year in which such taxes are assessed. Provided, also, that the said bond tax shall be paid by the governing board of management of the State Prison System out of any funds appropriated therefor by the Legislature. It is hereby specifically provided that the said bond tax shall be paid for

each year that has elapsed since any such territory of a school district was acquired by the State for and as a part of said prison system, if any bonds were then outstanding. [As amended Acts 1930, 41st Leg., 5th C. S., p. 191, ch. 49, § 1.]

[19]

Sec. 3-A. Provided that any territory that has been acquired or may hereafter be acquired, by the State of Texas, as a part of any State Prison Farm or property, shall not hereafter be exempt from the payment of its pro rata part of any maintenance tax of a public school district of which the said territory was a part at the time said maintenance tax of the said district which are now outstanding was voted, or which is a part of said district at the time any maintenance tax may hereafter be voted by said district; and the pro rata part of said tax that shall be paid by said territory shall be the proportionate part that the assessed valuation of such territory for county purposes is of the total assessed valuation of the school district for the year in which such taxes are assessed. Provided, also, that the said maintenance tax shall be paid by the governing Board or Management of the State Prison System out of any funds appropriated thereby by the Legislature. It is hereby specifically provided that the said maintenance tax shall be paid for each year that has elapsed since any such territory of a school district was acquired by the State for and as a part of said prison system. [As amended Acts 1930, 41st Leg., 5th C. S., p. 190, ch. 47, § 1.]

[Art. 7150b. Exemption of property owned by church for minister's residence]

There is hereby exempted from taxation any property owned exclusively and in fee by a church for the exclusive use as a dwelling place for the ministry of such church and which property yields no revenue whatever to such church; provided that such exemption shall not extend to more property than is reasonably necessary for a dwelling place and in no event to more than one acre of land. [Acts 1931, 42nd Leg., p. 67, ch. 44, § 1.]

[Art. 7150c. University lands subject to tax for county purposes; valuation]

Sec. 1. All the lands set apart for the endowment of the University of Texas by Section 15 of Article 7 of the Constitution of 1876, and by Chapter 72 of the Acts of the Regular Session of the 18th Legislature, which are now unsold, are hereby declared to be subject to taxation for county purposes in the counties in which they are located, to the same extent as lands privately owned in said counties.

Sec. 2. It shall be the duty of the Comptroller of Public Accounts, from records in his office, to submit to the State Tax Board data as to values fixed upon privately owned lands contiguous to the University of Texas lands in the several counties.

Sec. 3. It shall be the duty of the Commissioner of the General Land Office to furnish the State Tax Board with maps showing the location of said University of Texas lands, herein declared to be subject to taxation.

Sec. 4. It shall be the duty of the State Tax Board to place the valuation upon which said lands shall be assessed and rendered for taxation. It shall further determine the taxable value of lands in each county separately. In arriving at its amount to be paid in taxes the value of the land only shall be considered, and not the value of any buildings or other improvements, owned by the State, and situated upon said land.

Sec. 5. The Tax Collector of each county which contains any of the land innumeraed\* in Section 1, hereof, shall render to the Comptroller of Public Accounts by October 1 of each year a certified statement showing the values fixed by the State Tax Board upon said lands, the county rate of taxation, and the amount due said county as taxes upon said land.



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Sec. 6. It shall be the duty of the Comptroller of Public Accounts to issue warrants upon the General Fund to pay taxes due each county, beginning with taxes assessed for the year 1931, and annually thereafter; said warrants to be issued and mailed to the several counties within the time as now provided by law for the payment of county taxes on privately owned lands. [Acts 1931, 42nd Leg., p. 136, ch. 93.]

\*[enumerated]

[Art. 7169a. Tax on petroleum tank cars]

All petroleum tank cars used in this State shall be liable for taxation in the county where such tank cars are maintained, assembled and/or used for storing or shipping petroleum products, or where the owner or lessee of such tank cars maintains an office or loading rack; Provided, that where any railroad company owns tank cars the same shall be subject to taxation in the same manner as other rolling stock owned by such railroad company; such tank cars shall be liable for taxation in the same manner as is now provided by law for the taxation of personal [personal] property, and to secure the tax due on any such property the State shall have a first lien on such tank cars liable for any taxes due and unpaid. [Acts 1930, 41st Leg., 5th C. S., p. 181, ch. 41, § 1.]

[Art. 7173a. Mineral rights in public school lands sold subject to tax while under lease by owner]

Sec. 1. Where public school lands sold with a mineral reservation have been heretofore leased by the surface owner as agent of the State and production has been secured thereon, the one-sixteenth of the oil and gas therein, which he receives from the lessee or purchaser of the mineral estate as compensation for damages to the soil, and all reserved royalty interest of the owner arising under leases hereafter executed, when production is secured, is and shall be subject to taxation as real property, so long as the lease is in full force and effect, and the same shall be listed or rendered, and assessed, and the taxes paid by the owner thereof in the county where the lands are situated in accordance with the provisions of law applicable to assessments, and collection of taxes on real estate.

Sec. 2. In the event the assessor has failed to assess the one-sixteenth of the oil and gas in said lands or the reserved royalty interest mentioned for any one or more years, and the same remains unrendered and the taxes have not been paid, he shall list the property and assess it for taxes, for the years unrendered, any year thereafter in making his annual assessments, and the assessment shall be deemed as valid as the one for that year, and the owner shall pay the taxes for those years when paying the taxes for the year in which the back assessments were made. [Acts 1931, 42nd Leg., p. 176, ch. 103.]

[Art. 7258a. Tax receipt as evidence of payment]

Sec. 1. On and after October 1st, 1929, the Tax Collector or his deputy of any county in this State containing 210,000 population or more according to the last preceding federal census, or any city or political subdivision or tax assessing district within any such county shall, upon request, issue a certificate showing the amount of taxes, interest, penalty and costs due, if any, on the property described in said certificate. When any certificate so issued shows all taxes, interest, penalty and costs on the property therein described to be paid in full to and including the year therein stated, the said certificate shall be conclusive evidence of the full payment of all taxes, interest, penalty and costs due on the property described in said certificate for all years to and including the year stated therein. Said certificate showing all taxes paid shall be admissible in evidence on the trial of any case involving taxes for any year or years covered by such certificate, and the introduction of the same shall be con-

clusive proof of the payment in full of all taxes, interest, penalty and costs covered by the same.

Sec. 2. If any such certificate is issued or secured through fraud or collusion, the same shall be void and of no force and effect, and any such Tax Collector or his deputy shall be liable upon his official bond for any loss resulting to any such County or city or political subdivision or tax assessing district or the State of Texas, through the fraudulent or collusive or negligent issuance of any such certificate. [Acts 1929, 41st Leg., 2nd C. S., p. 153, ch. 77.]

Effective 90 days after July 2, 1929, date of adjournment. Section 3 of Act 1929, 41st Leg., 2nd C. S., ch. 77, repeals all conflicting laws and parts of laws.

[Art. 7264a. Adjustment of delinquent taxes and collection thereof]

Sec. 1. It is hereby declared the Policy of the State to adjust delinquent taxes, correct errors, to eliminate conflicts in surveys of land, and to collect the delinquent, occupation, franchise and Ad Valorem Taxes, in order to clear this State of such taxes, errors and conflicts at the earliest date possible, and to provide a system for assessors, in order to eliminate the numerous errors that now appear on the tax rolls each recurring year.

Sec. 2. Cost of collecting delinquent taxes shall not exceed the amount of the penalty and interest, or an amount equal to such penalty and interest of all delinquent taxes collected. Any county desiring to install a tax or plat system and clear the county of errors, conflicts and unknown owners, may do so by paying not to exceed 15% of the delinquent taxes collected, which payment shall cover the cost of records and installing same.

Sec. 3. In order to speedily carry out the provisions of this Act, the State Comptroller and the Commissioners' Court of each of the several counties may employ competent persons to do the work and to furnish the Comptroller and the Commissioners' Courts all cases where adjustment is necessary; and in all such cases the Commissioners' Court shall make proper settlement or adjustment.

Sec. 4. This Act is not intended to change any law now in effect regarding the collection of delinquent taxes, but to be an aid to the officials in the discharge of their duties, and when the delinquent taxes in a county are adjusted, corrected and collected, the Comptroller shall take necessary steps to see that all delinquent taxes are collected within a reasonable time after they become delinquent, in order to avoid the necessity of again employing additional help. [Acts 1931, 42nd Leg., p. 383, ch. 229.]

[Art. 7264b. County auditors or clerks to compile tax statistics for counties and municipalities; reports to State Auditor; compilation of information by State Auditor]

Sec. 1. The County Auditor in each county, if there be a County Auditor, and if not, then the County Clerk of each county shall secure and compile during the month of September the following information from the county, cities and towns, school districts and all other local units of government within the county authorized to levy and collect taxes, or to issue bonds:

(a) The amount of taxes collected for all purposes during the previous fiscal year.

(b) The amount of taxes delinquent at the end of the previous fiscal year.

(c) The amount to the credit of sinking funds to retire bonded indebtedness at the end of the previous fiscal year.

(d) The amount of outstanding bonded indebtedness and outstanding warrants at the end of the previous fiscal year.

Sec. 2. The County Auditor, or in counties not having any County Auditor, the County Clerk is hereby authorized, empowered, and directed to require from various officials of the county, cities and towns, school dis-

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tricts and all other local units of government within the county authorized to levy and collect taxes, or to issue bonds, such reports as are necessary to enable him to compile the information set forth in Section 1 of this Act; and it shall be the duty of the County Auditor, if there be a County Auditor, and if not, then of the County Clerk, to send a request to the proper officials for such information between the 1st and 15th days of September of each year, and officials to whom such requests are sent, are required to furnish the information requested on or before September 30th of each year.

Sec. 3. When this information is received, it shall be the duty of the County Auditor, if there be a County Auditor, and if not, then of the County Clerk, to maintain a file in his office to be open to the inspection of any taxpayer, of all reports submitted to him in compliance with the provisions of this Act. And it shall also be the duty of the County Auditor, if there be one, if not, the County Clerk, to make a compiled report covering the county at large showing the total outstanding bonded indebtedness and outstanding warrants within the county, the total moneys then on deposit to the credit of sinking funds within the county to retire outstanding bonded indebtedness, the total amount of taxes collected for all purposes within the county, and the total amount of taxes delinquent at the end of the fiscal year within the county assessed for all purposes. This report shall be compiled by the County Auditor, if there be a County Auditor, if not, then by the County Clerk, and such County Auditor or County Clerk, as the case may be, shall forward such report to the State Auditor at Austin not later than October 15th of each year.

Sec. 4. The State Auditor shall, upon receipt of the information called for in this Act from the various County Auditors, or County Clerks throughout the State, prepare a compiled report for the State at large— which report shall furnish the following information for each county in the State:

(a) The amount of taxes collected for all purposes during the previous fiscal year by the county and all governmental divisions thereof.

(b) The total amount of taxes levied for all purposes due the county, as well as the amounts due all governmental subdivisions within the county, delinquent at the close of the previous fiscal year.

(c) The total amount accumulated at the end of the previous fiscal year to the credit of sinking funds set aside to retire bonds heretofore issued by the county and by any and all governmental subdivisions within the county.

(d) The total amount of all outstanding bonded indebtedness and outstanding warrants of the county and all governmental subdivisions thereof, at the end of the previous fiscal year.

(e) The grand total of each of the above items for the State at large.

Sec. 6. In case of the failure of any official of any unit of government in the State to furnish the above referred to reports to the County Auditor, or to the County Clerk as the case may be, within the time specified by this Act, it shall be the duty of the County Auditor, or the County Clerk, to give official notice to the County Attorney of the proper county, of the failure of such official to comply with the provisions of this Act, and it shall be the duty of the County Attorney to immediately instigate proceedings for the punishment of such official.

Sec. 7. Reports called for herein are in addition to reports already required by law, and no additional compensation shall be paid to any official of the county or State for the compilation of such reports. [Acts 1931, 42nd Leg., p. 500, ch. 279.]

Effective 90 days after May 23, 1931, date of adjournment. Section 5 of said Acts penal provision is published as Penal Code, art. 101a.  
1931, 42nd Leg., p. 500, ch. 279, being a

**Art. 7272. [7630] [5176] All property liable for taxes**

All real and personal property held or owned by any person in this State shall be liable for all State and County Taxes due by the owner thereof, including tax on real estate, personal property and poll tax; and the Tax Collector shall levy on any personal or real property to be found in his county to satisfy all delinquent taxes, any law to the contrary notwithstanding; provided, however, that any person, including a lienholder, having an interest in property against which there are taxes which has been included in an assessment with other property may pay the proportionate part of the taxes against his property without being required to pay any other taxes included in the assessment. If the parties at interest cannot agree with the Tax Collector upon the amount of taxes to be apportioned to each piece of property then the Commissioners' Court shall make a fair apportionment of the taxes, and the payment of the taxes on a part of the property according to such apportionment will relieve it from liability for the payment of any of the other taxes included in the assessment; and further providing, however, that the provision herein, whereby the taxes against a piece of property may be apportioned, shall apply to taxes due any district, municipality or other subdivision of the State, and in the event the parties at interest cannot agree to an apportionment of the taxes then the Board of Commissioners having authority over the assessment and equalization of such taxes, shall make the apportionment in the manner herein provided. [As amended Acts 1931, 42nd Leg., p. 237, ch. 141, § 1.]

Effective 90 days after May 23, 1931, date of adjournment. Section 2 repeals all conflicting laws and parts of laws.

**Art. 7298. [7662] Limitation not available**

That no delinquent taxpayer shall have the right to plead in any Court or in any manner rely upon any Statute of Limitation by way of defense against the payment of taxes due from him or her to the State, or any county, city, town, Navigation District, Drainage District, Road District, Levee District, Reclamation District, Irrigation District, Improvement District, School District, and all other Districts. Provided, that no suit shall be brought for the collection of delinquent taxes of a School District or Road District unless instituted within ten years from the time the same shall become delinquent. [As amended Acts 1931, 42nd Leg., p. 419, ch. 252, § 1.]

Effective 90 days after May 23, 1931, date of adjournment. This article was also amended by Acts 1929, 41st Leg., 2nd C. S., p. 161, ch. 81, § 1 (effective June 23, 1929).

**Art. 7324. Notice to owners of delinquency**

During the month of July each year, or as soon thereafter as practicable, the collector of taxes in each county of this State shall mail to the tax roll address of each owner of any lands or lots situated in the county a notice showing the amount of taxes delinquent or past due and unpaid against all such lands and lots as shown by the delinquent tax record of the county on file in the office of the tax collector, a duplicate of which shall also have been filed in the office of the Comptroller of the State and approved by such office, but failure to send or receive such notice shall be no defense to a suit brought for taxes. Such notice shall also contain a brief description of the lands and lots appearing delinquent and the various sums or amounts due against such lands and lots for each year as they appear to be delinquent, according to such records, and it shall also recite that unless the owner of such lots or land described therein shall pay to the tax collector the amount of taxes, interest, penalties and costs set forth in such notice, within thirty days from the date of notice, that the county or district attorney will institute suits for the collection of such moneys and for the foreclosure of the constitutional lien against such lands and lots. Each tax collector, as soon after mailing such notice as prac-

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licable, shall furnish to the County or District Attorney duplicates of all such notices mailed to the taxpayers in accordance with the provisions of this law, and also, lists of lands and lots located in the county appearing on the delinquent tax records in the name of "unknown" or "unknown owners", or in the name of persons whose correct address or place of residence in or out of the county said collector is unable by the use of diligence to discover or ascertain, against which taxes are delinquent, past due, and unpaid, and such lists or statements shall show the amount of State and County taxes delinquent, past due, and unpaid against each such tract or lot of land for each year they appear to be delinquent according to the delinquent tax records of the county, and shall likewise contain a brief description of all such lands and lots. The tax collector shall furnish on demand of any person, firm or corporation like statements with reference to any particular lot or tract of land for whatever purpose desired, which shall be in all instances certified by him with the seal of his office attached. Whenever any person, or persons, firm or corporation shall pay to the tax collector all the taxes, interest, penalties and costs shown by the delinquent tax records of the county to be due and unpaid against any tract, lot or parcel of land for all the years for which taxes may be shown to be due and unpaid, prior to the institution of suit for the collection thereof, the tax collector shall issue to such person or persons, firm or corporation, a receipt covering such payment as is now required by law.

Provided that if the House Bill No. 331,\* pending in the Senate, becomes a law, then the provisions of this Article 7324, so far as they may conflict with said law, shall be controlled by the provisions of said law. [As amended Acts 1931, 42nd Leg., p. 196, ch. 117, § 1.]

\*No record of House Bill No. 331 becoming a law.

Effective May 13, 1931. Section 4 of said act provides that no taxes delinquent at the time of its passage shall be affected

thereby but they shall remain due and delinquent until paid with penalty and interest as if this act had not been enacted.

Section 5 repeals all conflicting laws and parts of laws.

#### [Art. 7328a. Tax sales of real estate]

That all sales of real estate made for the collection of delinquent taxes due thereon shall be made only after the foreclosure of tax lien securing same has been had in a court of competent jurisdiction in accordance with existing laws governing the foreclosure of tax liens in delinquent tax suits. [Acts 1929, 41st Leg., p. 103, ch. 48, § 1.]

Section 2 of said Acts 1929, 41st Leg., p. 103, ch. 48, repeals all conflicting laws and parts of laws.

#### Art. 7331. [7691] Fees of tax collector

For calculating and preparing redemption certificates and receipts, reporting and crediting redemptions, posting Comptroller's redemption numbers on the delinquent tax record or annual delinquent list, mailing certificates of redemption to taxpayers after approval by the Comptroller, and for issuing receipts or certificates of redemption for property shown on the annual delinquent list, the tax collector shall be entitled to a fee of one dollar (\$1.00) for each correct assessment of land to be sold, said fee to be taxed as costs against the delinquent. Correct assessment as herein used means the inventory of all properties owned by an individual for any one year. Provided, that in no case shall the State or county be liable for said fee. For checking up and taking off delinquency, separating and assorting various tracts or each assessment, prorating the taxes thereon, arranging the items by abstract numbers or lot and block numbers, and compiling the delinquent tax record herein required to be compiled whenever there shall be as many as two years of back taxes that have not been included in the delinquent record, the tax collector shall be paid out of the general fund of the county, five cents for each written

line of the original of such delinquent record, not to exceed twenty-five cents for any one tract or abstract rendered, returned delinquent and owned by one taxpayer; such fee to be taxed as costs, and to be paid back into the general fund of the county when collected. For the collection of delinquent taxes on real estate and for performing all duties relating to such taxes for which no compensation is otherwise provided, the tax collector shall receive five per cent of all delinquent taxes collected by him. [As amended Acts 1930, 41st Leg., 4th C. S., p. 30, ch. 20, § 8.]

**Art. 7331a. [Repealed by Acts 1930, 41st Leg., 4th C. S., p. 3, ch. 3, §§ 1, 2]**

This article repealed was Acts 1929, 41st Leg., 1st C. S., p. 234, ch. 95, §§ 1-4. It authorized persons to sue for excess fees erroneously paid to the county while acting

as qualified tax collectors and removing the bar of limitations as a defense in such actions.

**Art. 7332. [7691] Other fees**

The County or District Attorney shall represent the State and County in all suits against delinquent tax-payers, and all sums collected shall be paid over immediately to the County Collector.

Before filing suits for the recovery of delinquent taxes for any year, notice shall be given to the owner or owners of said property as is provided for in Article 7324 of the Revised Civil Statutes of Texas, 1925, as amended by Chapter 117, Page 196, Acts of the Forty-Second Legislature, Regular Session. The fees herein provided for shall not accrue to nor shall the various officers herein named be entitled thereto in any suit unless it be proved that notice has been given to the owner for the time and in the manner provided by law.

In all cases, the compensation of said Attorney shall be Two (\$2.00) Dollars for the first tract and One (\$1.00) Dollar for each additional tract up to four (4), but said fee in no case to exceed Five (\$5.00) Dollars. And provided, that in any suit brought against any individual or corporate owner, all past due taxes for all previous years on such tract or tracts shall be included; and provided, further that where there are several lots in the same addition or subdivision delinquent, belonging to the same owner, all said delinquent lots shall be made the subject of a single suit.

All fees provided for the officers herein shall be treated as fees of office and accounted for as such, and said officers shall not receive nor retain said fees in excess of the maximum compensation allowed said officers under the laws of this State; and provided further that the County Attorney, Criminal District Attorney or District Attorney shall not be entitled to the fees herein provided for in instances where such delinquent taxes are collected under contracts between the Commissioners' Court and others for the collection of such taxes, and in such instances the fees herein provided for such officers shall not be assessed nor collected.

The Sheriff or Constable of the County in which the suit is pending shall receive a fee of Two (\$2.00) Dollars in each case which will cover the service of all process, and the selling of the property and executing deeds for same. If, in any such suit, process is issued to be served in Counties other than the one in which the suit is pending, the Sheriff or Constable serving the same shall receive a fee of One (\$1.00) Dollar in each suit for his services.

The District Clerk shall receive a fee of Two (\$2.00) Dollars in full for his services in each case.

The County Clerk shall receive One (\$1.00) Dollar in full for his services in each case.

Provided, that the fees herein provided for in connection with delinquent tax suits shall constitute the only fees that shall be charged by said officers for preparing, filing, instituting, and prosecuting suits on de-

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linquent taxes and securing collection thereof, and all laws in conflict herewith are hereby repealed.

In case the delinquent tax-payer shall pay to the collector the amount of delinquent taxes for which he is liable, together with accrued interest after the filing of suit before judgment is taken against him in the case, then, only one-half of the fees taxable in such a case, as provided for herein, shall be charged against him.

Sec. 2. In suits by Counties against any of the officers herein named to recover moneys or fees collected by any such officers, limitation of action shall not apply, and no such suit shall be barred by the Statute of limitation. [As amended Acts 1931, 42nd Leg., 2nd C. S., p. 31, ch. 16.]

This article was also amended by Acts 1930, 41st Leg., 4th C. S., p. 30, ch. 20, § 9. 1929, 41st Leg., p. 307, ch. 143, § 1; Acts Acts 1931, 42nd Leg., p. 428, ch. 258, § 1.

#### [Art. 7335a. Delinquent tax contracts]

Sec. 1. No contract shall be made or entered into by the Commissioners' Court in connection with the collection of delinquent taxes where the compensation under such contract is more than fifteen per cent of the amount collected. Said contract must be approved by both the Comptroller and the Attorney General of the State of Texas, both as to substance and form. Provided however the County or District Attorney shall not receive any compensation for any services he may render in connection with the performance of the contract or the taxes collected thereunder.

Sec. 2. Any contract made in violation of this Act shall be void. [Acts 1930, 41st Leg., 4th C. S., p. 9, ch. 8.]

#### Art. 7336. [7692] Penalty

That if any person shall pay on or before November 30th next succeeding the return of the assessment rolls of the County to the Comptroller of Public Accounts one-half of the taxes imposed by law on him or his property, then he shall have until and including the 30th day of the succeeding June within which to pay the other one-half of his said taxes without penalty or interest thereon during said time.

If said tax-payer after paying said one-half of his taxes on or before November 30th, as hereinbefore provided, shall fail or refuse to pay on or before June 30th next succeeding said November, the other one-half of his said taxes, a penalty of ten per centum on the amount of said unpaid taxes shall accrue thereon.

If any person fails to pay one-half of the taxes imposed by law upon him or his property on or before the 30th day of November next succeeding the return of the assessment rolls of the County to the Comptroller of Public Accounts then unless he pays all of the taxes imposed by law on him or his property on or before 31st day of the succeeding January, a penalty of ten per centum on all of said taxes shall accrue thereon.

Provided that if any person fails to pay all the poll taxes imposed by law upon him until after the thirty-first day of January next succeeding the return of the assessment rolls of the county to the Comptroller, a penalty of ten per centum of such taxes shall accrue thereon.

All taxes affected by this Article shall bear interest at the rate of six per centum per annum from the date a penalty accrues thereon.

All penalties provided in this Act, shall, when collected, be paid to the State and the County, and to the districts, if any, in proportion to the taxes upon which the penalties are collected.

The Collector of taxes shall, as of the first day of July of each year for which any state and county taxes for the preceding year remain unpaid, make up a list of the lands and lots on which any taxes for such preceding years are delinquent, charging against the same all unpaid taxes and penalties assessed against the owner thereof.

Said list shall be made in triplicate and shall be presented to the Commissioners' Court for examination and correction of any errors that may appear, and when so examined and corrected by the Commissioners' Court such lists in triplicate shall be approved by said court, and one copy thereof shall be filed with the county clerk, and one copy retained and preserved by the collector and one copy forwarded to the Comptroller with his annual settlement reports. Such lists as furnished by the tax collector and corrected by the Commissioners' Court, and the rolls or books on file in the collector's office, or either said list or assessment rolls or books, shall be prima facie evidence that all the requirements of the law have been complied with by the officers of courts charged with any duty thereunder as to regularity of listing, assessing, levying all taxes therein mentioned and reporting as delinquent any real estate whatsoever, and that the amount alleged against said real estate is a true and correct charge; and, in cases in which the description of the real estate in said list or assessment rolls or books is not sufficient to identify the same, and of which property there is a sufficient description in the inventories of the Assessor's office, then said inventories shall be admissible as evidence of the description of said property.

Sec. 3. It shall be the duty of the Comptroller of Public Accounts to prescribe such forms for tax rolls to be used by the county tax assessors as may make it convenient for the collectors of taxes to note thereon the payment of taxes under the semi-annual installment payments provided for in this Act; and to prescribe such forms for receipts, and reports and such other forms for the use of the collectors of taxes as in his opinion may be advisable. This provision is cumulative of all other provisions of the Statutes of the State prescribing the duties of the Comptroller of Public Accounts. [As amended Acts 1931, 42nd Leg., p. 196, ch. 117.]

Acts 1931, 42nd Leg., 2nd C. S., p. 34, Ch. 18, § 1, read as follows: "That all interest and penalties accrued and as now fixed by law, on all State, County, Special School, School District, Road District, Levee Improvement District, and Irrigation District taxes and taxes of other defined subdivi-

sions of the State, other than incorporated cities and towns, delinquent up to and including October 20, 1931, shall be, and the same are hereby released, provided said taxes are paid on or before January 31, 1932."

## TITLE 125—TRIAL OF RIGHT OF PROPERTY

Art. 7414. [7783] [5300] [4836] Judgment of non-suit

If the plaintiff does not appear at the first term, the case shall be continued to the next term, when, if he appears, the like proceedings may be had as at the first term; but if he does not then appear, on or before the appearance day of said term, he shall be non-suited. [As amended Acts 1929, 41st Leg., 1st C. S., p. 109, ch. 49, § 1.]

[Art. 7439a. Requiring attendance of out of county witnesses in certain suits]

Sec. 1. For the purpose of enabling all parties to procure the personal attendance of witnesses in any suit which shall be instituted or is pending in any Court of competent jurisdiction in this State which involves a violation of laws enacted to conserve the natural resources of the State, or a violation of laws prohibiting trusts, monopolies or combinations in restraint of trade, the clerk of said Court where such suit is pending, on the application of the Attorney General or any of his Assistants, or on the application of any county or district attorney acting under his direction, or on the application of any other party to said suit, shall issue a subpoena for any witness or witnesses who may be represented to reside within any county in the State of Texas, or be found therein at the time of the trial. Provided the clerk shall not issue subpoenas in excess



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of five (5) to compel the attendance of State witnesses or a like number to compel the attendance of defense witnesses without first obtaining a written order from the trial judge. Should any witness summoned as aforesaid fail to appear and testify in said case, he shall be guilty of contempt of Court and may be fined not exceeding One Hundred Dollars (\$100.00), and may be attached and imprisoned in jail until he shall attend said Court in person and testify as to all the facts within his knowledge with reference to the matter inquired about; provided, however, that any witness who resides out of the county where said suit is pending shall not be required to attend said Court and testify in person until the party or parties requesting his testimony shall have tendered to him, if requested by said witness, sufficient money to defray his actual traveling expenses, not exceeding four cents (4¢) per mile going to and returning from the Court by the nearest practical conveyance, and Two Dollars (\$2.00) per day for each day he may necessarily be absent from home as a witness in such cause. In case the State is the party requesting the personal attendance of such witnesses, such expenses shall be paid in the same manner as costs in felony cases. [Acts 1931, 42nd Leg., 1st C. S., p. 90, ch. 44, § 1.]

### TITLE 128—WATER

#### [Art. 7466e. Confirmation of Rio Grande compact]

That the Rio Grande Compact, entered into and signed at Santa Fe, New Mexico, on the 12th day of February, A. D. 1929, between Delph E. Carpenter, Commissioner for the State of Colorado, Francis C. Wilson, Commissioner for the State of New Mexico, and T. H. McGregor, Commissioner for the State of Texas, an original copy of which has been deposited in the office of the Secretary of State of Texas, be and the same is in all things ratified and confirmed.

The Governor shall, with the advice and consent of the Senate, appoint a Commissioner who shall constitute the Texas member of the Committee provided for in said Compact, charged with the administration thereof. Such Commissioner shall hold office for two years, and until his successor is appointed and qualified. He shall take the oath of office prescribed by the Constitution, and in addition thereto shall take oath to faithfully discharge the duties incumbent upon him as such Commissioner. He shall receive, from time to time, such compensation as may be allowed him by the Legislature, and until otherwise provided by law, shall receive a salary of Two Hundred and Fifty (\$250.00) Dollars per month. He shall be allowed his actual expenses when traveling in the discharge of his duties, on his sworn account, showing such expenses in detail. In conjunction with the other members of such Committee, he may employ such engineering and clerical aid as may be authorized by the Legislature of Texas, but he shall incur no financial obligation on behalf of the State of Texas until the Legislature shall have provided and appropriated the money therefor. [Acts 1929, 41st Leg., 1st C. S., p. 29, ch. 9, §§ 1, 2.]

Section 3 of Acts 1929, 41st Leg., 1st C. S., necessary expenses in compliance with such legislation. Effective May 22, 1929.

#### Art. 7471. [Priority in appropriation of water]

In the conservation and utilization of water declared the property of the State, the public welfare requires not only the recognition of uses beneficial to the public well being, but requires as a constructive public policy, a declaration of priorities in the allotment and appropriation thereof; and it is hereby declared to be the public policy of the State and essential to the public welfare and for the benefit of the people that in the allotment and appropriation of the waters defined in Article 7467, of the Revised Civil Statutes of Texas of 1925, preference and priority be given to the following uses in the order named, to-wit:

1. Domestic and Municipal uses, including water for sustaining human life and the life of domestic animals.
2. Water to be used in processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, and to include water necessary for the development of electric power by means other than hydro-electric.
3. Irrigation.
4. Mining and recovery of minerals.
5. Hydro-electric power.
6. Navigation.
7. Recreation and pleasure. [As amended Acts 1931, 42nd Leg., p. 217, ch. 128, § 1.]

Articles 7471, 7472, effective May 18, 1931. Section 7 repeals all conflicting laws and parts of laws. Section 8 provides that if

any part of the act is held invalid, such decision shall not affect the remainder.

#### Art. 7472. Between appropriators

As between appropriators, the first in time is the first in right, provided, however, that all appropriations or allotments of water hereafter made for hydro-electric power, irrigation, manufacturing, mining, navigation, or any other purposes than domestic or municipal purposes, shall be granted subject to the right of any city, town or municipality of this State to make further appropriations of said water thereafter without the necessity of condemnation or paying therefor, for domestic and municipal purposes as herein defined in paragraph numbered "1" of Art. 7471 as herein amended any law to the contrary notwithstanding. [As amended Acts 1931, 42nd Leg., p. 217, ch. 128, § 2.]

See note to art. 7471.

#### [Art. 7472a. Inapplicable to streams constituting boundary of Mexico]

The provisions of Section 2 [Art. 7472] of this Act shall not apply to any stream which constitutes or defines the International border or boundary between the United States of America and the Republic of Mexico. [Acts 1931, 42nd Leg., p. 217, ch. 128, § 6.]

See note to art. 7471.

#### [Art. 7472b. Eminent domain for acquisition of waters for domestic, municipal and irrigation purposes]

The right to take waters necessary for domestic and municipal supply purposes is primary and fundamental, and the right to recover from other uses, waters essential to such purposes shall be paramount and unquestioned in the policy of the State, and in the manner Constitutional and Statutory authority provide. All political sub-divisions of the State, and Constitutional Governmental Agencies exercising delegated Legislative powers, are recognized to have the Right of Eminent Domain, to be exercised as permitted by Law for uses domestic and municipal and manufacturing, for authorized purposes, including the irrigation of lands for all requirements of agricultural employment. [Acts 1931, 42nd Leg., p. 217, ch. 128, § 3.]

#### [Art. 7472c. Conservation of water resources for public welfare]

In the administration of laws provided for the maximum judicious employment of the State waters in the public interest, it shall be the duty of the State Board of Water Engineers, or other administrative agency designated for the service by the State, to conserve this natural resource in the greatest practicable measure for the public welfare; and recognizing the Statutory precedent established for granting the privilege to take and utilize the waters of the State for uses recognized and authorized, it shall be the duty of the State Board of Water Engineers or other agency of the State designated for the purpose to observe the rule that as between ap-

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plicants for rights to use the waters of the State, preference be given not only in the order of preferential uses declared, but that preference also be given those applications the purposes for which contemplate and will effectuate the maximum utilization of waters and are designed and calculated to prevent the escape of waters without contribution to a beneficial public service. [Acts 1931, 42nd Leg., p. 217, ch. 128, § 4.]

See note to art. 7471.

[Art. 7472d. Surveys to disclose measure and potential availability of water resources]

It shall be the purpose and policy of the State and of the enactments in accord therewith, in effecting the greatest beneficial utilization of waters of the State, to cause to be made all surveys essential to disclose the measure and potential availability of the water resources of the State to uses recognized; and to ascertain from necessary investigation the character of the principal requirements of the distinct regional division of the watershed areas of the State for the uses herein authorized, to the end that distribution of the right to take and use the waters of the State may be the more equitably administered in the public interest, and privileges granted for the uses recognized may be economically co-ordinated, achieving the maximum of public value from this resource; and recognizing alike the distinct regional necessities for water control and conservation, and for control of harmful floods. [Acts 1931, 42nd Leg., p. 217, ch. 128, § 5.]

See note to art. 7471.

**Art. 7496. Priority of date**

Art. 7496a is an amendment of art. 7496 and should be substituted therefor.

[Art. 7537a. Survey of underground water supply]

That the State Board of Water Engineers of Texas are hereby authorized and empowered to have made a scientific and sanitary study and investigation and report of the sources, amount and quality of the underground water supply, together with a study, investigation and report upon the feasible conservation, maintenance and supplementing of said supply. Such work shall be first undertaken by said Board in the territories where, in their judgment, the greatest need therefor exists, and in determining said need, said Board shall look to the interest and welfare of domestic and municipal uses, irrigation uses, and all other uses, which in their judgment, are essential to the welfare of the business interests of the State, and in the health of its citizens. In the prosecution of which investigation it shall be the duty of the State Department of Health to lend all such co-operation as the interests of the public Health require, provided none of the funds so appropriated shall be used in the drilling of any well for the discovery of water. [Acts 1929, 41st Leg., 2nd C. S., p. 63, ch. 37, § 1.]

Effective 90 days after July 2, 1929, date appropriation for the expenses of such of adjournment. Section 2 of Acts 1929, survey which the Governor vetoed. 41st Leg., 2nd C. S., p. 63, ch. 37, makes an

**Art. 7622. Water improvement districts established**

The County Commissioners' Court of any county in this State at any Regular or Called Session thereof may establish one or more Water Improvement Districts in their respective counties, or parts of such districts therein, in the manner hereinafter provided. Such districts may or may not include within their boundaries, villages, towns, cities, and municipal corporations, or any part thereof, but no land shall be at the same time included within the boundaries of more than one Water Improvement District created under this Chapter. Such districts when so established may make improvements or may purchase improvements already existing, or may purchase improvements and make additions there-

to, or may contract with any other Water Improvement District, Water Control and Improvement District or any Conservation and Reclamation District for a water supply and may purchase or make such improvements as may be necessary to receive and distribute such water supply, and may incur indebtedness to fully carry out each and all of the purposes of its organization, and may issue bonds in payment therefor, as herein provided. Such districts being authorized to provide for the irrigation of the land included therein, and when operating under Section 59 of Article 16, of the Constitution, furnish water for domestic, power and commercial purposes. Such districts may be formed for co-operation with the United States under the Federal Reclamation Laws for the purpose of the construction of irrigation works, including drainage works, necessary to maintain the irrigability of the land for the purchase, extension, operation or maintenance of constructed works or for the assumption, as principal or guarantor, of indebtedness to the United States on account of district lands. [As amended Acts 1929, 41st Leg., 2nd C. S., p. 7, ch. 6, § 1.]

Effective 90 days after July 2, 1929, date 41st Leg., 2nd C. S., p. 7, ch. 6, repeals all of adjournment. Section 3 of acts 1929, conflicting laws and parts of laws.

#### Art. 7642. Qualifications of tax assessor and collector

The office of Tax Assessor and Collector is one office to be filled by one person. The Tax Assessor and Collector shall be appointed by the directors or, if the directors so order, may be elected by an election held for that purpose. He shall qualify by making and entering into a good and sufficient bond, signed also by two good and sufficient sureties, to be approved by the Board of Directors, in the sum of Five Thousand (\$5,000.00) Dollars conditioned for the faithful performance of his duties as Tax Assessor and Collector and for the paying over to the depository all funds or sums of money or other thing of value, coming into his hands as such Collector. The directors may require additional bonds or bond in larger amount or additional security at any time that same may be advisable in their judgment. [As amended Acts 1931, 42nd Leg., p. 794, ch. 321, § 1.]

#### Art. 7649. Petition filed

The owner or owners of the fee to lands in the same vicinity of, but not necessarily contiguous to, any District heretofore or hereafter created under this Act, may file with the Board of Directors of said District a petition in writing, praying that such land be included in such District. The petition shall describe the tract or body of land owned by the petitioners by metes and bounds and upon the filing of such petition with the Board of Directors, said Board of Directors shall cause an accurate survey of the said tract of land to be made and the boundaries thereof marked upon the ground, and said tract of land may be admitted as a part of the District; provided it can be irrigated without prejudice to the rights of any of the lands originally contained therein to be first furnished with an adequate supply of water, and when said lands are so admitted they shall immediately become subject to their proportionate share of any taxation or bonded indebtedness that may have been created against said District and subject to such reasonable charge against such lands for the purpose of defraying its part of the expenses of maintenance, operation or other necessary expenses previously made as may be determined by the Board of Directors. [As amended Acts 1929, 41st Leg., 1st C. S., p. 204, ch. 81, § 1.]

#### [Art. 7653a. Contracts with other water improvement districts]

The Board of Directors, on behalf of said district, may enter into any obligation or contract with any other Water Improvement District, Water Control and Improvement District or any Conservation and Reclamation District for the construction, operation and maintenance of the necessary works for the delivery and distribution of water therefrom, or for

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the drainage of district lands; and the Board of Directors may contract with such other Water Improvement District, Water Control, and Improvement District or Conservation and Reclamation District for a water supply to be pumped and supplied by such other district, on such terms and conditions as may be agreed on by the Boards of Directors of said contracting districts, and may purchase or make any improvements necessary to receive and distribute such water supply to the lands in said district for the purposes for which such district was organized.

The terms and conditions of such contracts shall not conflict with the provisions of law providing for the organization and conduct of districts but may include provisions for joint construction and operation of the necessary works for the delivery and distribution of said water supply. Such contracts may be amended by mutual agreement of the Boards of directors of the contracting districts.

Such contracts shall be in writing, shall be acknowledged, in the same manner and form as is required by law for the conveyance of real estate and shall be recorded in the real estate records of the county or counties in which such districts are situated. Such districts may issue bonds and expend the proceeds thereof to effectuate the purposes herein set forth and in payment of the obligations of said contracts.

Such bonds may be issued either separately or as part of a general bond issue of the district, in the manner and subject to all the regulations, terms, conditions and provisions of other bonds authorized to be issued under the terms of this Chapter, and of the Acts amendatory thereof and supplementary thereto, except as in this Act otherwise provided. [Acts 1929, 41st Leg., 2nd C. S., p. 7, ch. 6, § 2.]

Effective 90 days after July 2, 1929, date of adjournment. Section 3 of Acts 1929, 41st Leg., 2nd C. S., p. 7, ch. 6, repeals all conflicting laws and parts of laws.

#### [Art. 7653b. District contracts validated]

Where districts organized under this Chapter have heretofore entered into contracts such as are authorized in this Act, said contracts and all acts and proceedings connected therewith are hereby confirmed, ratified and validated, as of the respective times and dates of such contracts, acts and proceedings, with like effect as though at the time said contracts were entered into and said acts and proceedings were done or had there existed Statutory authority therefor, and all bonds voted or issued by said districts for the purpose of securing, complying and carrying out the terms of, said contracts are hereby validated and declared to be legal and binding obligations of such several districts, according to their terms, and such bonds may be issued and sold in the form and manner and at the price and under the conditions prescribed by law. [Acts 1929, 41st Leg., 2nd C. S., p. 7, ch. 6, § 2.]

Effective 90 days after July 2, 1929, date of adjournment. Section 3 of Acts 1929, 41st Leg., 2nd C. S., p. 7, ch. 6, repeals all conflicting laws and parts of laws.

#### Art. 7674. Taxes due—payable

All taxes provided for by this Act shall become due and payable on the 1st day of November of each year, and shall be paid on or before the 31st day of January thereafter; provided that in all Water Improvement Districts lying wholly or in part in any county, having a population as shown by the United States Census of 1930, of not less than 74,000 and not over 75,000, all taxes provided for by this Act for the Calendar year 1930 and for each Calendar year thereafter, shall become due on the first day of November of each year, and shall be payable as follows: unless one-half of the taxes so levied shall be paid on or before the 31st day of January next thereafter, the entire taxes levied for such Calendar year shall become delinquent on said date. If the first one-half of such taxes levied as aforesaid shall have been paid on or before the 31st day of January aforesaid, the second half of such taxes shall become delinquent on the 31st day of

July next thereafter. [As amended Acts 1931, 42nd Leg., p. 741, ch. 290, § 1.]

Effective Feb. 5, 1931.

#### Art. 7677. Delinquent tax record

It shall be the duty of the Directors for such District to cause to be prepared by the Tax Collector, or at the expense of such District a list of all lands upon which the taxes remain unpaid on the 31st of January of each year, and such list of lands shall be known as a delinquent tax roll, and such delinquent tax roll shall be delivered to the secretary of such District to be by him safely kept as a part of the record of his office. Such delinquent record shall carry a sufficient description to properly identify the land shown to be delinquent therein. Such description may be made by reference to lot or block number. Provided, that in Water Improvement Districts lying wholly or in part within any county having a population according to the United States Census for 1930, of not less than 74,000 and not more than 75,000, it shall be the duty of the Directors of such District to cause to be prepared by the Tax Collector, or at the expense of such District, a list of all lands upon which the taxes remain unpaid on the 31st day of January, and the 31st day of July, respectively, of each year, and such list of said land shall be known as a delinquent tax roll and such delinquent tax roll shall be delivered to the Secretary of such District to be by him safely kept as a part of the records of his office. Such delinquent record shall carry a sufficient description to properly identify the land shown to be delinquent therein. Such description may be made by reference to lot or block number. The delinquent tax roll of July 31st may have combined with it the delinquent tax roll of the 31st day of January of that year. [As amended Acts 1931, 42nd Leg., p. 741, ch. 290, § 1.]

#### Art. 7684. Interest on delinquent taxes

If any person shall fail or refuse to pay the taxes imposed upon him or his property by this Act until after the 31st day of January next succeeding the return of the assessment roll for said District, a penalty of ten (10%) per cent on the entire amount of such tax shall accrue which penalty when collected shall be paid over to such District. Such delinquent taxes shall bear interest from August 1st after due at the rate of six per cent per annum. And the Collector of Taxes shall, by virtue of his tax roll seize and levy upon and sell so much personal property as shall be sufficient to make the amount of such taxes together with the penalty above provided, interest thereon at the rate of six (6%) per cent per annum and all costs accruing thereon. If no personal property be found for seizure and sale as above provided, the Collector shall make up and file with the Secretary of the District the delinquent tax list hereinbefore provided for, charging against same all taxes, penalties and interest assessed against same and the owner thereof. Provided, that in Water Improvement Districts lying wholly or in part within any county which has a population according to the United States Census, 1930, of not less than 74,000 and not more than 75,000, any person shall fail or refuse to pay one-half of the taxes imposed upon him under the provisions of this Chapter for the Calendar year 1930, and for each Calendar year thereafter, on or before the 31st day of January next thereafter, the entire taxes levied for such Calendar year shall become delinquent on said date, and a penalty of 10 per cent on the entire amount of such taxes shall accrue, which penalty when collected shall be paid over to such District. If the first half of the taxes levied as aforesaid shall have been paid on or before the 31st day of January, as aforesaid, the second half shall become delinquent on the 31st day of July next thereafter, and a penalty of 10 per cent on the entire balance of such taxes so delinquent shall accrue, which penalty when collected shall be paid over to such District. All delinquent taxes shall bear interest from August 1st after due at the rate of 6 per cent per annum. No demand of taxes shall be necessary.

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but it shall be the duty of every person subject to taxation under the law to appear at the Tax Collector's office and pay his taxes and if any person neglects so to pay his taxes until after they have become delinquent, the same shall be collected in the manner provided by law, and the Tax Collector of such District shall, by virtue of his tax rolls, seize and levy upon and sell so much personal property as shall be sufficient to make the amount of such taxes, together with the penalty above provided, interest at the rate of six per cent per annum, and all costs accruing thereon. If no personal property be found for seizure and sale as provided, the Collector shall make up and file with the Secretary of the District the delinquent tax lists hereinbefore provided for, charging against same all taxes, penalties and interest against same and the owner thereof. [As amended Acts 1931, 42nd Leg., p. 741, ch. 290, § 1.]

Effective Feb. 5, 1931. Section 2 of said act repeals all conflicting laws and parts of laws, but shall not affect Laws 1931, 42nd Leg., p. 3, ch. 3, §§ 1-6 which was a

temporary act relating to the postponement of the collection of the taxes for 1930 to Oct. 15, 1931 other than incorporated cities and towns and poll taxes.

#### Art. 7686. Duty of engineer

After the establishment of any such District, and after the qualification of the Board of Directors, the Board of Directors for such District may appoint an engineer, whose duty it shall be to make a complete survey of the lands contained in said District, and to make a map and profile of the several canals, laterals, reservoirs, dams, and pumping sites in such District and connected therewith, which shall also show any part of said canals, laterals, reservoirs and dams or pumping sites extending beyond the limits of such District, which said map shall show the name and number of each survey and shall also show the area in number of acres contained in such District. Provided, however, that such engineer may adopt any and all surveys heretofore made by any person, firm or corporation who have applied for or appropriated any water for irrigation under the General Laws of this State; and provided, further, that said engineer may adopt all surveys for canals, laterals, reservoirs, dams or pumping sites shown on said maps or plats, or may adopt other maps, plats and surveys of the correctness of which he may be satisfied. [As amended Acts 1929, 41st Leg., 1st C. S., p. 202, ch. 79, § 1.]

#### Art. 7695. Bonds to include interest [bonds validated]

The maximum amount of the bonds to be issued by any such District may include a sum sufficient to pay the first one, two or three years' interest to accrue on said bonds, and when this power is exercised, no taxes shall be levied against the property situated in said District for said period, except in an amount sufficient to pay off, satisfy and discharge the notes provided for in Article 7634. The period of time herein mentioned shall run either from the date of the bonds as fixed in the order authorizing their issuance, or from the date or dates of the actual sale, issuance and delivery of said bonds, or any installment thereof, within the discretion of the board of directors; provided, however, that in event there shall be on hand a balance in the interest fund, after the expiration of any such period, nothing herein shall be construed to prohibit the application of such fund to the payment of interest on such bonds after the expiration of such period. Provided, further, that any and all elections held in any water improvement district, and any and all elections held in any water control and improvement district having authorized or issued bonds under this chapter prior to its conversion into such water control and improvement district, and which elections were for the purpose of authorizing the board of directors thereof to use the balance of the proceeds of any interest bonds to the payment of interest after the expiration of such period of time (whether computed from the date of the bonds or from the date of their actual sale and delivery), and for which election, or elections, the board of directors duly passed

orders, and notices thereof were issued and given within the period of time prescribed for bond elections under this chapter, and a majority of the qualified electors of any such districts, voting at any such election, authorized the use of the proceeds of such interest bonds, after such period for the purpose for which said bonds were authorized, and the returns of such election, or elections, were made and canvassed, and duly entered of record on the minutes of the board of directors, shall be and such election, or elections, are hereby expressly approved, legalized and validated. [As amended Acts 1931, 42nd Leg., p. 17, ch. 17, § 1.]

[Art. 7716a. Emergency loans and bonds]

Any water improvement district may create emergency loans and issue "interim bonds" for the purposes, in the manner and under the restrictions and limitations provided in Section 1, of House Bill Number 159, of the Acts of the Forty-First Legislature, First Called Session [art. 7880-84a], relating to water control and improvement districts; it being the intent hereof to confer upon water improvement districts the same power and authority in respect to emergency loans and issuance of "interim bonds" as now conferred by law upon water control and improvement districts. [Acts 1929, 41st Leg., 2nd C. S., p. 136, ch. 69, § 1.]

[Art. 7718b. Nomination of candidates for director; names on ballot]

That any person eligible to serve as a director of Water Improvement Districts under the provision of Chapter 2, Title 128 of the Revised Civil Statutes of Texas, 1925, may file with the secretary or the board of directors application to have their names printed upon the ballots to be used at an election. Such applications shall be signed by such candidates, or by ten qualified voters of the district, and shall be filed at least twenty days prior to the date of such election. No candidate not so nominated shall have his name placed on the official ballot at such election, provided however that nothing herein contained shall prevent the writing of a name of any candidate on such ballot by any elector voting at such election. [Acts 1931, 42nd Leg., p. 13, ch. 13, § 1.]

Effective 90 days after May 23, 1931, date of adjournment. Section 2 repeals conflicting laws.

[Art. 7775c. Excluding land from improvement districts]

Sec. 1. Definitions.

Whenever in this Act the word incorporated city is used, it shall mean any city incorporated under the general laws or under a special charter granted by the Legislature, or incorporated under what is known as The Home Rule Amendment to the Constitution, and now located in counties having an area of not less than one thousand thirty-four (1034) square miles, and not over one thousand thirty-six (1036) square miles, according to figures in General Land Office.

Whenever in this Act the word district or districts is used, it shall mean any incorporated irrigation district, water improvement district, water control and improvement district or any conservation district, or reclamation district, or conservation and reclamation district, or any drainage district, or any levee district, as now or hereafter incorporated under the general laws applicable to said district, located in counties having an area of not less than one thousand thirty-four (1034) square miles and not over one thousand thirty-six (1036) square miles, according to figures in General Land Office.

Sec. 2. Whenever there is included within the limits of any incorporated city any lands forming part of any one or more of the districts as above defined; or where any lands forming part of any one or more of the districts as above defined are subsequently incorporated within or annexed to the city limits of any incorporated city, or where any land or



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lands forming part of an incorporated city are subsequently included in or taken into any one or more of said districts, the owner or owners of all or any part of said land or lands, shall have the right to have same excluded from, and taken out of any one or more of said districts, of which said land or lands form a part, by filing an application with the governing body of said district or districts requesting said lands to be so excluded for the reason that the same is a part of, an incorporated city or town, and said petition shall be granted upon proof of that fact, as a matter of right by entering upon the minutes of said district or districts an order excluding said land or lands from said district or districts; and thereafter said land or lands shall cease to be a part of said district or districts, and there-after said land or lands shall not be subject to any other taxes, charges, or assessments by said district or districts except for its proportionate part of the bonded indebtedness existing against said district or districts at the time said land or lands were so excluded from said district or districts, provided, however, that the provisions of this Act shall only apply to said Cities and Districts as above defined, located in Counties having an area of not less than one thousand thirty-four (1034) square miles and not over one thousand thirty-six (1036) square miles, according to figures in General Land Office. [Acts 1930, 41st Leg., 5th C. S., p. 200, ch. 57.]

#### Art. 7792. Selling surplus water

Any Irrigation or Water Improvement District now existing or hereafter to be created, may sell any surplus water it may have, or have conserved, to lands in the same vicinity, for the purpose of irrigation, domestic or commercial uses; and any such District may contract to pump or deliver, for such purposes, to lands in the same vicinity of such Districts, water which such lands may be entitled to appropriate under permit from the Board of Water Engineers of the State of Texas, upon such terms and conditions, and for such length of time, as may be provided for in such contracts. [As amended Acts 1929, 41st Leg., 1st C. S., p. 203, ch. 80, § 1.]

#### [Art. 7807a. Granting eminent domain to water improvement districts]

Sec. 1. The right of eminent domain is hereby conferred upon Water Improvement Districts established under the provisions of Chapter 2 of Title 128 of the Revised Civil Statutes of Texas, and/or amendments thereof, to enable them to acquire by condemnation lands, easements and other property and the fee simple title, easement or right-of-way in, over and through all lands, private and public, except as hereinafter indicated, necessary for making, constructing, maintaining, operating, policing and protecting dams, reservoirs, canals, laterals, pumping sites, drainage ditches, levees and all other improvements necessary and proper for such districts, including sites for construction and working purposes; and all necessary passways and roadways along or to and from any such dams, reservoirs, canals, laterals, pumping sites, drainage ditches, levees, and other improvements; and the authority hereby conferred shall authorize and empower such Districts to condemn lands, private and public, for the purposes hereinabove indicated within or beyond the boundary of such Districts and within any county in the State of Texas. And such right of eminent domain is also hereby conferred upon such Water Improvement Districts for the purpose of enabling such Districts to enter upon and acquire and take by condemnation from any land within said District and within one mile of such dams, reservoirs, canals, laterals, pumping sites, drainage ditches, levees or other improvements, all necessary earth, gravel, stone, clay or other materials for any one or more of the aforesaid purposes. The right of eminent domain shall not extend to any land used for cemetery purposes, nor to property owned by any person, association of persons, corporation or Water Improvement District and used

for the purpose of supplying water under the laws of this State, and necessary for the making of reservoirs, canals, laterals, pumping sites, levee or drainage ditches, or other appurtenant work by such owner. Adequate compensation shall be paid to the owner or owners of any property so taken, damaged or destroyed for such purposes.

Sec. 2. Whenever the fee simple title, easment [easement] or right-of-way in, to or over any land for any of the aforesaid purposes has been so acquired by condemnation, the right so obtained by said District shall include the right to remove and use any timber or any materials of any character within the limits of said land so condemned for any purposes necessary in the making, constructing, maintaining and operation of any of the improvements or structures above named.

Sec. 3. All such condemnation proceedings shall be under the direction of the directors and in the name of the Water Improvement District; and except as otherwise provided in this Act, the assessing of damages and all procedure with reference to condemnation, appeal and payment, shall be in conformity with the Statutes as provided in Title 52 of the Revised Civil Statutes of the State of Texas relating to eminent domain; provided, that when the owner of any property or interest therein sought to be condemned [condemned], cannot be found after diligent search, or his residence is unknown, or such owner is a minor or other person laboring under disability, it shall be sufficient as a prerequisite to the jurisdiction of the Court to allege that such owner cannot be found after diligent search, or that his residence is unknown, or that he is a minor, or other person laboring under disability, and such allegation shall be deemed a sufficient statement that such District and such owner have been unable to agree upon the value of the land or for damages; and provided, that any number of separate parcels of property situated in the same county, whether owned by the same person or persons, or different persons, may be embraced in one petition or statement for condemnation, and the compensation or damages for such several parcels when owned by the same person or persons, may be assessed separately or together; and when such parcel or parcels are owned by different persons in severalty, such compensation shall be assessed separately, according to such ownership; provided, that when the title to any such property is in dispute between two or more owners, or there are adverse or conflicting claims thereto, it shall be sufficient to have the ward [award] of damages paid into the Court where such condemnation proceedings are pending, to await the determination of such dispute, and then paid to the rightful owner or owners thereof; and said Court shall have jurisdiction to determine all such adverse and conflicting claims to said property and said award of damages; and provided, further, that no delay after such payment in determining the rightful ownership thereof, nor any appeal from the finding and assessment of damages [damages] by the Commissioners appointed for that purpose, shall have the effect of causing the suspension of work by the District in connection with which such property is sought to be condemned or acquired.

Sec. 4. In any case where property has been condemned or sought to be condemned and any person or persons owning an interest or interests in such property has been omitted from such proceedings, or has failed to receive a notice of such condemnation proceedings as provided by law, such omission or failure shall not invalidate the proceedings or judgment of condemnation as to any person or persons who is a party to such proceedings and who has received proper legal notice thereof, and such property and the interest therein of such person or persons so omitted or so failing to receive such notice may be condemned in any subsequent proceedings therefor.

Sec. 5. When any such District is sued for any property occupied by it or taken by it for any of its purposes, or for damages thereto, the Court

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in which such suit is pending may determine all matters in dispute between the parties, including the condemnation of the property, upon petition or cross-bill asking such remedy by the defendant. [Acts 1930, 41st Leg., 5th C. S., p. 120, ch. 7.]

Effective March 14, 1930, Section 6 of Acts 1930, 41st Leg., 5th C. S., p. 120, ch. 7, makes the act cumulative of all other laws on same subject.

[Art. 7880—3. Same]

Water Control and Improvement Districts may be organized under the provisions of Section 59, of Article 16 of the Constitution for any one or more of the purposes therein provided as follows:

"Including the control, storing, preservation and distribution of its waters and flood waters, the waters of its rivers and streams, for irrigation, power and all other useful purposes, the reclamation and irrigation of its arid, semi-arid and other lands needing irrigation, the reclamation and drainage, the conservation and development of its forests, waters and hydro electric power, the navigation of its coastal and inland waters, and the preservation and conservation of all such natural resources of the State,"; and, such districts when organized shall have power to control, abate and amend any shortage, or harmful excess of waters, and to protect, preserve and, when necessary, restore, the purity and sanitary condition of waters within the State of Texas: These objects may be accompanied [accomplished] by any and all practicable means.

Such districts may be organized for the sole purposes to conduct preliminary surveys wherefrom to determine whether improvements are needed, and further to determine what improvements, if any, are required to promote the public welfare.

(a) Further, districts may be created hereunder to become and be known as Master Districts which may embrace all or any part of the area of one or more districts created and operating under the provisions of said Chapter 25, or under either Chapter 2, 3, 4, 6, 7 or 9 of Title 128 of the Revised Civil Statutes of Texas:

(b) Districts to be created as Master Districts may be created in order to conduct preliminary surveys and to develop a plan for the control and the use of the waters of any given stream, to the end that the improvements upon one part of a water shed will be mechanically and economically related to all other improvements upon such streams or its water shed;

(c) Districts to be created as Master Districts may be created in order to enable districts to pool their resources when necessary economically to make preliminary surveys, to adopt a plan to co-ordinate the plants, improvements and facilities of the several constituent districts, to the improvements and facilities proposed to be constructed and furnished by the Master District, to provide improvements for the common benefit of the several districts, or to enable such districts jointly to make purchases, or to maintain, or to operate works for the common benefit of the several districts;

(d) Such districts when created shall have the power to levy and collect taxes, equitably distributed, which taxes shall be in addition to other taxes that may be lawfully levied by the several districts constituting a part of such Master District;

(e) It is expressly provided, however, that each District composing part of a Master District shall for all purposes of an election constitute a separate voting unit, and no existing district may be included in a Master District unless the proposal so to do is approved by a majority of the voting qualified electors of such constituent district;

(f) Jurisdiction to hear and determine petitions for the creation of a Master District shall be exclusively exercised by the State Board of Water Engineers. Master Districts may have directors to number 5, 7 or any other uneven number up to 21, to be determined at the time of the creation of the district and to be thereafter subject to change by the directors

of the district in such manner as to conform to the requirements for equitable representation for the various areas of such Master District. The election and qualification of such directors shall, insofar as applicable, be controlled as provided in said Chapter 25, or any amendments thereof.

(g) Other than as in this section provided, the procedure for the creation of a Master District, the conduct of its affairs, and its powers, shall, insofar as applicable and practicable, be the same as is provided by said Chapter 25 to control districts created thereunder. [As amended Acts 1929, 41st Leg., p. 578, ch. 280, § 2.]

Section 1 of said Acts 1929, 41st Leg., p. 578, ch. 280, defining the terms and references used in the act reads as follows: In this Act Chapter 25 of the Acts of the 39th Legislature of Texas will be designated as "Said Chapter 25": Chapter 107 of the Acts of the 40th Legislature, First Called Session, will be referred to as "said Chapter 107": The word "person" shall be understood to include persons, copartnerships, corporations, associations, and governmental agencies, or bodies politic, and shall also be held to include both the singular and the plural. Said Chapter 107

amends said Chapter 25: For the sake of brevity the references to a Section amended will be to the original numbering of said Chapter 25, and such reference shall be understood to include reference to the appropriate Section number of said Chapter 107: Further, the provision that any procedures or power given in any Section referred to, shall mean the power, rights, and procedures provided by said Chapter 25, or as amended by said Chapter 107, and, in an appropriate case, as amended by this Act.

[Art. 7880—3a. Additional powers for disposal of waste and providing facilities and service]

That water control and improvement districts now existing, or hereafter to be created, may include in their purposes and plans all works, facilities, plants and appliances, in any, all, manners incident to, helpful or necessary to the collection, transportation, processing, disposal and control of all domestic, industrial, or communal wastes, whether of fluids, solids or composites, and further to gather, conduct, divert and control local storm waters, or other local harmful excesses of water: The foregoing ends may be accomplished by any and all, mechanical, or chemical, means or processes, incident, necessary or helpful to such purposes, to the end that the public health and welfare may be conserved and promoted, and the purity and sanitary condition of the State's waters protected, effected or restored: And; (1) To accomplish these purposes such districts shall have all, and fully, the same powers and rights of procedure, financing, construction, maintenance, rehabilitation, operation and administration, as now are, or hereafter may be, conferred by Section 59 of Article XVI of the Constitution of Texas and by said Chapter 25: And especially: (2) Such districts shall have full power to adopt, promulgate and enforce all such reasonable rules, regulations and specific charges, fees or rentals, to be in addition to tax imposts, for providing either facilities or service peculiar to a person, property or area and to be equitably fixed, in a manner free from arbitrary discrimination as between persons, properties or areas served. All such adopted orders and regulations shall be promulgated by publication of a copy thereof once a week for two consecutive weeks in one or more newspapers to give general circulation in the district, and shall be recorded in full in the minutes of the district. Thereupon the full police power of the district: as provided for in Section 3 of this Act, may be exercised to make effective the intent of such orders; and, such district, may discontinue a facility, or service in order to prevent an abuse or to enforce payment of a due and unpaid prescribed charge due to the district; and: (3) Districts proposing to exercise the powers, and to perform the functions, in this Section provided, may embrace all of, or any part of, areas already embraced within the boundaries of any political subdivision, a governmental agency or body politic, of the State of Texas; provided that, such district shall not usurp functions, or duplicate a service, being already adequately exercised, or rendered, by

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such other embraced governmental agency, save and except under a valid contract with such other embraced governmental agency; further: (4) The taxes to be imposed by a district exercising the powers in this Section provided, either solely or in connection with other powers granted by said Chapter 25, shall have the power to impose taxes in addition to the taxes which may have been, or may be imposed by such other embraced governmental agency; and: (5) The provisions of Section 115 of said Chapter 25 shall not apply to an election concerning a proposal to create a district to exercise the powers in this Section provided for; and, additional defined areas may be added to such districts in the same manner as is provided by this Section to control the creation of districts to exercise the powers and functions in this Section provided for, and as hereinafter specified; and: (6) The duty to hear and determine petitions for the creation of a district proposed to exercise the powers and functions in this Section provided shall, exclusively, be vested in the State Board of Water Engineers of the State of Texas, who shall hear and determine the same under the applicable provisions of Section 5 of this Act. In case the present functions of the State Board of Water Engineers are by law vested in some other named or constituted agency, the duty and powers hereby imposed shall be vested in such successor governmental agency. Upon request therefor, it shall be the duty of the Reclamation Engineer and the Sanitary Engineer of the Health Department of the State of Texas to render advisory aid concerning all such petitions and the plans of such districts and: It is provided however that nothing herein contained shall be construed to impair the provisions of Section 19 of said Chapter 25 relating to districts to be located wholly in one county, when such districts are not proposed to have, or include, the powers in this Section provided for; and: (7) Any districts now, or hereafter, existing under the provisions of said Chapter 25, which district did not at the time of its creation have conferred upon it the powers in this Section provided for, may receive and assume the additional powers by this Section provided for in the same manner, and by the same procedures as are provided for in this Section, save that it shall not be necessary to hold an election to confirm the order to establish the district's increased powers; provided however that no money obligations of the district may be issued to finance such increased functions, facilities and powers until after the electors of the district shall have authorized the same by a constitutional and statutory majority vote, in the respective manners provided by said Chapter 25 to control in appropriate case, the issuance of preliminary bonds; or, in appropriate case, construction bonds, as the proposal may require. [Acts 1929, 41st Leg., p. 578, ch. 280, § 17a.]

See note to art. 7880—3.

[Art. 7880—7. Powers]

All districts operating under the provisions hereof shall have, and may exercise, such functions, powers, authority, rights and duties as may permit the accomplishment of the purposes for which such districts may be created, including the investigation, and in case a plan for improvements is adopted, then, the construction, maintenance, and operation of all necessary improvements, plants, works and facilities, the acquisition of water rights and all other properties, lands, tenements, easements, and all other rights helpful to the purpose of the organization of the district, subject only to the restrictions imposed by the laws of the State of Texas or of the United States;

(a) It is further expressly provided that such districts shall have the power to adopt and promulgate all reasonable regulations for preserving the sanitary condition of all water controlled by the district, to prevent waste of water, to regulate residence, hunting, fishing, boating and camp-

ing, and all recreational and business privileges upon any body or stream of water, or, any body of land, owned or controlled by such district.

(b) Such district may prescribe reasonable penalties for the breach of any regulation of the district, which penalties shall not exceed fines of more than Two Hundred (\$200.00) Dollars, or imprisonment for more than Thirty (30) days, or may provide both fine and imprisonment. The penalties hereby authorized shall be in addition to any other penalties provided by the Laws of Texas and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the district's principal office is located.

(c) It is further expressly provided that such district shall have the power to employ and constitute their own peace officers, with power to make arrests when necessary to prevent or abate the commission of any offense against the regulations of the district, and against the Laws of the State of Texas, when any such offense, or threatened offense, occurs upon any land, water, easement, or other property owned or controlled by such district. Any such police officer of a district shall in any event have the power to make specific complaint. [As amended Acts 1929, 41st Leg., p. 578, ch. 280, § 3.]

See note to art. 7880—3.

[Art. 7880—18. Jurisdiction; hearing]

If the Commissioners' Court either grant or refuse the petition, any person who signed the petition, or any person who did actually appear and protest said petition and offer testimony against the creation of the district, may appeal from the order of the court by giving notice of appeal in open court at the time of the entry of the order, which shall be entered on the court's docket, and by filing with the clerk of the court within five days a good and sufficient appeal bond in the sum of \$2,500.-00, to be approved by the clerk, payable to the County Judge, conditioned for the prosecution of such appeal with effect and the payment of all costs incurred on such appeal in case the final decree of the court shall be against the appellant. Upon completion of an appeal, as herein provided, the clerk of the Commissioners' Court shall within ten days prepare a certified transcript of all orders entered by the Commissioners' Court and transmit the same together with all original documents, processes and returns thereon to the clerk of the district court to which the appeal may be taken. All persons shall be charged with notice of such appeal without notice or service thereof, but no person who failed to appear by petition, or in person or by attorney, in the Commissioners' Court shall be permitted to intervene in the district court trial. The district court, or the judge thereof, either in term time, or in vacation time, shall set said cause down for hearing with all reasonable dispatch, and shall give said cause precedence over all causes not of like character; Formal pleadings shall not be required, but, with the court's permission, may be filed. The trial and decision shall be by the court without the intervention of a jury. The hearing shall be as though the jurisdiction of the district court were original jurisdiction and all matters which were, or might have been, presented in the Commissioners' Court, and as well the validity of the Act under which the district is proposed to be created, and the regularity of all precedent proceedings, may be contested in the district court, and the court shall apply to the determination of such cause its full legal and equitable powers to the end that substantial justice may be done. The judgment of the district court may be appealed from as in other civil causes, and all such causes shall be given precedence on the docket of any higher court over all causes not of like public concern. The final judgment of the district court, or other court to which an appeal may be prosecuted, shall be certified and transmitted to the clerk of the Commissioners' Court together with all original documents and processes which were trans-

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mitted from the Commissioners' Court to the district court on appeal; The Commissioners' Court shall thereupon enter their order upon said petition to conform to the decree entered by the court of final jurisdiction, and shall enter such other and further orders as may be by law required to execute the intent of the certified decree. [As amended Acts 1929, 41st Leg., p. 578, ch. 280, § 4.]

See note to art. 7880—3.

[Art. 7880—19a. Municipal districts, bonds, investments]

Certain districts which are now operating under the provisions of said Chapter 25, or which may hereafter operate under the provisions thereof, may, by order of the directors thereof entered in the Minutes of such district, be and become "Municipal Districts", subject however to the following requirements, viz:

(a) When such a district actually embraces the total area of any city the bond obligations of which have been, or may be, declared eligible for purchase by savings banks and trusts, as provided for by Chapter 446 of the Acts of the Legislature of the State of New York, effective on March 21st, 1928, or any amendment thereof; provided, however, that the plans of such district must be designed for furnishing, in whole or in part, a water supply, sanitation facilities, flood protection, or other service, inuring to the general benefit of the inhabitants of such embraced city: or;

(b) Where such district embraces a total population, according to the last decennial Federal Census, of thirty-thousand (30,000), or more, persons; has established assessable values of real estate, subject to the district's taxing power, of fifty million (\$50,000,000) dollars, or more: Also, and to apply to districts falling under both classifications (a) and (b) foregoing;

(c) When such district has a taxing power unlimited as to rate and amount, and such district has not outstanding, or authorized, bond obligations exceeding twenty (20%) per centum of the established assessable, taxable evaluation of the real estate subject to the district's taxing power; in which computation, however, there shall not be included bond obligations which may be retired by the district out of revenues from sources other than the income from district taxation: Then, and in such case;

(d) Such district may be established as a "Municipal District," and the bonds of such district shall be authorized to be issued to bear the legend "Municipal Bond": Further;

(e) Bonds issued in compliance with this Section shall be eligible for investment of the funds of any and all of the following bodies politic, governmental agencies, governmental institutions, corporations, or persons when acting as trustee, receiver, administrator or guardian, viz:

(1) State banks, trust companies and savings banks: (2) Insurance companies for the purpose of holding such bonds as legal reserves against liability under their contracts for insurance, or for investment of an accumulated surplus: (3) Counties, cities, towns and other bodies politic, for the purpose of investing the accumulated sinking fund monies thereof: (4) The State Board of Education and the Regents of the University of Texas: (5) Trustees, Receivers, Administrators and Guardians, administering funds under orders of a court:

(f) Such bonds when in the lawful possession of any such agency, institution, person, or corporation, whether existing within Texas, under the laws of Texas, or within, and under the laws of, any other sovereignty, shall constitute lawful reserves, where such are required by law, and shall be eligible for deposit with the banking and insurance departments of Texas, in all cases where such deposit, pledge or security is required by law: Further such bonds shall constitute lawful security for any

bank designated as an official depository for a body politic under the laws of Texas. [Acts 1929, 41st Leg., p. 578, ch. 280, § 18.]

See note to art. 7880—3.

**[Art. 7880—21. State Board of Water Engineers; jurisdiction]**

The State Board of Water Engineers are hereby constituted a commission for the purpose of, and to have exclusive jurisdiction and power to hear and determine all petitions for organization of a district which is proposed to include lands or property situated in two or more counties, and their orders thereon shall be final, unless appealed from as hereinafter provided. Upon the filing of such petition the Board shall give notice of hearing in the manner provided in Section 15 of said Chapter 25, save that notice shall be posted at the court house door, on the bulletin board used for posting legal notices, in each county in which the district may be situated, and the publication must be in one or more newspapers to give general circulation in the area of the proposed district. A petition to be filed with said Board must be accompanied by a money deposit of Two Hundred and Fifty (\$250.00) Dollars to pay all costs which may be incurred in such proceedings: After the payment of such costs any unexpended balance must be repaid to petitioners, or to their attorney of record, whose receipt therefor shall be sufficient. Said Board shall hear, consider and determine such petition upon the issues, and in the manner, form and time by this Act provided to control hearings and determination of such petitions by a Commissioners' Court under the provisions of Section 19 of Chapter 25, as amended hereby.

When said Board does either grant or refuse such petition any person who comes within the requirements specified in Sections 17 and 18 of Chapter 25 may prosecute an appeal therefrom under the same provisions as are set out in said Section 18 of Chapter 25; provided, however, that such appeal may be taken to any district court sitting in any county in which any part of the proposed district may be, or to a district court in Travis County, Texas and the time within which an appeal bond may be approved and filed shall be fifteen days after the entry of the final order by said Board. Upon the perfection of such appeal the party appellant shall pay the actual cost of the transcript of the record, which shall be assessed as part of the costs incurred on such appeal; provided, however, that whenever practicable the original documents and processes with the returns thereon shall be sent to the district court. [As amended Acts 1929, 41st Leg., p. 578, ch. 280, § 5.]

See note to art. 7880—3.

**Art. 7880—25a. [Attorney General to contest creation of district]**

It is the intent hereof that Sections 18 and 19 of this Act, and all amendments thereto now effective, or hereafter to be adopted, shall afford all interested persons adequate and exclusive opportunity to protest the creation of a district, and thereafter, save as hereinafter provided, no suit shall be permitted to be instituted in any court of this State contesting the validity of the formation and boundaries of a district created hereunder, or contesting any bonds or other obligations created hereunder, or contesting the validity of a contract with the United States, or of the authorization thereof by the district; It is expressly provided, however, that all such matters may be judicially inquired into and determined in any suit brought by the State of Texas, through the Attorney General, upon his own motion, or upon the motion of any person affected by the existence or plans of the district, upon good cause shown, except in such cases as are, or may be, provided by other provisions of this Act, or by the Constitution of Texas. [Acts 1929, 41st Leg., p. 578, ch. 280, § 6.]

See note to art. 7880—3.



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Art. 7880—32a. [Loans by directors, pledge of taxes]

The directors of the district shall have power to declare an existing emergency in the matters of funds not being available to meet lawfully authorized obligations of the district, and to borrow money upon notes of the district to meet such obligations at any rate not to exceed eight per centum per annum: To secure such loans the directors of the district may pledge any tax then levied but not collected by the district, up to eighty-five per cent of the same, or to pledge as collateral any bonds of the district then authorized, but not sold, provided however:

1st: In case of the pledge of taxes levied, such loan shall not mature later than April 1st next after such loan may be consummated:

2nd: In case of the proposed pledge of either preliminary or construction bonds, authorized but not sold, the maturity of the loan shall not be on a day later than six months next after the date of the emergency loan, and such loan shall not exceed a sum in excess of twenty-five per centum of the bonds then unsold: Further, it is provided that where bonds are pledged as collateral for an emergency loan hereunder that the par value of the bonds so pledged shall not exceed the amount of the loan by more than Ten per centum of the amount of such loan.

3rd: In either case no money procured upon any such loan can be applied to a purpose other than the designated purposes for which any such tax may have been levied, or for which any such bonds may have been authorized: [Acts 1929, 41st Leg., p. 578, ch. 280, § 7.]

See note to art. 7880—3.

[Art. 7880—54. Tax assessor and collector]

Tax Assessor and Collector. The office of Tax Assessor and Collector is one office to be filled by one person. He shall be appointed by the board of directors, or if the directors so order may be elected. He shall give good and sufficient bond with at least two sufficient sureties or a surety company, to be approved by the directors, in the sum of Five Thousand (\$5,000.00) Dollars, conditioned for the faithful performance of his duties as Tax Assessor and Collector and for the paying over to the depository all funds or other things of value coming into his hands as such officer. The directors may require additional bonds or a bond in larger amount or additional security at any time that same may be advisable in their judgement. One or more deputies may be appointed by the directors to assist the Tax Assessor and Collector for such time, not to exceed one year, as may be ordered by the directors, and such assistants may be required to furnish bonds with similar conditions to that required of the Tax Assessor and Collector. The compensation to be paid to the Tax Assessor and Collector and any deputy shall be fixed by the directors. The Board of Directors may require the Tax Assessor and Collector to perform other duties than those herein fixed. In case any district is appointed fiscal agent of the United States, or by the United States is authorized to make collections of money for and on behalf of the United States in connection with any Federal Reclamation project, such Tax Assessor and Collector and each director and officer of the district shall execute a further additional bond in such sum as the Secretary of the Interior may require, conditioned for the faithful discharge of his respective office and the faithful discharge by the district of its duties as fiscal or other agent of the United States under such appointment or authorization. Such additional bonds to be approved, recorded and filed as herein provided for other official bonds. Any such additional bonds may be sued on by the United States or any person injured by the failure of such officer, or the district to fully, promptly and completely perform their respective duties. [As amended Acts 1931, 42nd Leg., p. 794, ch. 321, § 2.]

[Art. 7880—75a. Extending boundaries of Municipal District to include total area of city or town]

Whenever a District has been established to be in fact a "Municipal District", did, or does, in fact include the total area of any city or town; does in fact have plans to furnish, or in fact does furnish, in whole or in part, a water supply, sanitation facilities, flood protection, or other service, inuring to the general benefit of the inhabitants of such embraced city or town; then, and in such case, if the boundaries of such included city or town shall be extended to include lands not already included in such District, the boundaries of such District shall automatically be extended to include the lands so added to such included city or town, which lands shall be and constitute a part of such District: It is provided, however, that before any such inclusion becomes final, the Directors of such District shall publish notice of a hearing, hold a hearing and hear evidence to consider the exclusion, or retention in the District, of all or any part of such added lands, which shall be done in conformity to the applicable provisions of Section 8, of Chapter 280, (House Bill No. 489), Acts of the 41st Legislature of Texas, Regular Session. [Acts 1929, 41st Leg., 1st C. S., p. 205, ch. 82, § 2.]

See note to art. 7880—84a.

[Art. 7880—75b. Manner of annexing territory not embraced in district]

Defined areas of territory not embraced within a water-controlled and improvement district may be added to the area of any such district in the manner hereinafter provided.

Petition for an annexation of such territory shall be signed by a majority of land owners therein or by fifty land owners if the number of such land owners is more than fifty. Such petition shall be filed with the secretary of the Board of Directors. It shall be the duty of the Board to pass an order fixing a time and place at which such petition shall be heard, which date shall be not less than thirty days from date of such order. The secretary shall issue notice of such time and place of hearing and which notice shall describe the territory proposed to be annexed. The secretary shall execute said notice by posting copies thereof in three public places in the district, and one copy in a public place within the territory proposed to be annexed; said notices to be posted for fifteen days prior to date of said hearing. Publication of copy of such notice shall be made in a newspaper of general circulation in the county, one time, and at least fifteen days prior to such hearing. If upon the hearing of such petition it is found that the proposed addition is to the advantage of the district and if the water supply canals and other improvements would be sufficient to supply the same without injury to other lands of the district, then the Board by resolution duly entered upon its Minutes may receive such proposed territory as an addition to and to become a part of the district. The added territory shall bear its pro rata part of all indebtedness or taxes that may be owed, contracted, or authorized by said district to which it shall have been added. Such resolution need not include all of the land described in the petition if upon the hearing a modification or change is found necessary or desirable; provided, however, annexation of the territory shall not become final until ratified by a majority vote of a separate election held within the boundaries of the district, and by a majority vote of a separate election held within the territory to be added thereto. The manner of holding such election and the notice for such election, manner, and the time of giving such notice, and qualifications of voters therein shall be in all things governed by provisions of Chapter 25 of the Acts of 1925 relating to elections held for confirmations of districts. In the event the district has outstanding debts or taxes then at the same time and at the same election the proposition for assumption of its proportion of such

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debts or taxes by such territory if added shall also be submitted. [Acts 1929, 41st Leg., 1st C. S., p. 205, ch. 82, § 2.]

See note to art. 7880—84a.

[Art. 7880—76. Lands excluded from district]

After a district has been organized, preliminary surveys have been completed, the district does adopt plans for the construction of a plant and improvements, and before the district calls an election for the authorization of construction bonds, there must be exclusions of land or other property, if any such exclusions are deemed practicable, just or desirable, from the district by means and upon conditions as follows:

1st: The directors of the district must before the holding of such election give notice of a time and place of a hearing to announce their own conclusions as to exclusions of lands or other property and to receive petitions for exclusion of lands or other property: Such notice shall be published in one or more newspapers which will give general circulation in the district: The notice of such hearing shall be published once a week for three consecutive weeks: The first of such publications shall appear not less than thirty days, nor more than forty days, prior to the date of the hearing: Said notice shall give advice to all interested property owners of their right to present petitions for exclusions and to offer evidence in support thereof, or to contest any proposed exclusion and offer evidence in support thereof, whether to be based on a petition or upon the Board's own conclusions. Petitions for exclusion of lands must accurately describe the metes and bounds of such lands; Petitions for exclusion of other property shall describe the same for identification.

In order to give the district opportunity to investigate the physical conditions of property sought to be excluded, all petitions for exclusions shall be filed with the district not later than ten days prior to the hearing, must clearly set out the particular grounds on which the exclusion is sought and consideration shall be confined to the stated grounds. The grounds upon which exclusions from such districts may be made are as follows, viz:

(a) That to retain certain lands, or other property, within the district's taxing power would be arbitrary, not required to conserve the public welfare, and would in fact impair or destroy the value of the property desired to be excluded, and would in fact constitute the arbitrary imposition of a confiscatory burden.

(b) That to retain any given land, or other property, in the district and to extend to it, either presently or in the future, the benefits, service or protection of the district's works and facilities cannot be done without creating an undue and uneconomic burden on the remainder of the district.

(c) That the lands desired to be excluded cannot be bettered as to conditions of living and health, or served with water, or protected from flood, or drained or rendered free from interruption of traffic caused by any excess of water on the roads, highways, or other means of transportation serving such land, or otherwise benefited by the district's proposed improvements.

The hearing may be adjourned from one day to another and until all persons who desire to be heard are heard. Immediately on the hearing the directors shall specifically describe all property which they, on their own motion, propose to exclude, and shall first hear protests and evidence against such exclusions.

If upon consideration of all engineering data in hand, and the other evidence, the directors determine that the facts disclose the affirmative of the propositions stated in paragraphs (a) or (b), or, in appropriate case, in paragraph (c) of this section, then they shall enter of record their order excluding all lands, or other property, falling within the con-

ditions by said respective paragraphs defined, and shall in said order re-define the boundaries of the district to embrace all lands not excluded: This order shall be final, and there shall be no action maintained thereon in any court, save upon the ground of fraud. Upon the exclusion of any land, or other property, the same shall be subject to be taxed by the district to cover only the unpaid balance of the cost of organization of the district, preliminary surveys, investigations and proceedings for exclusions: Upon full payment thereof, the owners of such excluded property, and their property, shall not be subject to any tax by the district. [As amended Acts 1929, 41st Leg., p. 578, ch. 280, § 8.]

See note to art. 7880—3.

**Art. 7880—77a. [Adoption of plan of taxation]**

All taxes to pay the cost of the organization of a district and pay off bonds for preliminary surveys and investigation; or, to provide funds for conducting such surveys, if no construction bonds are desired to be issued, shall be levied and collected on the ad valorem basis. After the directors of a district shall have adopted plans for the construction of a plant and improvements to carry out the purposes of the district, and after an election is held giving authority to the district to issue construction bonds, and to levy a tax in payment therefor, as provided in Sections 78 to 91, inclusive, of said Chapter 25, as amended by Sections 11, to 16, inclusive of said Chapter 107, they shall hold a public hearing upon the following propositions, viz:

1st: Shall taxes to pay off construction bonds, and for maintenance, operation and administrative costs of the district be assessed, levied and collected upon the ad valorem basis?

2nd: Shall taxes for the stated purposes be assessed, levied and collected on the basis of the assessment of specific benefits, as is provided for in Section 132 of said Chapter 25?

3rd: Shall taxes for the stated purposes be assessed, levied and collected upon the basis of assessment of benefits at an equal sum per acre of land, as is provided in Section 133 of said Chapter 25?

4th: And, if the district be organized under Section 59 of Article 16 of the Constitution, then there may be heard the question, shall taxes for the stated purposes be assessed, levied and collected on the ad valorem basis as to some part of the total tax required, and upon the basis of the assessment of benefits as to some part of the total tax required, or as to some defined part of, or property within, the district, as is provided for by Section 130 and Section 132 of said Chapter 25, as amended by this Act? Notice of the time and place of hearing and of the exact proposition to be determined shall be published in one or more newspapers giving general circulation in the district once a week for two consecutive weeks: The first of said publications shall be not less than ten days prior to the time of hearing set out in said notice. At this hearing any person who is a taxpayer within the district may appear and offer testimony to show what plan of taxation will most conduce to the equitable distribution of the tax to be imposed by the district. Said hearing may be adjourned from day to day until all qualified persons who present themselves have been heard. The Board shall adopt such plan of taxation as will, under the evidence and the district's plans, in their judgment, most conduce to the equitable distribution of the district's tax:

If the plan adopted by the Directors fall under the provisions of said Section 130, then the order to be entered by the Directors shall specify what proportion of the tax falls under each designated classification. The order of the Board adopting a plan of taxation shall be final, and cannot be reviewed or questioned in any court, save on the ground of fraud or palpable and arbitrary abuse of discretion.

If after having adopted a tax plan the Directors find that the best interests of the district, and the necessity to keep the districts' tax ade-

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quate and equitably distributed, require a change in the tax plan they may give notice, hold a hearing and decide as in this Section provided. Nothing in this Section provided shall be held to alter the provisions of said Chapter 25 as to districts operating under contract with the United States of America, nor to alter or impair the provisions of Section 130 of said Chapter 25, as amended hereby, relating to taxes levied to provide local improvements in a defined area in a district, which improvements are peculiar to such defined area and do not affect the district as a whole.

(a) It is specifically provided that nothing contained in this Section or in Section 130 of this Act shall alter, or impair the right of a district to make, establish and collect maintenance and operation charges for the service they render, and to levy and collect taxes to secure funds to maintain, repair and operate all works and facilities, and to give and maintain proper service for the purposes of its organization, as is provided for in Section 106, 107, 108, 109, 110 and 111 of said Chapter 25.

(b) All taxes, or charges, or assessments, imposed by a district, as provided for by Sections 106, 107, 108 and 109 of said Chapter 25, for the maintenance and operation of works, facilities and services of such district, shall be and constitute a lien against the lands as to which such taxes, or charges, or assessments, have been established; and, no law applying to a limitation against actions for debt shall apply thereto; same shall not be barred by limitation. [Acts 1929, 41st Leg., p. 578, ch. 280, § 9.]

See note to art. 7880—3.

#### Art. 7880—77b. [Dissolution of districts]

If any district now, or hereafter, operating under the provisions of this Act shall find, at any time prior to the authorization of construction bonds or the final lending of its credit in other form, that the contemplated undertaking, for any reason, is impracticable, or evidently cannot be successfully and beneficially carried out, or if the electors of a district give a majority vote against the proposal to issue construction bonds, then and in either event, the directors of the district may, in the manner hereby provided, give notice of a hearing on a proposal to dissolve the district.

Further if twenty per cent of the qualified voters of the district do petition the directors of the district for such hearing upon a proposal to dissolve the district, and deposit with the directors a sum of money estimated to cover the actual cost of giving notice and holding the desired hearing, which deposit shall be applied to pay the same in case the finding shall be against the petition, the directors of the district shall within ten days, in the manner above provided, publish notice of such hearing, and shall hold the same within forty days after the filing of such petition. Notice of hearings hereunder shall be by posting notice on the bulletin board at the court house door of each county in which the district may be located, and at three or more other public places to be within the boundaries of the district. Such notices must be posted at least ten days prior to a hearing on a proposed dissolution of a district.

At the time and place stated in the notice the directors shall hear all interested persons and shall consider their evidence. If the directors determine from the evidence that the best interests of the persons, lands and properties within the district will be promoted by prosecuting the district's plans, they shall so find and enter their appropriate order of record. If, however, they determine that the district should, in behalf of the best interests of the persons and property within the district, be abolished, then they shall so find and enter their appropriate findings and order of record: In either case their decree shall be final, and cannot be judicially reviewed save on the ground of fraud, palpable error, or gross abuse of discretion. In case the order is for dissolution, then the directors of the district shall appoint one of their own number, or some other

competent person, as trustee to close up the affairs of the district as soon as may practicably be done: The term of service and the reasonable compensation of the trustee shall be at the pleasure of, and under such conditions as may be prescribed by, the directors. The trustee shall proceed to reduce to possession, and money, all assets and resources of the district, and apply the same to discharging the outstanding obligations of the district, having regard to specific funds. If required, the directors shall levy, assess and collect additional taxes sufficient to pay all necessary expense and all outstanding obligations of the district. Upon full payment of such obligations the trustee's account [accounts] shall be verified and upon settlement, he shall be discharged. In such event the directors of the district shall enter of record their final order of dissolution and record the same in the deed records of the county, or counties, in which the district may be located, and thereupon any water rights held from the State shall revert to the State and may not, in anticipation of dissolution, be assigned by the district to be so dissolved. In case any taxes have been collected by the district, in excess of the sum required to liquidate the obligations of the district so dissolved, then such excess shall rateably be paid over to the county treasurer, or treasurers, of the county, or counties, in which the district was located, and such sum shall be by the Commissioners' Courts credited to the interest and sinking fund for any county bonds then outstanding: If there be no such bonds, then the sum may be applied as the Commissioners' Courts may lawfully direct. If the qualified electors of a district give a constitutional, or statutory, majority vote against the proposal to issue construction bonds, then the directors of a district must dissolve the district and liquidate the affairs of a district as hereby provided. All records, vouchers and accounts of the district shall be delivered to the Commissioners' Court of the county in which the district's principal office was located, and shall be preserved as a permanent record. [Acts 1929, 41st Leg., p. 578, ch. 280, § 10.]

See note to art. 7880—3.

**[Art. 7880—84a. Emergency loan; interim bonds]**

Whenever bonds, other than preliminary bonds or notes, are voted by any water control and improvement district, or any water improvement district, the board of directors thereof shall have power to declare an existing emergency in the matter of funds not being available for engineering work, for the purchase of lands for rights-of-way, and/or reservoir sites, for construction work, for legal and other necessary expenses, and for such purposes may issue securities on the faith and credit of the district in the manner hereinafter stated, to-wit:

(1). The securities evidencing such emergency loan shall be known as "interim bonds". They shall mature not later than ten (10) years from date of issue, and shall be redeemable at any time prior to maturity as is hereinafter provided. The principal amount of such emergency loan shall not exceed twenty-five per cent (25%) of the principal amount of the bonds of the district which have been voted, but not sold; provided, however, that before the issuance of such bonds the board of directors of any district desiring to issue same may by resolution duly passed limit the issue to any amount less than twenty-five per cent (25%), and when such amount is determined and fixed by such resolution, no additional "interimbonds" may be issued and sold until all outstanding "interim bonds" have been paid in full.

(2). When the bonds of any such district, other than preliminary bonds, have been authorized by the necessary favorable vote of the qualified electors, the board of directors thereof may, in its discretion, authorize the issuance of such bonds in whole or in parcels, as the needs of the district may require, and such board shall, and it is hereby made its duty, levy and provide for the annual assessment and collection of taxes suffi-

cient to pay principal and interest of bonds so authorized to be issued and sold. Such bonds may be authorized, and the taxes levied therefor, as aforesaid, and approved by the Attorney General and registered by the Comptroller of Public Accounts, prior to the filing of the report of the State Board of Water Engineers, provided for in Section 139, Chapter 25, Acts of 1925.

(3). As the "interim bonds" herein authorized, are issued and sold, it shall be the duty of the board of directors, by orders duly passed, to deposit in the district depository, bonds of said district that have been validated by the judgment of a court of competent jurisdiction, or, approved by the Attorney General and registered by the Comptroller of Public Accounts, as provided in Sub-Section 2, of this Act, and which said bonds shall be deposited in said depository to the credit of the "interest and sinking fund account" created for the payment of such "interim bonds"; provided, that the principal amount of bonds so deposited shall aggregate at least one hundred and ten per centum (110%) of the principal sum of the series of "interim bonds" to secure payment of which the said bonds are deposited.

(4). The interest rate on the "interim bonds" shall not exceed the interest rate on the bonds deposited to secure their payment. Such "interim bonds" may be sold in the same manner and on the same terms provided by law for the sale of other bonds of any such district; and such "interim bonds" shall be issued in the name of the district, signed by the president and attested by the secretary, with the seal of the district affixed thereto, and may be issued in such denominations as may be determined by the board of directors, and shall be approved by the Attorney General and registered by the Comptroller of Public Accounts in the same manner as hereinabove provided for the approval and registration of improvement bonds of such district; provided, when "interim bonds" are sold at less than par value and accrued interest, the improvement bonds issued by such district must be sold at an increase over the price authorized by law in a sum sufficient to equal the discount allowed on the interim bonds.

(5). To secure the loan evidenced by such "interim bonds" the board of directors shall appropriate the tax levied for the payment of the bonds deposited to the credit of the "interest and sinking fund account" of such "interim bonds", or so much of such tax as may be necessary for that purpose, and the proceeds of such tax, when collected, shall be devoted exclusively to the payment of the principal and interest of such "interim bonds"; provided, however, that nothing in this Act shall be construed as prohibiting the sale of any bonds of the district deposited to the credit of the "interest and sinking fund account" of the "interim bonds", or any other bonds of such district [district], but in event of the sale of any such bonds it is hereby made the duty of the district depository to apply the proceeds of any such sale, first, to the payment of the principal and accrued interest of all such "interim bonds", and the remainder to the purpose or purposes for which any such bonds may have been authorized; and, provided, further, that in the event none of the bonds of the district shall have been sold at the time of the maturity of any installment of the principal or interest on the "interim bonds", it shall be the duty of the depository to cancel bonds so deposited, and annexed interest coupons, equal in amount to the principal and interest of any such "interim bonds" so paid off and discharged.

(6). Said "interim bonds" shall be redeemable, at the option of the board of directors of said district, at any time or times prior to maturity, upon payment by the dsitricit [district] of principal and interest accrued to date fixed for redemption by said board, and whenever any such "interim bonds" are called in for redemption before maturity, notice thereof in writing shall be given to the bank or banking house named as the place of payment in such bonds, or to its successors or assigns, by the secretary

of the board of directors of the district. The secretary shall designate in such notice the bond or bonds so called for redemption and payment, setting forth the number or numbers thereof, and the date fixed for the redemption thereof, which date shall be not more than sixty (60) days after the date notice of call for payment is made. In event any of such "interim bonds" so called for redemption are not presented, the same shall cease to bear interest from and after the date so fixed for redemption.

(7). All interim bonds heretofore issued and sold under authority of Chapter 25, as amended by Chapter 82, Section 84-a, of the General Laws passed by the First Called Session of the Forty-first Legislature, must be refunded or paid in full before additional bonds may be issued and sold. [Acts 1929, 41st Leg., 1st C. S., p. 205, ch. 82, § 1, as amended Acts 1930, 41st Leg., 5th C. S., p. 163, ch. 31.]

The amendment by Acts 1930 makes numerous changes and additions to the several subdivisions of the original act and adds subd. (7) not contained in the original act.

Section 4 of Acts 1929, 41st Leg., 1st C. S., p. 205, ch. 82, effective May 22, 1929, provided that the act should not repeal any of the provisions of Acts 39th Leg., ch. 25; Acts

40th Leg., 1st C. S., ch. 107; Acts 41st Leg., ch. 280 (Rev. Civ. St. arts. 7880—1 to 7880—147) relating to Water Control and Improvement Districts, but should be cumulative thereof, nor repeal any law, general or special, but the powers, etc., should exist as alternative powers of all other laws relating to the same subject.

#### Art. 7880—89. [Additional funds for improvements; bonds]

If it should come to pass that the works, improvements and facilities set out in any plan adopted by a district, as provided in Sections 78 and 139, are found to be not adequate to accomplish the beneficial results of which the district's location and conditions admit, or may demand; or, if repairs, replacements or additions to the district's works to cost twenty-five thousand (\$25,000.00) Dollars, or more, are deemed necessary; or, if additional funds are required to complete the improvements as planned; then, in respect thereto, the Board of Directors of the District shall proceed to provide the additional funds for the required object, or objects, in all respects in accordance with the provisions of this Act regulating the creation of bond obligations by a district, and may so create additional indebtedness, or issue additional bonds, but in all cases subject to every limitation in respect to such original proceedings, and the substantial protection of the substantive rights of the holders of any other obligations of the district then outstanding: Such expenditures up to \$25,000.00 may be made and obligations issued therefor, based on adequate tax levies, by order of the district's directors without submitting the issue to the electors of the district. [Acts 1929, 41st Leg., p. 578, ch. 280, § 11.]

See note to art. 7880—3.

#### [Art. 7880—117. Lowest responsible bidder; notice]

Contracts, involving an expenditure of more than twenty-five thousand (\$25,000.00) Dollars, for the purchase of materials, machinery, construction, and all things whatever, to constitute the plant, works, facilities and improvements of the district shall be made by the directors of the district, as hereinafter specified. Such letting of contracts, save as later provided hereby, shall be advertised as to the general conditions, time and place of opening sealed bids, by publishing notice thereof in one or more newspapers giving general circulation in the State of Texas, and further, by making such publication in one or more newspapers published in each county in which a district, in whole or in part, may be located, and to give general circulation in the district; provided, that if there be no such newspaper published in the county, or counties, of the district's location, then the publication first above provided shall be deemed sufficient. Such notice shall be so published once a week for three consecutive weeks prior to the date upon which such bids will be opened, and the first of such publications shall be circulated not less than twenty-one days prior to the opening of sealed bids.



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Contracts may be let to cover all of the improvements proposed to be provided by the district; or the various elements of the improvements may be segregated for the purpose of receiving bids and making awards. Such contracts may provide for the payment of a total sum to be the completed cost of such improvement; or, may be based on bids to cover cost of units of the various elements entering into the works, as estimated, and, approximately specified by the district's engineers; or, such contract may be let and awarded in any other form, or composite of forms, and to such responsible person, or persons, as will, in the judgment of district's directors, be most advantageous to the district, and result in the best and most economical completion of the district's proposed plant, improvements, facilities and works.

It is, however, expressly provided that the total sum required to fully complete such proposed plant, works, facilities and improvements, as stipulated by the district's adopted plans, shall not in any event exceed the total sum estimated by the district's engineer in his plans, adopted by the district prior to the election for the authorization of bonds, to be sufficient to pay the completed cost of all elements of the proposed works, other than the cost of lands, easements and other property necessary to be acquired under the provisions of Sections 125 and 126 of said Chapter 25, or any present or future amendments thereof. No contract which violates this provision shall be valid. The provisions of this Section shall not apply to a district operating under a contract with the United States of America.

It is further provided that if the owners of fifty-one per cent, or more, of the land in the district, either in acres or in assessed value; or, if the owners of fifty-one per cent, or more, of the property subject to the district's tax, in value, as assessed; or, if fifty-one per cent, or more, of the qualified electors of the district, do sign a petition to the directors of the district recommending that the contract for the construction of the district's plant, works and improvements, be entered into by the directors by private negotiation, and not upon notice advertisement and sealed bids, then, and in that event, the directors of the district may, in their discretion, and having due regard to the best interest of the district, enter into contract by individual negotiation, without the publication of notice. [Acts 1929, 41st Leg., p. 578, ch. 280, § 12.]

See note to art. 7880—3.

#### Art. 7880—125. [Eminent Domain]

Districts operating under the provisions of this Act are hereby empowered to acquire all lands, materials, borrow and waste grounds, easements, rights of way and everything deemed necessary, incident or helpful for the purpose of accomplishing any one or more of the objects contemplated in Sections 1 and 4a of said Chapter 107, which shall be held to mean the accomplishment of said objects by any practicable mechanical means: They shall have the right to acquire all such property by gift, grant, purchase or condemnation: The right to acquire property as herein bestowed shall include property deemed necessary for the extension or enlargement of the plant, works, improvements or service of such districts. Such districts may acquire either the fee simple title to, or an easement upon, all lands, both public and private, either within or beyond the boundaries, and may acquire the title to, or an easement upon, property other than lands held in fee: Such districts may so acquire such lands, easements or other property by gift, purchase or condemnation, and in case of such condemnation, the district may elect to condemn either the fee simple title, or an easement only, as is elsewhere provided in this Act. Such districts shall have the right to operate all such plants, works and improvements, and to contract for the use of its water, power or other facilities, or service, by another, either within or beyond the boundaries of the district; provided no such contract shall be made in

such manner as to impair the ability of the district to serve lawful demands for service within such district. Any property acquired may be conveyed to the United States of America, insofar as the same may be necessary for the construction, maintenance and operation of works, for the benefit of the district, by the United States under contract.

Any property or land owned by the district which may be found not to be reasonably required to carry out the plans of the district may be sold under orders of the directors of the district either by public or private sale, and in case the district making such sale has then outstanding bonds, the proceeds of such sale shall be applied as follows:

(1) To retiring outstanding emergency warrants, if any, issued to protect ultimate liability of the district in condemnation proceedings as is elsewhere provided in this Act:

(2) The remainder, if any, shall be placed in the interest and sinking fund account provided for the retirement of outstanding bonds of the district.

It is provided, however, that before making sales, either public or private, of any such property, the district must give notice of the intent so to do by publishing advice of the intent in one or more newspapers to give general circulation in the district, and such notice shall be published once a week for two consecutive weeks. [Acts 1929, 41st Leg., p. 578, ch. 280, § 13.]

See note to art. 7880—3.

#### [Art. 7880—126. Eminent domain]

For the purpose of condemning property (as herein defined),\* all Districts now operating, or hereafter to be operating, as Water Control and Improvement Districts, shall have the right to proceed as hereinafter provided for, viz:

(a) The Board of Directors of the District shall have the right to elect to proceed for condemnation under the provisions of Title 52, Eminent Domain, of the Revised Civil Statutes of Texas, Code of the year 1925, and as therein provided for condemnation by counties, save as otherwise specifically is provided by this Act; or, if such Board of Directors by their Order for condemnation so elect, the District shall have the right to proceed for condemnation in the manner hereinafter provided, viz:

(b) At any time, or separate times, after a District has adopted a plan for improvements, so that it may definitely be determined what property should be acquired in fee simple, or placed under easement, as being, either instantly or prospectively, needed for, or incident to, or helpful for, accomplishing the objects of the District, and to effect the efficient and economical operation thereof, the Directors of the District may cause to be presented to the Judge of any District Court for a Judicial District in which any part of the District may be located, either in term time or in time of vacation, a petition praying the Court to appoint a Tribunal of three men who collectively shall constitute a Tribunal to exercise Judicial functions within the limits of this Act. This petition shall be docketed as provided for causes and the Order thereon shall be entered in the Minutes of the Court. In said petition the Directors shall nominate for appointment three men of lawful age who shall have qualifications as follows: All shall be qualified electors of this State; one shall be a lawyer deemed to be learned in the Law of Eminent Domain, and the exercise of rights thereunder; two shall be men deemed to have good knowledge of the value and uses of lands, injuries to lands, and benefits to lands to be affected by the proposed condemnation; all shall be disinterested men, of good moral character; no one of them may knowingly be related within the third degree of consanguinity or affinity to any member of the Nominating Board, or the Judge having jurisdiction, or to any person known to be asserting title to, or an interest in, any property proposed to be condemned.

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(c) If the District Judge having jurisdiction be disqualified because of interest, or if he from any cause be absent from his District or does not act, the said petition may be presented to a Judge for any Judicial District lying adjacent to the District of the original presentation. Said petition shall be sufficient if it states that necessity for condemnation by the District has arisen and gives the name of the County or Counties in which the property to be condemned is situated. Said petition shall contain the name and address of each person known to have title to or an interest in any property proposed for condemnation. If no address is known, and could not be ascertained by the use of reasonable diligence, the petition shall so state. Notice of the hearing on said petition shall be as follows: The notice shall be written or printed and shall give advice of the time and place and object of the hearing on said petition, and shall state that all interested persons will be heard to make objection to any person by said petition nominated for appointment. The District Judge having jurisdiction shall set said petition down for hearing for a time not less than ten (10) days nor more than fifteen (15) days after the day of the presentation of said petition, and shall cause the Clerk of his Court, not less than five (5) days prior to the day set for the hearing of said petition, to send to each owner whose name and address is given in the petition, by registered mail, a copy of the notice hereinbefore provided for; and, in addition thereto there shall be citation by publication by publishing said notice in one or more newspapers having general circulation in the area to be affected by the condemnation proposed, which publication shall be circulated one time on a day not less than five (5) days prior to the day set for the hearing of said petition, and such publication shall be given the effect of actual service on all interested persons, whether known or unknown, and whether named or not named in said petition. At the time and place fixed by the District Judge for the hearing of the petition, and after hearing protest by all interested persons, the Judge, for good cause shown, may refuse to appoint any or all of those persons nominated in the petition and, in lieu thereof, he may appoint other persons deemed by him actually to be qualified under the provisions of this Act. If good cause for refusal is not established the Judge shall appoint the persons nominated in the petition, whereupon said proceeding shall be terminated, and no appeal from the action of the Court can be maintained. The costs of procedure hereunder shall be paid by the District proposing condemnation. In case any member of the Tribunal so constituted does, from any cause fail or refuse to act, or become disqualified to act, he by petition to the Court of Jurisdiction may be removed and a qualified substitute nominated and appointed to serve in his place after observing the same procedure as hereby is provided for an original appointment, except that citation by publication shall not in such instance be required; the written notice shall be instantly deposited in the mail; and, the hearing may be held on the third day after notice is deposited in the mail, or as soon thereafter as the Court may be able to act on the petition. In case of disqualification of some member of the Tribunal for Condemnation to act as to some parcel of property because of interest or relationship, a substitute may be appointed to serve only in the matter as to which the disqualification exists, provided, however, that in such case notice shall be given only to the person interested in the property to which the disqualification is related.

(d) Within ten (10) days after such appointment, or as soon thereafter as is practicable, each person so appointed shall file with the Secretary of the condemning District a written oath to be substantially as follows: "I swear (or affirm) that I, as a member of the Tribunal to hear and determine matters incident to the condemnation proceedings instituted by (insert name of the District) will fairly, impartially, and without interest, prejudice or favor, discharge my duties as a member of the Tribunal appointed by the Judge of the District Court for the \_\_\_\_\_ District of Texas." So qualified, they collectively shall be established to be a Judicial Tribunal within the

meaning and intent of Section 1 of Article 5 of the Constitution of Texas, and they shall have all such duties and powers for procedure and for effecting the administration of Justice (insofar as is appropriate to accomplish the purpose of this Section 126) as now are, or as hereafter may be, conferred on County Courts and the Judges thereof.

(e) The lawyer member of said Tribunal shall be their advisor as to matters of law. The words "they" or "them" as hereinafter used, unless otherwise stated, will be understood to refer to the "Tribunal for Condemnation." They may organize for the dispatch of business as they deem best, save that two members shall be required for a quorum and no matter may be decided save by the concurrence of at least two members. The proceedings shall be as free from technicality, and as summary in character as will in fact accomplish substantial justice. The Clerk of the District shall furnish them the service of a competent person to serve them as Clerk, and orderly Minutes of their proceedings shall be kept; such Minutes shall be signed by all participating members, and shall be a public record. The Tribunal shall have a seal bearing the name of the District and the words "Tribunal for Condemnation."

(f) (Prescribing the conditions under which and the manner by which the District may, from time to time, present to the Tribunal petitions for condemnation and fixing the requisites of such petitions.) At any time or times after the adoption and approval of plans for improvements (or for the enlargement, extension or alteration thereof), as required by Subdivision (b) of this Section, the Board of Directors of the District may order the condemnation of any land or other property, and therein may elect to condemn the fee simple title to land, or to condemn an easement only. It further is intended that part of any given tract of land may be condemned in fee simple, and part placed under an easement only. The Order of Condemnation shall be recorded in the Minutes, and it shall be sufficient if it within itself or by reference to exhibits, which may be maps or plats, makes certain that land to be placed under condemnation in fee simple, that land to be placed under an easement, and, in appropriate case to identify any other property which is required to be taken; provided, however, that when by the exercise of reasonable diligence, the name and address of any owner or owners of each separate tract of land, can be given, the same shall be stated and appropriately related to the property as to which the ownership exists. Said Order shall contain a general statement showing the necessity for the taking, but no such Order shall be held invalid because of fault in such statement. It, further, is provided that any such Order may be amended in any and every particular, at any time during the further proceedings herein established, provided only that any person affected by such amendment, or his agent or attorney, must be given actual notice of such amendment before any action is taken thereunder. Said Order for Condemnation and all exhibits thereto shall be prepared in duplicate, and one such shall be delivered to the Clerk of the Tribunal for Condemnation, and by him filed as a record of said Tribunal, where the same shall constitute a petition for condemnation.

(g). The Secretary of the Board of Directors shall serve the Tribunal as a secretary, or said Secretary, subject to approval by the Tribunal, may appoint another well qualified person to serve as a secretary, and the person so acting shall attest all records and reports as "Secretary." The person appointed so to serve shall take and subscribe an oath that he will keep and preserve a true written record of all material proceedings, findings, appraisements and assessments concerning the duties of said Tribunal. Such Secretary shall furnish to said Tribunal such information and assistance as may be within his power and necessary to the performance of its duties.

(h) Said Tribunal shall have jurisdiction and the power to do and to decree all those matters and things by this Act provided to be done by said Tribunal.

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(i) Within thirty (30) days after qualifying and organizing as hereby directed, the Tribunal shall begin the discharge of its duties, and may at all times require the presence and necessary assistance of the District's Engineers and Attorneys, to the end that it may be able intelligently to perform its duties.

(j) Said Tribunal shall proceed to view all the lands, or other property, both public and private, both inside the District and beyond the boundaries of the District, which may have been ordered to be condemned. The findings of the Board of Directors of the District, after advice by the District's Engineers, as to the seeming necessity, or advisability, to acquire any such property or part thereof in fee, or alternately under an easement, for any purpose connected with or incident to, the full completion and practical operation of the improvements contemplated to be, instantly or ultimately, provided under the District's plans for improvements, shall be final and not subject to Judicial Review save for fraud, palpable error or such arbitrary act as would constitute actual fraud; provided, however, that the Directors shall receive, hear and determine protests or recommendations relating thereto, as is provided in Section 42 of said Chapter 25. Such determination shall be made by the Directors before the Tribunal proceeds to viewing property as herein provided, and the specific identifying conclusions of the Directors shall be furnished to the Tribunal. This record shall be accompanied by a designation of all property, or easements, or agreements for liquidated damage, which have been placed under voluntary option to, or adjustment with, the District. The Tribunal shall omit consideration of any matter already so adjusted. Said Tribunal shall appraise and assess the values of all affected lands, easements or property rights within and without the District, and shall specifically appraise and assess the damages justly to compensate and liquidate all injuries to be done to each item of property affected. In assessing the value of property sought to be condemned, damages and compensating benefits, said Tribunal shall be governed by the provisions of Article 3265 of the Revised Civil Statutes of Texas. All provisions of Title 52 of the Revised Civil Statutes of Texas, shall control condemnation proceedings hereunder as to all matters not herein otherwise provided for, but the specific provisions, and intent, hereof shall control in all cases of doubt. It is provided, however, that the Directors of a District may by their Order entered of record elect to waive the provisions of this Section, insofar as the same relate to procedure for condemnations, and in such event the procedure for condemnation may be the same as that prescribed for counties as the same is provided in Title 52 of the Revised Civil Statutes of Texas.

If said Tribunal shall omit to return or assess damages to any specific parcel of property, either within or without the District, it shall be deemed an affirmative finding that no damage will be done to the omitted parcel of property.

The Tribunal shall prepare a specific and detailed proposed report of their findings, which shall show the owner of each parcel of property examined, and on, or concerning which, any appraisements, award, finding, or assessment is made, together with such description of such property as will identify it and relate it to the appropriate appraisal, award, finding or assessment. This record shall separate and distinguish: (1) the value of property to be taken by the District in fee simple: (2) the amount of compensation for an easement to be taken by the District: (3) the amount required to precompensate\* and justly to liquidate the injury or damage to be done to property not being condemned and taken in fee simple or placed under an easement: (4) such record shall, in an appropriate case, specify the parts of a parcel of property falling within more than one of the classifications herein given and shall allocate to each portion its appropriate classified assessments.

\*[Compensate]

The record herein specified shall be prepared in triplicate and shall be approved and signed by at least two members of the Court hereby constituted:

The proposed report shall show the number of days each member has actually served and the actual expenses necessarily incurred by each in serving the District; each shall be paid by the District reasonable fees and in no event to exceed Twenty-five (\$25.00) Dollars per day of service, together with his actual expense as the same be approved. Said Tribunal in its proposed report shall fix times and places when and where they shall hear objections to their findings as reported. In fixing a place, or places, for hearing objections, the Tribunal shall have regard to the prevailing convenience of the property owners.

(k) When the proposed decree shall have been delivered to the Secretary of the Board of Directors of the District, the same shall become a permanent record of the District, and shall be open to examination by all persons interested therein. Upon the filing of such report the Secretary of the District shall forthwith give notice thereof by publication in one or more newspapers giving general circulation in the District and in each of the counties in which there may be located any affected property, once a week for two consecutive weeks prior to the day fixed for a hearing, or hearings. It is provided that each hearing as to land situated in any given County shall be held in the County of the location of the land proposed to be condemned, and in such part of said County as will be most convenient to the majority of the land owners. One notice may specify a hearing day and place for one County only, and there may be notice for different days and places of hearing for other counties; the first publication must appear not less than fourteen (14) days prior to the hearing. The published notice shall be in substantially the following form:

#### LEGAL NOTICE

To the owners of, and all other persons having an interest in lands or other property lying in \_\_\_\_\_ County \_\_\_\_\_, Texas: Take notice that a copy of the adopted plans for improvements by \_\_\_\_\_ County Water Control and Improvement District Number \_\_\_\_\_, are now open to inspection by any one interested therein at the District's office at \_\_\_\_\_, Texas: These plans, contour maps and specifications will make manifest how your property will be affected. The Tribunal heretofore appointed have appraised and assessed property values, and benefits and damages accruing to the affected lands, and other property, both within and without this District, which will be condemned and taken, or subjected to an easement, or damaged, or otherwise affected by carrying out the plans for improvements to be provided by this District. The recorded report of said Tribunal is open to inspection by any interested person at \_\_\_\_\_, in \_\_\_\_\_, Texas: Any interested person may make specific written objections thereto in whole or in part, and any person claiming damage to their property, within or without the District, as to which no damages have been assessed in said report are required to file an itemized claim for such damages in the District Office on or before the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and all persons failing to make such objection or claim for damages will be deemed to have waived the same. Further, take notice that the said Tribunal of Appraisalment will meet on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_, Texas, for the purpose of hearing and acting on objections to their proposed decree, and to hear, consider and determine claims for compensation and damages.

Secretary

The Secretary of the Board of Directors of the District also shall, at least ten (10) days prior to the day for any given hearing, mail a written notice to each person whose land, or other property, is listed in the proposed report of the Tribunal, if the post office address is known, stating

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the time and place of the meeting which such person is expected to attend, which notice shall state appropriately and in substance that the report of the Tribunal to assess burdens upon, values of, benefits to, and damages to, the lands and other property which will be affected by the District's plans for improvements, has been filed in the District's Office, giving the location thereof, and that the advised person may examine the same together with the District's plans, contour maps, and specifications, and make and file written specific objections to all or any part of such report; further, that the Tribunal will meet on the day and at the place named for the purpose of hearing the notified person and acting on objections to such report. In lieu of mailing notice as herein provided, personal notice may be executed and return made under oath, by any person appointed thereto by the Secretary of the District, in the same manner and upon the same persons, officers or agents as is, or may be, provided for service of citations in suits pending in the District Courts of Texas.

The Secretary of the District upon the first day of the hearing shall file in the District's Office the original notice as published with his affidavit thereto, showing the manner of publication, the days of which, and the newspaper, or newspapers in which such notice was published, and shall also certify the names and addresses of all persons to whom notices have been mailed, or upon whom actual service may have been had; further, he shall affirmatively show that he has caused personal service to be executed, or has mailed to, or served upon, timely notice to each land owner whose address was known or could be known by the exercise of reasonable diligence.

(1) At, or before, the hearing upon the filed report of the Tribunal of Appraisalment, any owner of land, or other property, affected by such report, or by the District's plans for improvements, either in person, or by an attorney or other agent, may file exceptions to all or any part of such report, and any person as to whose property no damages have been assessed, and who believes that his land, or other property, will be damaged by carrying out the plans for improvements, may, and shall, also file with the District a claim for such damages:

Said Tribunal, at the time and place named in such notice, shall proceed to hear evidence and determine all such objections and claims for damages, and shall make such changes and modifications from time to time as will cause its proposed decree to conform to the justice of each case under the facts presented; they may grant, in whole or in part, or may overrule, any claim for compensation or damage, or any other exception to their proposed report. Such hearing may be recessed from one day or place to other days and places, to be announced on open meeting, until all persons desiring a hearing have been heard.

When said Tribunal shall have finally determined all presented matters, concerning their proposed report, they shall enter their final decree concerning such proposed report insofar as it is confirmed, and approving and confirming the same as modified or changed, insofar as the same has been modified and changed, and shall in their decree condemn all such land, easements, rights of way, or other property, within or without the District, as shall have been deemed by the Directors of the District to be needed, and designated to make effectual and practicable the construction and operation of all works, improvements and services which may be planned ultimately to be provided by the District, and to accomplish any or all of the purposes designated in this Act. Said Tribunal shall have the power to apportion and adjudge costs incurred upon any hearing in such manner of allocation as may be deemed equitable. Such condemnation shall be either of the fee simple title, or of an easement only, as the Directors of the District may have elected and designated. The Tribunal shall adjudge and award all compensation for property to be taken, or placed under easement, and shall award all damages, if any there be allowable under the law.

A certified copy of the final decree of condemnation concerning the property in each County shall be filed with the County Clerk of such County for record, and such record shall be notice to all persons of the contents of such decree. The original decree shall be a permanent record of the District and shall also constitute notice. The final decrees of said Tribunal concerning any matter shall be subject to Appeal, or Judicial Review, in the manner hereby specified, and not otherwise: Such Appeal, or Review, may be effected in the following specific manner:

The Directors of the District, in the name and behalf of the District, or any person having an interest in the decree of the appraisers, may appeal from the decree assessing or refusing to assess damages, or fixing compensation for the value of property taken or subjected to an easement; the only questions which may be considered on appeal shall be, whether just compensation has been allowed, or whether any damages are lawfully recoverable. Such appeals shall be taken to the District Court having jurisdiction over the area in which the land condemned is situated, either in whole or in part. The Courts of Jurisdiction shall be such number as are required to provide appeals in the jurisdiction within which any given land is situated. All appeals for each given County shall, however, constitute one proceeding on the docket of any such Court, as elsewhere is provided in this Act. Such District Courts shall have jurisdiction regardless of the amount or the number of the separate claims involved. Such appeal may be perfected as follows: Notice of appeal shall be given at any time within two (2) days after the entry of the final decree by the Tribunal of Primary Jurisdiction by filing written notice of an appeal, which shall be a simple statement that the undersigned gives notice of appeal from the decree entered on the date stated, and specifying the exact claims sought to be established by such appeal. This notice shall be filed with the Secretary of the District, and appellant shall within five (5) days after the entry of the decree appealed from file with the Clerk of the Court to which the appeal is being prosecuted an appeal bond with two or more good and sufficient sureties, in an amount to be double the costs, if any, already allocated to appellant, plus double the amount estimated by such Clerk to be incurred on the appeal being taken. Such bond shall be payable to such Clerk of the Court to which the appeal is being prosecuted and shall be subject to his approval as to sufficiency. The condition of such bond shall be that appellant will prosecute his appeal with effect, and pay all such costs as may be awarded against appellant by the Court. Unless an appeal is perfected, as herein provided, within seven (7) days after the day of the rendition of the final decree of said Tribunal, such decree, as to any given matter not so appealed from, shall be instantly final and conclusive, and there shall be no extension of time for the filing of an appeal bond. Within twelve (12) days after the entry of said final decree of condemnation, if appeal shall have been prosecuted therefrom, the Secretary of the District shall file with the Clerk of such Court a certified transcript of the final decree of condemnation, insofar as may be required to show the facts concerning the items of decision appealed from, together with the original notices of appeal, or a certificate showing the names and addresses of all persons who gave notice of appeal, and to include the stated grounds upon which each of such appeals has been predicated, as herein provided, and it shall not be necessary to file any other or additional pleadings in said Court. All appeals hereunder shall constitute one cause in the District Court and shall be so docketed. The docket shall, however recite the name of each of the parties to the proceeding and shall be indexed accordingly. The Court, upon motion, may grant, or refuse to grant, a severance as to any separate claim arising out of distinction as to ownership. It is provided that an appealing District shall not be required to give a bond for costs. Upon the filing of said appeal the Court shall set the same down for a hearing, either in term time, or in vacation, before the Court without the intervention of a Jury, no-



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tice of such hearing shall be given by the Clerk of the Court by mailing to each interested party, whose address is known, by registered mail, a letter giving advice of the date and purpose of the hearing, which shall be deemed sufficient notice. As to persons not actually served, or whose interest or address is not known, the original publication of notice of the hearing by the District's Tribunal shall be deemed sufficient notice of all proceedings in the County Court. Such hearings shall be held at a time not less than ten (10) days, and not later than twenty (20) days after the day of the mailing of the notices herein directed to be given. An incomplete hearing may be recessed from one day to any other stated day, or may be continued to the next term, or succeeding terms, of the Court. Such hearings shall be by the Court given precedence over all Civil causes upon the docket not of a character involving the public welfare, shall be concluded with all reasonable dispatch, and shall be as summary in character as is consistent with the doing of full and complete justice.

The Court shall proceed to hear evidence proper to be considered under any filed exception. After having heard all evidence and argument offered, the Court in term time shall enter its final decree, either approving the decree of the Tribunal of Original Jurisdiction, modifying the same, or in any manner changing the same, so that the decree will in the Court's Judgment conform to the justice of each specific case. As to all matters not herein specifically, or by logical intent, provided for, the Court's decree shall conform to the provisions of Title 52 of the Revised Civil Statutes of Texas.

Upon such appeals the claimant shall be considered the plaintiff, and the District shall be considered the defendant, save in those cases in which the District has filed exceptions to the report of the District's referees of appraisal. The admission of evidence and the fixing of awards, so far as applicable and not inconsistent herewith, shall be governed by the law and rules of procedure relating to trials and awards in damage suits. Appeals may be taken from the Judgment of the District Court, as in Civil cases, and each appeal shall constitute a separate cause upon the docket of the Court of Civil Appeals.

No appeal from the decree of the Tribunal to condemn shall delay possession of the condemned property or prosecution of the work; provided, however, the District shall set apart in its designated depository, out of its Construction Fund, a total sum of money to be not less than double the amount of the total award made by the Tribunal of Condemnation, plus such additional sum as may be deemed by the Directors of the District sufficient to pay the costs then incurred, and such costs as may be incurred upon appeal and said Fund must be applied to such payment, and shall not be used for any other purpose. Certificate of such reserve shall be made by the depository bank to the Clerk of the Court in which appeals may be pending. The Judge of said Court, upon motion made by any aggrieved appellant, may, in case of evident abuse of discretion by the Directors of the District, require the Directors of the District to increase this reserve Fund to a sum deemed by the Judge to be adequate to discharge final awards, which must be complied with before the District shall be authorized to take possession of any property condemned, or to cause damage to any property. In case of appeals by the District, they shall not be required to give bond, nor can they be required to give bond for costs. However, upon compliance herewith the title to all lands, easements, rights of way, or other property condemned shall, after payment, or provision for payment, of compensation, vest in the District, and it shall be entitled to immediate possession thereof.

No person owning or having any interest in any property affected by the District's plans for improvements and service, or its condemnation proceedings had after the giving of notice as herein provided, who has failed to file claim, or objection, or who has failed to appeal from any adverse

ruling by the Tribunal to condemn on any claim or objections, as herein provided, shall thereafter be heard to claim from the District, its officers, contractors, agents or employees, any compensation for property or damage to property other than that which may have been already awarded by the Tribunal. It is, however, understood that this provision shall not apply to claims not incidents of lawful condemnation, construction and operation.

(m) It is specifically provided that nothing in this Section contained shall empower a District to condemn any land, property, easement or facility owned, held or used by another person, when such property is necessary to such person for the purpose of accomplishing any one or more of the purposes in this Act, save and except in such cases as the taking is to serve a public need superior to, or greater than, the use to which any such property may have been devoted.

(n) Any County, Levee District, or Navigation District of this State may elect to proceed to condemnation under the provisions of, and in the manner established by, this Act, having regard only to causing such proceedings to conform to the Law of the being of any such governmental agency. [As amended Acts 1931, 42nd Leg., p. 466, ch. 275, § 3.]

\*Sections 1 and 2 of acts 1931, 42nd Leg., p. 466, ch. 275, defining certain terms used therein and expressing the reasons for the enactment read as follows:

"Sec. 1. (Defining the meaning and intent of certain terms as used in this Act.)

1. The words 'Chapter 25' shall be understood to designate Chapter 25 of the General Laws enacted by the 39th Legislature of Texas, Regular Session. 2. 'Chapter 280' shall be understood to designate Chapter 280 of the General Laws enacted by the 41st Legislature of Texas, Regular Session. 3. The word 'person' shall be understood to include persons, co-partnerships, associations, corporations, governmental agencies or bodies politic, and shall be held to include both the singular and the plural. 4. The word 'District' shall designate a Water Control and Improvement District. 5. Where reference is made to any specific Statutory provision, unless otherwise specifically provided herein, it shall be intended to refer to the same as it now is and as well to include any future amendment thereof. 6. The words 'this Act' or 'said Act', where not otherwise specified, shall be understood to mean said Chapter 25, and, or, any amendment thereof, and especially to include said Chapter 280, and, or, the provisions of this Act. 7. The word 'property' as used in this Act shall be understood to mean property real, personal or mixed and shall include land, interests, of every character, therein; improvements thereon; all other property situated upon or attached to land and, as well, any right involving the use of, or any easement upon, land. 8. The word 'Tribunal' shall be understood to mean a Tribunal to have original jurisdiction of proceedings for condemnation hereunder, and to exercise Judicial functions within the meaning and intent of Section 1 of Article 2 and Section 1 of Article 5 of the Constitution of Texas.

"Sec. 2. (Expressing the reasons for the enactment hereof and designating the Statutory Acts to be amended hereby) (a) Section 140 of Chapter 280 purported to amend and consolidate Sections 126 and 132 of Chapter 25, and did provide in lieu thereof a new Section 132, which probably would have the effect to repeal the original Section 126 (providing the procedure for the exercise of the Right of Eminent Domain by Water Control and Improvement Districts) and Section 132 (providing for fixing taxes upon a basis of specific benefits by a District), both of Chapter 25. (b) A recent decision by the Supreme Court of Texas has declared the most material provisions of Section 14 of Chapter 280 to be void as constituting a legislative attempt to invade the province of the Judicial Department of the State's Government by conferring Judicial functions on an Administrative body in contravention of Section 1 of Article 2 of the Constitution of Texas. The effect of said decision is to render uncertain the means by which a District may assess taxes on a basis of specific benefits; and, will deny to Districts the right to exercise the more practical, economical and equitable procedure for condemnation, intended by the Legislature to be conferred by said Section 14; wherefore, said Section 14 of Chapter 280 hereby is repealed, and in lieu thereof it is provided as follows, viz.:

"(a) Original Section 132 of Chapter 25 of the Acts of the 39th Legislature, Regular Session, hereby is established not to have been repealed by the enactment of said Section 14 of said Chapter 280 (said Section 14 having been declared invalid), but instead thereof the said original Section 132 shall be held to have been, and shall be, in full force and effect.

"(b) Section 14 of Chapter 280 hereby is expressly repealed, and in lieu thereof, there shall be provided as is set forth in Section 3 of this Act."

[Art. 7880—130. Benefit or ad valorem basis for tax levy]

Any district now, or hereafter to be, operating under the provisions, and powers, of Section 59 of Article XVI of the Constitution of Texas, shall at the time of its creation, or at any time thereafter before appoint-

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ing commissioners of appraisalment, as provided for in Section 132 and Section 77a of Chapter 25, adopt a tax plan under the alternative provisions of this Section. The intent hereof is to give to districts such flexibility of taxing power as will permit, and cause, the tax of any given district to be in fact equitably distributed, and to give the highest practicable degree of service, under the peculiar physical and economic conditions of such district; To this end, this Section shall be liberally, and sympathetically, construed.

The district's taxes for all purposes, other than for the payment of the cost of preliminary surveys, may be levied, assessed and collected on an adopted basis to be chosen from the elective plans here provided. The district's tax plan may be any one of the following plans, or bases, as follows, viz:

(1) Wholly ad valorem: (2) Assessments in proportion to the respective individual benefits, as the same may be specifically appraised: (3) Ad valorem as to some part, or per centum, of the total tax required, or as to some defined part of the district; and on the basis of specific assessment of benefits as to the remainder of the total tax required, or, and, as to some defined part of the district: (4) Any district created under the provisions of Section 59 of Article XVI of the Constitution of Texas, may, either before or after the sale of Construction bonds, adopt a tax plan which, while wholly ad valorem, or wholly on the basis of assessment of specific benefits, insofar as may be required for the retirement of any obligations of the district, may provide that the district may separately assess, levy and collect taxes on the basis ad valorem, or on the basis specific assessment of benefits, on designated property or defined areas within the district, to make available to, or to reimburse, the district for any sums paid out, or to be paid out, on account of improvements and facilities for service peculiar to such defined part of the district and not generally and directly benefiting the district as a whole. Upon adoption of the plan provided in this subdivision (4), the district may, under the limitations of this Section, separately, differentially, equitably and specifically apply its taxing powers, and lien to a defined area, or designated property, to provide the money wherewith to construct, administer, maintain and operate improvements and facilities peculiar to such defined areas or designated property.

Before the appointment of a commission of appraisalment, and the sale of construction bonds, save as provided in subdivision (4) foregoing, and hereinafter provided, the directors of a district shall, as provided in Section 77a, adopt a proposed plan of taxation. If the plan proposed be other than wholly ad valorem, or wholly assessment of specific benefits, then the order adopting a proposed plan shall specify what part of the tax is proposed on each basis; they shall also designate the physical and economic reasons, or peculiar diverse local needs, or comparative potential benefits, of different areas, or designated property, within the district, which, in their judgment, make it necessary, or more equitable, to levy part of the tax, or the tax on a defined part of the district, or designated property, on the basis of assessment of specific benefits, or ad valorem, or a composite of such bases, or separately on defined areas, or designated property, if such be the case. Having adopted such a proposed tax plan the directors of the district shall publish notice thereof in one or more newspapers to give general circulation in the county, or counties, in which the district is located, once a week for two consecutive weeks, advising those interested that a proposed tax plan has been adopted; that the same is open for inspection in the district's office; that a hearing thereon will be held by the directors at a specified place and at a certain time, to be not less than fifteen days, nor more than twenty days, after the first publication of notice; that all interested persons may appear and contend for, or protest against, the proposed tax plan, or any part thereof, and offer testimony thereto. After all persons appearing

shall have been heard, the directors may approve said tax plan as proposed, or they may change or modify the same, and thereupon approve and adopt such tax plan as will in their judgment, under the evidence before them, most equitably distribute the district's tax burden and conserve the public welfare: Thereupon they shall enter their order establishing the district's tax plan, which shall become the basis for the assessment and collection of taxes by the district, until such time as a different plan may be adopted, which may at any time, when required to preserve equity of distribution, be done in the same manner herein provided. This order shall not be subject to judicial review save upon the ground of fraud, palpable error, or, arbitrary and confiscatory abuse of discretion. No change of tax plan shall be adopted which will impair the ability of the district promptly to meet all outstanding obligations of the district within the intent of Section 91 of said Chapter 25.

If a district has adopted the tax plan, and assumed the powers, set out in subdivision (4) of this Section, and, acting thereunder, does desire to define an area within the district requiring, or desiring, improvements or facilities peculiar to that area and not generally affecting the district as a whole, then such improvements, service, or facilities, peculiar to such designated area, or property and not affecting the district as a whole; or when such improvements, though local in character, are required to conserve and protect the public welfare, may be provided, paid for, maintained and operated in the following manner, viz.:

(a) The directors of the district shall define the area by metes and bounds, or designate the property, to be served, affected and taxed: (b) They shall adopt a plan for improvements within the area, or to serve the property designated, as is provided in Section 78 of said Chapter 25: (c) They shall adopt a plan of taxation to apply to the defined area, or designated property, which tax may, or may not, be in addition to other taxes imposed by the district on the same area of property. The proportional tax, or income, contributions of a defined area, or designated property, to the district, and the proportional and equitable interest of the district at large, shall be taken into consideration in imposing any tax to be peculiar to the designated area or property: (d) They shall hold a hearing in the same manner, to the same purpose and after the same notice as is before provided in this Section. If at such hearing the directors of the district find for defining and serving the proposed separate tax area, or separate designated property, they shall enter their order of record, and if such proposal involves the issue of bonds by the district, they shall call an election in the district as a whole, and the issues may be submitted on the same ballot to be used in any other election to be held, submitting to the qualified electors of the district the appropriate issues, and such election and issues shall in all things conform to the appropriate provisions of Sections 78 to 83, both inclusive, of said Chapter 25, as now amended, or as may hereafter be provided: In addition to said requirements, the notice of election in this Section provided shall define the area to be designated and the plan of taxation to be applied to the defined area, or designated property. If the improvements proposed to be provided within a defined area are deemed to be peculiarly for the benefit of the area, and not required to conserve the public or general welfare within the district as a whole; and, if in such case the proposed improvements within the defined area will require the imposition of a tax burden peculiar to that area; then, and in case of the concurrence of these conditions; such defined area shall be constituted a separate election precinct wherein there must be held an election to determine if such improvements shall be provided, as proposed by a plan adopted as in this Act provided, and a separate tax levied on the defined area. Such election shall be held in such manner as will in all things conform to the provisions of this Act relating to the issuance of bonds by a district: If a statutory majority vote in the defined area favors the proposal, then the district shall, when necessary provide money, and

For Annotations and Historical Notes, see *Vernon's Texas Annotated Statutes*.

shall provide the improvements and levy the tax. At an election within such defined area, in addition to the qualified electors who reside within the area, each qualified elector of the district who is the owner of taxable land located within the defined area, may elect to vote therein and not to vote in the precinct of his residence. In case of an election favoring the issuance of bonds and the levy of a tax peculiar to such defined area, the district may issue bonds pledging only the faith and credit based on the property values within the defined area: The district may however pledge the full faith and credit of the district as a whole under the condition of authorization set out in subdivision (i) of this Section. If the proposed improvements are deemed to be required to promote the public welfare; or, if the owners of all of the land within a defined area file a petition, acknowledged as required for deeds, requesting the district to provide improvements and assess the tax to be peculiar to the area; then, and in either event, it shall not be necessary to constitute such area a separate election precinct and have regard to the vote therein. (e) The ballot for an election under the provisions of this Section, in appropriate case, shall have printed thereon substantially the following: "For designation of the area, the issuance of bonds and the levy of a tax to retire bonds", and, in appropriate case, "to administer, maintain and operate works and facilities", and "Against such designation, the issuance of bonds and tax levies": (f) If the majority vote favors the proposal, the directors of the district shall declare the result and by their order establish the area and define the same by metes and bounds, or designate the specific property, and fix the tax basis therefor. A certified copy of this order shall be recorded in the minutes of the district, which shall constitute notice thereof: (g) Thereafter the district may issue its bonds to provide the specific plant, works and facilities embraced in the plans adopted for such defined area, or to serve such designated property, and shall provide the same; they shall in appropriate case, separately levy, assess and collect taxes on the property located in the defined area, or upon the designated property, in conformity to the tax plan adopted: (h) property, or areas, either within or without the boundaries of a district, may by contract, be designated for the purpose of procuring improvements, facilities or service for such designated property, or area. Such designation shall be based upon a written petition, authorized in conformity to the laws governing the making of contracts by the petitioner, or person (as defined in Section 1 of this Act), owning, controlling or governing the property or areas desired to be designated. Such designation may be established by the district's directors under contract for providing, administering, maintaining and operating the desired improvements, facilities or service for such designated property, or area. Such designated property, or area, thereupon shall become subject to being made the basis of bonds to be issued by the district and may be subject to a tax lien by, or for the amount of, the district, to retire the obligations which the district may incur to provide the improvements, facilities or service peculiar to the designated property or area, and as well to cover the expense necessary to administer, maintain and operate such improvements and facilities, in conformity to the contract or designation. It is provided that all such contracts for designation, the issuance of bonds and the imposing and collection of taxes must not violate this law or any other law of the State of Texas, or of the United States; and, such contracts must not result to impair any vested right, nor cause the district to fail fully and permanently to serve water demands within its boundaries in the order of superiority of uses, as the same are declared in Section 3 of said Chapter 107. Said contracts may provide that one body politic may, in conformity to the law of its being and the contract, establish the contractual; and statutory, tax lien, hereby provided, in behalf of the district, and may levy, assess and collect the tax thereunder, for and on behalf of the district: The district shall not issue bonds pledging the full faith and credit of the district under the provisions of

subdivision (d) and this subdivision of Section 130, without submitting the same to a vote of the qualified electors of the whole district under the same provisions, insofar as the same are applicable, as are provided to authorize the issuance of construction bonds by the district: (i) if the majority vote in the district as a whole does favor the proposal, the district may issue its bonds to provide the plant, improvements and facilities peculiar to the area, or areas defined, or peculiar to designated property, or peculiar to a given contract for service, and may pledge the full faith and credit of the district for the payment thereof, in which event the district shall have is [its] lien upon the area defined, or the property designated, or as specified in such contract, and may levy, assess and collect, or procure to be levied, assessed and collected, taxes on the same to protect the district from, or to compensate, any liability it may incur for or on behalf of the defined area or designated property. (j) The directors of such district shall administer all business incident to the creation and operations of a defined area, or service to designated property, unless otherwise provided by contract. [As amended Acts 1929, 41st Leg., p. 578, ch. 280, § 15.]

See note to art. 7880—3.

**Art. 7880—132. [Repealed by Acts 1931, 42nd Leg., p. 466, ch. 275, § 2 (b)]**

Effective May 14, 1931. The article repealed was Acts 1929, 41st Leg., p. 578, ch. 280, § 14 (effective 90 days after March 14, 1929, date of adjournment). Art. 7880—132 of Rev. Civ. St. 1925 is not affected by the repeal. See note to Art. 7880—126.

**Art. 7880—143a. [Method for converting districts and powers]**

Any district now operating, or hereafter to be operating [operated], under the provisions of Chapters Two, Three, Four, Six, Seven and Nine of Title 128 of the Revised Civil Statutes of Texas may be converted into Water Control and Improvement Districts in the manner provided in Section 23 of said Chapter 107. After such conversion such districts may continue to exercise all such necessary specific powers, and under such specific conditions, as may be now provided by the existing Act under which such district may have been operating. It is provided, however, that at the time of making such order of conversion the officers of such districts shall in the order specify the specific statutory provisions in the law under which such district may have been operating which may be desired to be preserved and made applicable to the operations of the district after conversion into a Water Control and Improvement District. It is provided, however, that this reservation of a former power shall apply only in case said Chapter 25 fails to make specific provision concerning some matter necessary to the effectual operation of a district as to which conversion may be desired: In all cases in which said Chapter 25 may make specific provision, said Chapter shall, after conversion, control the operations and procedures of such district. [Acts 1929, 41st Leg., p. 578, ch. 280, § 16.]

See note to art. 7880—3.

**Art. 7880—147c. [Validating districts and acts of districts]**

All Water Improvement Districts or Irrigation Districts which have heretofore complied with the requirements of Section 143 of said Chapter 25, or with Section 23 of said Chapter 107, concerning conversion into a Water Control and Improvement District, and as well all Water Control and Improvement Districts organized under the provisions of said Chapter 25, and the amendments thereto, are hereby declared to be valid and existing governmental agencies and bodies politic, and shall have all of the powers granted by said Chapter 25, and the amendments thereto. All proceedings heretofore had and taken to organize such districts, or to determine the manner in which taxes or assessments shall be levied and collected, or to bring any such district under the provisions of Sec-

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tion 59 of Article 16 of the Constitution of Texas, or to authorize the issuance of bonds by any such district, whether such district shall or shall not have come under the provisions of said Section 59 of Article 16 of the Constitution, or to authorize the issuance of notes or bonds, or for the election and qualification of its officers or directors, or for the construction or operations of projects jointly, or for contribution to the cost of works constructed by some other agency, or for contract with the United States of America, shall be, and hereby are, in all things approved, ratified, validated, constituted, and established as valid. Further, all such districts, which have designated boundaries sufficient to identify the area of the district, are hereby established to have the boundaries now defining such districts, just as though the metes and bounds of each of the same were specifically set out herein, and all such districts shall have the powers now provided by said Chapter 25, as amended, and also shall have such powers as may be granted by any act amending said Act. Further, all bonds now in process of issuance by such a district, and as well all bonds heretofore issued, and sold, by such a district are hereby declared to have been validly authorized and issued, and all such bonds now in the hands of the purchasers thereof, or which may lawfully hereafter come into the hands of purchasers, are hereby established to be valid and binding obligations of such district: All tax levies, assessments and procedures precedent, or incident, to the creation of obligations by such a district are hereby established as valid, and all completed tax levies and procedures necessary, and incident, to the future issuance and sale of bonds by a district validated hereby, shall be valid, provided such levies and procedures were made and done in conformity to the provisions of said Chapter 25, or any existing amendment thereto. It is however provided that no bond or obligation shall be validated hereby unless the same shall have been authorized by a constitutional and statutory majority vote of the qualified electors of a district, and no bond validated hereby may be sold until the same has been approved by the Attorney General of Texas and registered in the office of the Comptroller of Texas. No pending proceedings at law concerning any of the matters hereby validated, and constituted, shall have the effect to impair, or bar, the validation hereby declared, save and except in the following cases, viz:

(a) Where there is now pending in a court a proceeding seeking to establish fraud, under allegations of specific acts constituting fraud, in the issuance of bonds or other obligations by a district; or, to establish that a matter submitted to a vote of the qualified electors of a district did not in fact receive an affirmative vote sufficient to comply with the Constitution or appropriate statute of the State of Texas:

(b) Where there is pending an undetermined appeal from an order creating a district, under the provisions of Section 18 of said Chapter 25:

(c) If the litigation hereby specified as a bar to validation is not prosecuted with due diligence, and in good faith, to a final judgment, sustaining the protest, but which on the other hand does result in a final judgment sustaining the district and its acts, then the more present pendency of such litigation shall not operate to prevent the legislative validation hereby provided.

The provisions of this Section are intended as remedial legislation, and shall be liberally construed to effect the legislative intent to promote and further the conservation and development of the natural resources of the State of Texas. [Acts 1929, 41st Leg., p. 578, ch. 280, § 17.]

See note to art. 7880—3.

[Art. 7880—149a. Abolition of districts]

All Water Control and Improvement Districts organized under the provisions of Chapter 25, of the General Laws passed by the 39th Legislature at its Regular Session, situated in counties having a population of not less than 10,000 or more than 10,050, according to the United States

Census of 1920, may be abolished by a majority vote of the tax paying qualified voters residing in such district at an election held for the purpose of determining whether or not such district shall be abolished. [Acts 1929, 41st Leg., p. 204, ch. 87, § 1.]

Articles 7880—149a to 7880—154a effective March 2, 1929. numbers have already been used in Vernon's Rev. Civ. St. 1925 as articles 7880—148 to 7880—153, they are designated as 7880—149a to 7880—154a to avoid confusion.

[Art. 7880—150a. Petition]

Petition for the abolishment of such districts shall be signed by a majority in number of the holders of title to the lands therein, and the owners of a majority in value of the lands therein as shown by the tax rolls of said district, provided if the number of land owners therein is more than fifty, such petition shall be sufficient if signed by fifty such land owners. Such petition may be signed and filed in two or more copies. [Acts 1929, 41st Leg., p. 204, ch. 87, § 1.]

See note to art. 7880—149a.

[Art. 7880—151a. Requisites of petition]

Such petition shall state the name of the district and may refer to the order establishing the same for boundaries, limits and area thereof and shall state the purpose for which such election is asked. Such petition shall be filed with the Board of Directors of said district. [Acts 1929, 41st Leg., p. 204, ch. 87, § 1.]

See note to art. 7880—149a.

[Art. 7880—152a. Elections]

All elections to determine whether or not such districts shall be abolished shall be held in accordance with the provisions of Sections 26, 27, 28, 29 and 30 of Chapter 25 of the General Laws passed by the Regular Session of the 39th Legislature. The ballots for such election shall contain the proposition "For the abolishment of district" and "Against the abolishment of district." [Acts 1929, 41st Leg., p. 204, ch. 87, § 1.]

See note to art. 7880—149a.

[Art. 7880—153a. Order declaring result of election]

If the majority of those voting at such election vote in favor of abolishing such district, the said district shall be abolished and the same after such election shall have no further authority except that any debts incurred shall be paid, and the organization shall be maintained until all such debts are paid.

The result of such election shall be canvassed and the result thereof declared by the Board of Directors of said district and said Board shall make and enter in their Minutes an order declaring the result of such election, which order shall be made and entered in conformity with Section 24, of said Chapter 25, Acts Regular Session of the 39th Legislature, and such order shall be filed in the office of the County Clerk and recorded in the Deed Records of said county as provided in said Section 24. [Acts 1929, 41st Leg., p. 204, ch. 87, § 1.]

See note to art. 7880—149a.

[Art. 7880—154a. Election in district including city or town]

In all elections held under the provisions hereof in districts in which are located any town, city or municipal corporation, such municipal corporation shall be a separate voting precinct and the ballots cast therein shall be counted and canvassed to show the result of such election therein, and in the event such municipal corporation shall vote against the abolishment of such district, and the balance of such district shall vote for the abolishment of such district, such district shall thereupon be abolished. [Acts 1929, 41st Leg., p. 204, ch. 87, § 1.]

See note to art. 7880—149a.



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

[Art. 8007a. Validating levee improvement bonds]

Sec. 1. That where, under authority of Section 59, of Article 16, of the Constitution of the State of Texas, a majority of the resident property tax payers, being qualified electors of any levee improvement district heretofore created in conformity with the provisions and requirements of Chapter 25 and/or Chapter 44, of the General Laws passed at the Fourth Called Session of the Thirty-fifth Legislature, in 1918, or Chapter 21, of the General Laws passed at the Regular Session of the Thirty-ninth Legislature, in 1925, voting on the proposition, having voted at an election held in such levee improvement district in favor of the issuance of bonds of such district and the levy of taxes upon the taxable property therein, for the purpose of paying the interest on said bonds and providing a sinking fund for the redemption thereof, for the construction and maintenance of levees and other improvements within such district, the canvass of said vote, revealing such majority, having been recorded in the minutes of said county commissioners' court, and where thereafter, the county commissioners' court of the county in which such levee improvement district is situated, or the county commissioners' court of each county having lands embraced within a levee improvement district in any case where such district embraces lands in more than one county, by orders adopted and recorded in their minutes, authorize the issuance of such bonds of such levee improvement district, prescribed the date and maturity thereof, and rate of interest the bonds were to bear, the place of payment of principal and interest, and providing for the levy of taxes upon taxable property in each such levee improvement district sufficient to pay the interest on such bonds and to produce a sinking fund sufficient to pay the bonds at maturity and such bonds were approved by the Attorney General and registered by the Comptroller of the State of Texas, and thereafter issued and delivered, each such election, and all acts and proceedings had and done in connection therewith by the County Commissioners' Court of the county or counties of jurisdiction in respect of such bonds and the levy of taxes, are hereby legalized, approved and validated; and such bonds, so sold and delivered, are hereby validated and constituted the legal obligations of such levee improvement district.

Sec. 2. That whenever any levee improvement district, operating under the assessed benefit plan of taxation, has heretofore voted and issued additional bonds for the purpose of constructing levees and other improvements, pursuant to amended or supplemental plans of reclamation duly approved by the State Reclamation Engineer, and the Commissioners' Court of the County of jurisdiction has passed and adopted orders setting down for hearing the petition or petitions of the owners of a majority of the acreage of lands included within such district, and/or supervisors of any such district praying for the issuance of additional bonds, and notices of such hearing in respect of the issuance of such additional bonds were issued and given to [in] the manner and for the period of time prescribed by Statute, and a hearing or hearings were held by the Commissioners' Court of the county of jurisdiction, pursuant to such notices, for the purpose of determining whether or not any such district shall incur additional debt by the issuance of bonds, and the said court having found, by reason of such hearing that such additional improvements were necessary, and that there was a necessity for the district to issue the additional series of bonds described in the petitions, and in the order and notices of such hearing, for the purpose of the construction of such additional improvements; and, further, where the amount of the additional bonds, and the outstanding bonded indebtedness of any such district did not exceed the amount of assessed benefits theretofore found and fixed in the final judgment and decree of the commissioners of appraisal of any such district, and, further, where said bonds have heretofore been issued and sold, and the proceeds thereof used in the construction and mainte-

nance of levees and other improvements, and for other lawful purposes, in the carrying out of the amended or supplemental plan of reclamation, the amount of bonds fixed in the order of said court calling said election, pursuant to such hearing, for the purposes set forth in the petition, or petitions, order and notice of hearing, and in the order and notice of election, is hereby found to be proper and necessary for said purposes, and is hereby ratified, confirmed, approved and validated; and said bonds are hereby declared to be the legal, valid and binding obligations of such levee improvement district, and the Commissioners' Court of the county in which such levee improvement district is situated, or the commissioners' courts in each county in which any part of such levee improvement district is situated (in event any such district includes lands in more than one county) are hereby fully authorized and empowered to levy upon and against all of the taxable property in any such district, and to collect, in the manner and at the times now or hereafter provided by statute, sufficient taxes to pay the interest on said bonds and provide a sinking fund for the payment of said bonds at maturity. The net benefits which it shall have been found by the Commissioners of Appraisalment, by appraisalment now, or that may hereafter be made, will accrue to each piece of taxable property within such district from the completion of the supplemental plan of reclamation and additional improvements for which such additional bonds are issued. [Acts 1930, 41st Leg., 5th C. S., p. 201, ch. 58.]

[Art. 8197a. Conservation and reclamation districts validated]

Sec. 1. That all conservation and reclamation districts organized under the provisions of Chapter 8, Title 128, Revised Civil Statutes of Texas, and/or Chapter 2, Title 128, Revised Civil Statutes of Texas, under the name of Water Improvement Districts, and in the organization of which petitions were signed by more than fifty (50) persons, and such petitions were filed in the month of September, 1926, and on which petitions hearings were held by the County Commissioners' Court in the month of October, 1926, and in pursuance of which said Court entered its order or judgment finding in favor of the petitioners for the establishment of such Districts, and elections were held for the purpose of voting upon the organization of such Districts, and the issuance of notes by such Districts, such elections being held in the month of November, 1926, and at which elections the organization of the Districts and the issuance of notes received a two-thirds majority of the votes cast and at which elections directors were elected for such Districts, all said proceedings and the organization of such Districts and the orders of the County Commissioners' Court organizing such Districts and the authorization for the issuance of notes by such Districts are hereby ratified, validated, approved and confirmed, and all such Districts are hereby expressly declared to be properly defined and described and to be validly created and organized, and the notes issued by the Board of Directors of such Districts are hereby declared to be legally and validly issued and are valid and declared to be the legal, binding obligations of such Districts, and such Districts shall levy, assess and collect taxes on all property situated in such Districts in amount sufficient to pay the interest on such notes and the principal thereof as same matures, and the cost of assessing and collecting such taxes, and it shall not be necessary to validate such notes by a suit in Court or any other proceeding.

Sec. 2. All such Districts described in Section 1 of this act are hereby expressly declared to be conservation and reclamation Districts under the provisions of Chapter 8, Title 128, Revised Civil Statutes of Texas, and under the provisions of Chapter 2, of Title 128, Revised Civil Statutes of Texas, and under the provisions of Section 59, of Article 16, of the Constitution of the State of Texas, and all such Districts are authorized, if they shall so elect as provided by law, to be converted into Water control

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Sec. 3. That the boundaries of all said Districts as described in Section 1 of this Act, as established and defined by the orders and judgment of the County Commissioners' Court, and as modified, established and defined by the orders of the Board of Directors of such Districts after lands originally included in said Districts had [have] been removed therefrom by orders of the Board of Directors of such Districts, are proper and correct descriptions of the territory included within such Districts, and that the boundaries of such Districts and the orders defining same properly define the area included therein and are and constitute proper legal descriptions of the said boundaries of the said Districts, and of the territory included therein, and are hereby valid and declared to be proper and legal descriptions of said boundaries, and that the orders made by the Board of Directors of such Districts, excluding therefrom certain lands originally included therein, are valid and proper and in due and proper form, and that all notices issued prior to the making of said orders, were properly issued, posted and published, in accordance with the provisions of law, and are hereby laid and declared to be valid and binding and to properly define the boundaries of said Districts and the territory included therein.

Sec. 4. That all such Districts described in Section 1 of this Act may incur indebtedness to fully carry out each and all of the purposes of its organization, when such indebtedness has been authorized or may hereafter be authorized by a majority of the votes cast at an election for that purpose, and may levy taxes for the payment of its said debts and obligations and the maintenance and operation of such Districts.

Sec. 5. That in all such Districts described in Section 1 of this Act, the orders of the Board of Directors providing that elections be held in such Districts to authorize the issuance of bonds and the levy of taxes in payment thereof, and the notices of election posted and published in pursuance thereof, and the elections held for said purpose, and the returns made thereon, and the order of the Board of Directors in declaring the result thereof, are hereby declared to be proper, legal proceedings in accordance with the provisions of the laws of the State of Texas for the issuance of such bonds, and are hereby validated and confirmed, and in all such Districts in which said elections have been held, and a majority of those voting at such elections voted in favor of the issuance of such bonds and the levy of such taxes, that said elections and the issuance of such bonds are hereby validated and confirmed, and the Board of Directors of such Districts are authorized to make all proper and necessary orders for the issuance of such bonds and the sale of such bonds, and the levy, assessment and collection of taxes sufficient to pay the interest thereon, and the principal therein as same matures, and the expenses of assessing and collecting such taxes, and for the maintenance and operation of such districts. [Acts 1929, 41st Leg., p. 300, ch. 139.]

Bracketed [have] inserted by compiler.

#### [Art. 8197b. Refunding bonds]

Any Water Improvement Drainage or Levy [Levee] Improvement District, organized under the laws of this State as a defined District under Section 52 of Article 3 of the Constitution, that may have availed itself to [of] the provisions of this Chapter and become a Conservation and Reclamation District, or that may hereafter avail itself of the provisions of this Chapter and become a Conservation and Reclamation District, and which may have issued bonds prior to such change, may issue its Refunding Bonds under the provisions of Section 59 of Article 16 of the Constitution for the purpose of retiring such outstanding bonds. Such Refunding Bonds shall not bear a greater rate of interest than the bonds in lieu of which they are issued. Interest shall be evidenced by coupons attached to such bonds, and such bonds, and interest coupons shall become due and payable on the

same date or dates as the original bonds and coupons; and a sufficient tax levy to meet the payment of the principal and interest of said Refunding Bonds shall be made before the delivery thereof to the holder or holders of any of the outstanding Bonds, or before any of such bonds shall be offered for sale for the purpose of retiring any of said outstanding Bonds as hereafter provided.

Before any such Refunding Bonds shall be issued, the Commissioners' Court of the county in which any such District may be situated shall at any regular or special session thereof order an election to be held in said District to determine whether or not said refunding bonds shall be issued, and a tax levied and collected to pay the interest thereon, and provide a sinking fund for their redemption, provided, however, that the Commissioners' Court may call such election on its own motion, and a majority of the property taxpaying voters of such district, voting at such election, shall be sufficient to authorize the issuing of said refunding bonds and levying and collection of said tax.

The election order and notice of election shall state the amount of Refunding Bonds proposed to be issued and briefly describe the original bonds to be refunded, describing the district issuing such bonds by its name, and the notice of said election shall be given by publication in a newspaper published in said district for three successive weeks, and posting notices in three public places in such district for at least twenty days prior to the date of said election. If no newspaper is published in said district, then such published notice shall be given in any newspaper published in the county.

Such Refunding Bonds when authorized may be exchanged for the outstanding bonds of said District if the holders of such outstanding bonds will agree to such exchange, provided, however, that if such holders of said outstanding Bonds will not agree to such exchange, then said Refunding Bonds may be sold and the proceeds applied in the purchase of such outstanding Bonds at the time any of same may become due under any option of prepayment contained in any such bonds.

No such Refunding Bonds shall be issued and delivered until approved by the Attorney General and registered by the State Comptroller, provided, however, that if said bonds be exchanged for the old bonds, the Comptroller may hold such Refunding Bonds until the old bonds in lieu of which such Refunding Bonds are issued are presented to him for cancellation [cancellation], and when so presented the Comptroller shall cancel the old bonds and interest coupons, and deliver such new bonds to the proper party or parties. [Acts 1930, 41st Leg., 4th C. S., p. 71, ch. 34.]

Effective 20 days after Feb. 18, 1930, date of adjournment. The Legislature designated this article as article 8197(a), but inasmuch as that number has been used to designate a previous article, it is inserted as article 8197b.

#### [Art. 8197c. Regulating levying taxes in drainage districts]

Sec. 1. That any drainage district heretofore created or which may hereafter be created under the provisions of Chapter 7, Title 128, Revised Civil Statutes 1925, and which at the time of its creation has become a conservation and reclamation district under the provisions of Chapter 8, Title 128 aforesaid, or any such drainage district which may after its creation pursuant to law now or hereafter in force in this State, become such conservation and reclamation district, shall be authorized in the manner hereinafter provided, to levy all taxes of such district, to pay the interest and create the sinking fund on bonds of such district, and for all other purposes for which it may lawfully levy such taxes, on a benefit basis, that is to say on an equal or uniform basis or rate upon each acre of land within such district, instead of upon an ad valorem basis as now provided by law.

Sec. 2. The petition provided by Article 8098, Revised Civil Statutes 1925, for the creation of such district may pray that all taxes of such district be levied on the benefit basis as provided in Section 1 hereof, instead

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of upon an ad valorem basis, and in such case, the notice provided in Article 8100, Revised Civil Statutes, 1925, shall so state, in addition to the other things provided therein, and the Commissioners' Court at the hearing provided by Chapter 7, Title 128 of such Statutes pursuant to such notice, shall in addition to all other matters therein required to be determined consider the question of whether or not it will be fair and equitable to all the landowners in such district, to levy all such taxes on a benefit instead of an ad valorem basis, and at such hearing any person whose land would be affected by the creation of such district may appear before said Court and contest, not only the creation of such district, but the method of levying the taxes thereon upon the benefit instead of an ad valorem basis, or in addition to contending for its creation as now provided by law, may contend for the levy of such taxes on a benefit basis instead of an ad valorem basis, and such Commissioners' Court shall, if it shall determine that such district and the drainage thereof is feasible and practicable, and the like, as provided in Article 8103, Revised Civil Statutes 1925, furthermore determine whether or not the levy of such taxes upon the benefit basis will be fair and equitable to the landowners in such district, and if the Court should determine that it will not be fair and equitable to such landowners to levy such taxes on the benefit basis, such order shall so provide, and if such district shall thereafter be created as provided by law, all such taxes shall be levied upon an ad valorem basis, as now provided by law. Should the Court determine in favor of the creation of such district, and that it will be fair and equitable to the landowners in such district to levy such taxes on the benefit basis, it shall so provide in its order, and an election shall be called for the creation of such district, and the levy of taxes upon such benefit basis, under the provisions of Chapter 7, Title 128 of such Statutes, with the further proviso, however, that in such last named event only freehold resident taxpayers who are qualified voters of the proposed district shall be entitled to vote at such election; said election to be held in all other respects as provided by said last named Chapter and Title.

The findings of such Court on the manner in which such taxes shall be levied shall be final and conclusive on all parties.

If the Court shall determine that the taxes are to be levied on an ad valorem basis, the election and all proceedings in connection with the creation of such district shall be in conformity with said Chapter and Title.

Sec. 3. That any drainage district heretofore created under the provisions of Chapters 7 and 8, Title 128, Revised Civil Statutes 1925, may in the manner following provide that all taxes of such district of every nature may be levied upon a benefit instead of an ad valorem basis, to-wit:

A petition shall first be presented to the Commissioners' Court of such county signed by seventy-five of the freehold resident taxpayers in the proposed district, or if there be less than seventy-five such citizens then by one-third thereof, whose lands may be affected thereby, praying that all taxes of such district shall be levied upon a benefit instead of an ad valorem basis, and other facts showing that the levy of such taxes on such benefit basis will be fair and equitable to all of the landowners in such district. At the same session when said petition is presented, the Court shall set said petition down for hearing at some regular or special session called for the purpose, not less than thirty nor more than sixty days from the presentation of said petition, and shall order the clerk to give notice of the date and place of said hearing by posting a copy of said petition and the order of the Court thereon for twenty days prior to the date of such hearing in five public places in said county, one at the courthouse door, and four within the limits of the district; said clerk shall be paid One (\$1.00) Dollars for each such notice; and five cents per mile for each mile necessarily traveled in posting such notices, and all of which expenses shall be paid by the drainage district.

On the day set for the hearing, any person whose lands would be affected thereby, may appear before said Court, and contest the levy of such tax on a benefit basis, or contend for the levy to be made upon that basis, and may offer testimony to show that the levy of such taxes on the benefit basis will or will not be fair and equitable to all landowners within such district.

Said Court shall have exclusive jurisdiction to hear and determine the above issue, and all matters pertaining to the same and shall have exclusive jurisdiction in all subsequent proceedings in connection therewith, and may adjourn the hearing on any matter connected therewith from day to day, and all judgments rendered by said Court in relation thereto shall be final.

If, after a full hearing the Court shall determine that it will not be fair and equitable to all of the landowners in such district to levy all taxes on a benefit basis instead of an ad valorem basis, it shall so find, and accordingly enter its order dismissing said petition and thereafter all such taxes of such district shall be continued to be levied upon an ad valorem basis.

If upon such hearing the Court shall determine that it will be fair and equitable to all of the landowners within such district to levy all such taxes upon a benefit instead of an ad valorem basis, it shall so find, and order an election to be held within such district, not less than thirty nor more than sixty days from the date of such order, and after notice of such election has been given in the same manner as provided hereinabove with reference to the hearing before said Court, and at which elections there shall be submitted the following propositions, and none other: "For the levy of all taxes of the district upon a benefit basis"; "Against the levy of all taxes of the district upon a benefit basis." A two-thirds vote shall be necessary to carry the proposition to be submitted at such election, and only freehold resident taxpayers who are qualified voters of the district may vote at such election. All such elections shall be conducted in the manner provided by the general election laws and the aforesaid Title and Chapter. The Court shall name a polling place or places in the district, each of which shall be in the district, and shall appoint the judges and other necessary election officers. It shall provide twice as many ballots as there are qualified voters in the district as shown by the county tax rolls; and which ballots shall have printed thereon the propositions to be submitted, as stated above.

If said proposition shall be carried by the requisite two-thirds vote, as aforesaid, all taxes of such district of every nature shall thereafter be levied on a benefit basis and the order of the Court canvassing the result of such election shall so provide, but unless such election is carried by the requisite two-thirds vote, as aforesaid, such order shall so provide and thereafter the taxes of such district shall be continued to be levied upon an ad valorem basis.

Sec. 4. Any drainage district which may in the manner hereinabove provided, determine to levy its taxes upon a benefit instead of an ad valorem basis, shall in all other respects, and so far as applicable, be governed by Chapter 7 and 8, Title 128, Revised Civil Statutes of 1925, but it shall not be necessary to have a Board of Equalization to annually equalize such taxes, but the Commissioners' Court of such county shall appoint three resident freehold taxpaying voters within such county who shall qualify by taking an oath to fairly and impartially hear and determine such acreage and who shall be authorized to determine the number of acres of each landowner within such district, and shall give at least ten days notice of the time and place of hearing thereon, and at which hearing such landowners may be heard with respect to the number of acres of land owned by them within such district, and such board shall have final jurisdiction to determine the exact acreage of each owner therein, and thereafter all such land shall be placed upon the tax rolls of such district

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in accordance with the acreage so determined and annually thereafter, without any rendition of such taxes. [Acts 1931, 42nd Leg., p. 776, ch. 311.]

Effective April 6, 1931. Section 5 of said act provides that if any provision is invalid, such decision shall not affect the remainder. Section 6 repeals all conflicting laws and parts of laws.

#### Art. 8222. [5982] Tax levy

When bonds have been voted the Commissioners' Court shall levy and cause to be assessed and collected improvement taxes annually, sufficient to pay the interest on such bonds and to provide a sinking fund to redeem said bonds at maturity. Said Commissioners' Court shall also at the time of the levy of taxes for county purposes, levy and cause to be assessed and collected for the maintenance, operation and upkeep of such district and its improvements an annual tax not to exceed ten cents on the One Hundred (\$100.00) Dollar valuation and shall levy such a rate within such limit of ten cents as has been determined by the Commissioners of said district to be necessary for the maintenance, operation and upkeep of such district and its improvements and certified to said Commissioners' Court by the Commissioners of said district. All such taxes shall be levied upon all property within such district whether real, personal, mixed or otherwise. [As amended Acts 1931, 42nd Leg., p. 212, ch. 125, § 1.]

Effective May 14, 1931. Section 2 repeals all conflicting laws and parts of laws.

#### Art. 8225. [5990] May acquire property

The Commissioners are empowered to acquire the necessary right of way and property of any kind for all necessary improvements contemplated by this title by gift, grant, purchase or condemnation proceedings. Any Navigation District heretofore or hereafter organized under this title or any General Law under which said subdivisions may be created shall have the right to purchase from the State of Texas any lands and flats belonging to said State, covered or partly covered by the waters of any of the bays or other arms of the sea to be used by said District for the purposes authorized by law with the right to dredge out or to fill in and reclaim said lands or otherwise improve the same; and the Commissioner of the General Land Office is hereby authorized and directed to sell the same upon application, as hereinafter provided, at the price of One Dollar (\$1.00) per acre. The Commissioners of said District shall file an application with the Commissioner of the General Land Office, which application shall particularly describe by field notes the land sought to be purchased. At the time of filing such application, applicant shall pay or cause to be paid in cash the sum of One Dollar (\$1.00) per acre to the Commissioner of the General Land Office, for all the land included in such application. If the Commissioner of the General Land Office is satisfied that the applicant is a Navigation District created as hereinbefore provided, a patent shall then be issued to said Navigation District, conveying to said District the right, title and interest of the State in the lands described in said application, and the funds derived from such sales shall be paid over by the Commissioner of the General Land Office to the proper funds of the State. Such sales shall be subject to any oil, gas, or mineral leases theretofore given by the State on said lands, and all mines and minerals and mineral rights, including oil and gas in and under said land, together with the right to enter thereon for the purpose of development, are hereby reserved to the State of Texas. Provided nevertheless that so long as any such land shall be used by any Navigation District or by the United States Government for the purpose of navigation, same shall not be leased. [As amended Acts 1931, 42nd Leg., 2nd C. S., p. 38, ch. 21, § 1.]

This article was also amended by Acts (effective 90 days after Feb. 18, 1930, date of 1930, 41st Leg., 4th C. S., p. 47, ch. 27, § 1 adjournment).

[Art. 8263a. Conversion of navigation districts into other districts under Constitution]

Sec. 1. Any Navigation District heretofore organized or hereafter to be organized under the provisions of Section 52 of Article 3 of the State Constitution may become and converted into a Navigation District under Section 59, Article 16, of the State Constitution in the following manner: The Navigation Board of such District shall adopt a resolution declaring that in its judgment it is for the best interest of such District and will be a benefit to the lands and property included in said District to become a Navigation District operating under the provisions of Article 16, Section 59, of the Constitution of Texas, and calling a hearing on said proposal. Such resolution shall be entered in the Minutes of said Board. Notice of the adoption of such resolution shall be given by publication thereof in a newspaper having general circulation in the county or counties in which the District is situated, which notice shall be published once a week for two consecutive weeks and the first publication must appear not less than fourteen full days prior to the time set down for a hearing. Such notice shall state the time and place of the hearing and shall set out the resolution in full. It shall notify all interested persons to appear and offer testimony for or against the proposal contained in the resolution. If upon a hearing the Navigation Board finds that it would be for the best interest of the District and would be a benefit to the lands and property situated in said District for said District to be converted into a Navigation District under Section 59 of Article 16 of the Constitution of Texas, then and in that event said Board shall enter its order so finding; and said District shall thereupon become a Navigation District operating under the provisions of Article 16, Section 59 of the Constitution of this State. If said Navigation Board finds that it would not be to the best interest of the District and would not be a benefit to the lands and property situated in the District, it shall so find and enter its order against the conversion of the District as proposed. The finding of said Navigation Board shall be final and not subject to appeal or review. All Navigation Districts so converted as provided herein shall become and be constituted Conservation and Reclamation Districts, under the provisions of Section 59, Article 16, of the State Constitution, and shall thereafter be governed by said provisions and any amendments thereafter adopted, and Chapter 5 of the Acts of the 39th Legislature, 1925, and all amendments thereto, and shall have and may exercise all the powers, authority, functions and privileges in the same manner and to the same extent as if said Navigation District had been originally organized under the provisions of Section 59, Article 16 of the Constitution of Texas.

Sec. 2. Nothing in this Act shall be so construed as depriving any Navigation District so converted of any of the powers conferred on said District by the law or laws under which it was organized, but said District so converted shall have all of the powers conferred upon it under said law or laws under which it was organized and shall in addition there-to have all of the powers and jurisdiction conferred upon Districts originally organized under Section 59 of Article 16 of the Constitution and Chapter 5 of the Acts of the 39th Legislature, 1925, and amendments thereto; and in the event there is any conflict between the provisions of Chapter 5, of the Acts of the 39th Legislature, 1925, and the Act under which said District was organized the provisions of Chapter 5 of the Acts of the 39th Legislature, 1925, shall control. There being some question as to the powers conferred on Navigation Districts under the different Acts heretofore passed, it is hereby declared that all Navigation Districts, heretofore created or hereafter to be created, under any of the Acts of the Legislature authorizing the creation thereof, have and by this Act are granted, and shall have all the powers conferred by Articles 8229, 8237, 8238, 8239, 8240, 8241, 8242, 8243, and 8245, Title 128, Subdivision V, Chapter 9, Sec-



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tion 2A, Revised Civil Statutes of 1925, and all amendments thereto, regardless of whether or not there is a city of 100,000 inhabitants or more within the boundaries of said District, and all Acts of said Districts [is] heretofore exercising any of such powers are hereby validated. The enumeration of any particular powers herein shall not be construed as a limitation upon the powers conferred, but the Navigation and Canal Commissioners of said District shall have the full powers, control and jurisdiction, consistent with the State and Federal Constitution, of all water-shipment and navigation, the regulation of wharfage, and of all facilities of or pertaining to waterways and navigation within said Districts. The Navigation and Canal Commissioners of such Districts shall constitute a Pilot Board with all the powers and duties provided for in Section 2B, Title 128, Subdivision V, Chapter 9, in the same manner as therein provided for Navigation Districts having within their confines a city of 100,000 inhabitants or more.

Sec. 3. Navigation Districts heretofore created under and by virtue of Section 59 of Article 16 of the Constitution of the State of Texas, as authorized by Chapter 5 of the Acts of the 39th Legislature in 1925 or hereafter created by the authority of the same as amended or hereinafter converted from Navigation Districts created under Section 52 of Article 3 of the Constitution into Conservation and Reclamation Districts under Section 59 of Article 15 of the Constitution may extend their boundaries and annex adjacent territory in the following manner:

Upon the petition of fifty (50) or a majority of the resident property taxpaying voters residing in such adjacent territory proposed to be annexed, being presented to the Navigation and Canal Commission of any such District, praying that an election be ordered within and throughout such adjacent territory proposed to be annexed, for the purpose of determining whether or not said territory shall be annexed to such Navigation District, and whether or not such territory proposed to be annexed shall assume its pro rata part of the bonded debt of such Navigation District then outstanding; and when such petition is presented it shall be the duty of the Navigation and Canal Commission to set the petition down for a hearing which hearing shall be within ten (10) days from the date of presentation of said petition after notice duly given of such hearing by posting at three public places within the proposed territory to be annexed for at least five (5) days preceding the hearing on the petition, such notice shall contain the time and place of said hearing and the boundaries of the territory proposed to be annexed; such hearing shall be held by the Navigation and Canal Commission and any person who has taxable property within said territory proposed to be annexed may appear in person or by counsel and offer testimony or argument for or against the inclusion of all or any part of the lands within the territory proposed to be annexed to the Navigation District, and if after conducting said hearing the Navigation and Canal Commission shall find that the inclusion of the territory proposed to be annexed shall be a direct benefit to all the lands situated within the territory proposed to be annexed, it shall be the duty of the Navigation and Canal Commission to order such election to be held within and throughout such territory proposed to be annexed, which said election shall be held not less than twenty (20) nor more than thirty (30) days from date of such order and after notice is given, which notice shall give the time and place or places of holding such election and the boundaries of the territory proposed to be annexed, and may contain the substance of the order of the Navigation and Canal Commission ordering such election; which said notice shall be published once each week for twenty (20) days next preceding such election in some newspaper published in said territory proposed to be annexed, and if there be no newspaper published in such territory proposed to be annexed, then by posting such notice in three public places

within such territory proposed to be annexed for at least twenty (20) days next preceding such election, and it shall be the duty of the Secretary of such Navigation and Canal Commission to cause to be published or posted such notice.

The ballots to be used at such election shall have written or printed thereon "FOR THE ANNEXATION TO THE NAVIGATION DISTRICT" and "AGAINST THE ANNEXATION TO THE NAVIGATION DISTRICT", and "FOR THE ASSUMPTION OF THE PRO RATA PART OF THE BONDED DEBT OF THE NAVIGATION DISTRICT", and "AGAINST THE ASSUMPTION OF THE PRO RATA PART OF THE BONDED DEBT OF THE NAVIGATION DISTRICT".

The Navigation and Canal Commission shall appoint one judge and two clerks for each election box or place, who shall be property taxpaying voters within the territory proposed to be annexed, and reside near the place of holding such election, to hold said election, which said election shall be held in conformity with the General Election Laws of the State of Texas, except as herein otherwise provided, and the judge or judges of said election shall certify the returns thereof to the Navigation and Canal Commission, ordering such election, which Commission shall canvass the returns of such election, and should a majority of the property taxpaying voters voting at said election be in favor of such annexation, and for the assumption of the pro rata part of the bonded debt of the Navigation District then the Navigation and Canal Commission shall enter an order in its Minutes, annexing such territory and from and after such entry said territory so annexed shall become a part of such Navigation District, with all the rights, benefits and burdens of property originally situated within the District; but should the majority of the property taxpaying voters voting at said election be in favor of the annexation to the Navigation District and the proposition to assume the bonded debt fail to carry, then the Navigation and Canal Commission shall enter an order in their Minutes annexing such territory to the Navigation District, and from and after such entry said territory so annexed shall become a part of such Navigation District with the exception of the assumption of the bonded indebtedness outstanding but shall be subject to a tax for maintenance and operation and shall be liable for all other bonded indebtedness and other indebtedness legally imposed upon the District thereafter. When such order of annexation shall be entered in the Minutes of the Navigation and Canal Commission as above provided, a certified copy of the same shall be prepared by the Secretary of the Navigation and Canal Commission which said Order shall include the boundaries of the territory annexed, and the Secretary shall record the same or cause it to be recorded in the Real Estate Records of the county or counties in which said territory shall be situated.

Districts created pursuant to Section 59 of Article 16 of the Constitution may be annexed and become a part of another adjacent Navigation District created pursuant to the General Law in the same manner above provided in Section 3 of this Act, except the Navigation and Canal Commission of such District shall conduct the hearing, order the election and canvass the returns of the election and perform the other duties above provided for the Navigation and Canal Commission of the annexing District, and if such election shall carry by a majority of the votes of the property taxpaying voters voting at such election the Navigation and Canal Commission of such District proposed to be annexed shall certify the result of said election together with the metes and bounds of such District to the Navigation and Canal Commission of the annexing District, and the Navigation and Canal Commission of the annexing District shall conduct a hearing to determine whether or not it will be a benefit to the annexing District to annex such territory, which said hearing shall be conducted after giving five (5) days notice in some newspaper published

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within the annexing District, and if at said hearing it shall appear that the annexation of such District will be a benefit to the territory with the annexing District, the Navigation and Canal Commission shall enter an order in the Minutes of the Navigation and Canal Commission annexing such District and from and after the entry of such order such District shall become a part of the annexing District with all rights and privileges of territory originally situated therein, but neither the annexing District nor the District to be annexed shall assume the bonded debt of the other outstanding, without a majority vote of the property taxpaying voters in such District, but such an annexation shall in no way affect the bonded debt or any other valid obligation outstanding of either the annexing District or the District to be annexed, and it shall be the duty of the Navigation and Canal Commission of the annexing District to annually levy and collect sufficient taxes on the District to be annexed to discharge all valid obligations outstanding of the District to be annexed; and from and after the time of the entry of said order annexing said District in the Minutes of the Navigation and Canal Commission, said District shall be dissolved and all powers theretofore vested in said District annexed shall be vested in the annexing District, and the powers theretofore vested in the Navigation and Canal Commission of the District annexed shall be vested in the Navigation and Canal Commission of the annexing District.

Sec. 4. There may be created within this State under and by virtue of Section 59 of Article 16 of the Constitution of the State of Texas, Districts to be known as Navigation Districts in the manner hereinafter provided; and such Districts may or may not include within their boundaries and limits villages, towns, cities, roads districts, drainage districts, irrigation districts, levy districts, and other improvement districts, and municipal corporations of any kind, or any part thereof. Such Navigation Districts when so established may make improvements for the navigation of inland and coastal waters, and for the preservation and conservation of inland and coastal waters for navigation, and for the control and distribution of storm and flood waters of rivers and streams in aid of navigation, and for any and all purposes stated in Section 59 of Article 16 of the Constitution of the State of Texas, necessary or incidental to the navigation of inland or coastal waters or in aid thereof, which Districts shall be Governmental Agencies and bodies politic and corporate with such powers of Government and with the authority to exercise such rights, privileges, and functions as may be essential to the accomplishment of such purposes; and provided that such Districts shall not include therein the territory of more than three counties, or parts of three counties, and that such improvements herein authorized shall be made within or adjacent to such Districts.

Sec. 5. After the establishment of any Navigation District as herein provided the Commissioners' Court or Navigation Board as the case may be, shall appoint three Navigation and Canal Commissioners all of whom shall be residents of the proposed Navigation District who shall be freehold property taxpaying voters of the county whose duties shall be as hereinafter provided, and who shall each receive for their services such compensation as may be fixed by the Commissioners' Court of the county exercising jurisdiction in creating said District. Said Navigation and Canal Commissioners shall hold office for a term of two years and until their successors have been elected and qualified, unless sooner removed by a unanimous vote of the County Commissioners or Navigation Board as the case may be for mal-feasance or non-feasance in office, after a hearing duly had according to law, from which judgment of removal appeal may be had to the District Court of the County in which such Commissioners reside and said Court shall proceed to try the case de novo. Such Navigation and Canal Commissioners shall be elected on the first Saturday in July in each odd year beginning with the first Saturday in July,

1929, and shall hold office for two years and until their successors are elected and qualified, such election to be ordered by the Navigation and Canal Commissioners, and notice thereof shall be given by the Secretary of such Commission by posting or publishing the same for at least twenty (20) days prior to such election, and shall otherwise be held according to the General Election Laws of the State of Texas. Should any vacancy occur through the death or resignation or otherwise of any Commissioner the same shall be filled by the remaining members of such Navigation and Canal Commission; provided that if two or more vacancies occur at the same time a special election may be called by a petition signed by fifty (50) resident property taxpaying voters after notice duly given by publishing or posting for at least twenty (20) days prior to such election which petition shall contain the judges and clerks for such election who shall jointly canvass the returns and declare the results of such election and issue certificates of election to the successful candidate which election shall otherwise be held according to the General Election Laws of the State of Texas; provided further that this Section shall not apply to Navigation Districts created pursuant to Section 52 of Article 3 of the Constitution of Texas, or to any such District converted or transformed into Navigation Districts under Section 59 of Article 16 of the Constitution of Texas, by virtue of Sections 1 and 2 of this Act, but the Navigation and Canal Commissioners of such Districts shall be appointed by the Navigation Board or the Commissioners' Court of the county having jurisdiction as heretofore provided by law.

Sec. 6. It is hereby provided that the governing body of Navigation Districts heretofore created or hereafter created, whether by General or Special Law, or converted or transformed by the provisions of this Act, may fund or refund their bonded debt legally outstanding without a vote of the people of such District, in the manner now provided by law for counties, cities and towns and may fund or refund their bonded debt legally outstanding owned by the State Board of Education in the manner now provided by law for Independent School Districts incorporated for free school purposes only.

Sec. 7. The provisions of this Act shall be cumulative of all other Acts heretofore enacted into Law with reference to the organization and operation of Navigation Districts. In case of any conflict the provisions of this Act shall control. [Acts 1929, 41st Leg., 1st C. S., p. 246, ch. 103.]

Effective May 23, 1929. Section 8 of Acts 1929, 41st Leg., 1st C. S., p. 246, ch. 103, provides that if any provision is held unconstitutional, such holding shall not affect the remainder.

Special Laws 1931, p. 460, ch. 233, vali-

dates the conversion of all navigation districts converted from navigation districts under Const. art. 3, § 52, into navigation districts under Acts 1929, 41st Leg., 1st C. S., p. 246, ch. 103, and all proceedings with reference to such conversion.

#### Art. 8263b. Conversion of certain navigation districts validated

Sec. 1. That all navigation districts in this State originally created under Section 52 of Article 3 of the Constitution of the State of Texas which have been converted into navigation districts under Article 16, Section 59 of the Constitution of the State of Texas, under the provisions of Section 1 of Chapter 103, Acts of the 41st Legislature, 1st Called Session, 1929, since the 23rd day of May, A. D. 1929, when said Act became effective, are hereby declared converted into navigation districts under the provisions of Section 69, Article 16 of the State Constitution and shall thereafter be governed by said provisions and any amendments hereafter adopted and shall have and may exercise all the powers, authority, functions and privileges in the same manner and to the same extent as if said navigation districts were originally organized under the provisions of Section 59, Article 16 of the Constitution of this State, in addition to the other powers conferred upon said navigation districts by law, within the boundaries of said districts as originally created or as thereafter extended. All proceedings heretofore had and taken to convert such districts as afore-

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said, including the action of the Navigation Board in adopting a resolution calling a hearing on said conversion, the notice of said hearing, the holding of said hearing, and the finding and order of the Navigation Board of said districts converting said navigation district into a navigation district under Section 59 of Article 16 of the State Constitution shall be and hereby are in all things approved, ratified, confirmed and validated.

Sec. 2. The fact that some of the navigation districts in this State created originally under Section 52 of Article 3 of the Constitution of this State have availed themselves of the privilege granted by Chapter 103, Section 1, Acts of the 41st Legislature, 1st Called Session, 1929, and have been converted under the provisions of said Act into navigation districts under Section 59 of Article 16 of the Constitution of this State and it is of public importance that such conversion and the proceedings had with reference thereto should be in all things ratified, confirmed and validated, creates an emergency and an imperative public necessity requiring the suspension of the Constitutional Rule requiring bills to be read on three several days in each House, and the Said Rule is hereby suspended and that this Act shall take effect and be in force from and after its passage, and it is so enacted. [Acts 1931, 42nd Leg., p. 858, ch. 365 (Act 1931, 42nd Leg., Spec. L., p. 460, ch. 238).]

**Art. 8263c. Navigation districts; power to borrow money and encumber properties and revenue; evidences of indebtedness**

Sec. 1. Any navigation district organized or hereafter to be organized under any of the provisions of the Constitution or laws of this State created for the development of deep water navigation which may now have, or may hereafter have, within the boundaries of such district, a city of not less than 27,000, nor more than 28,000 inhabitants as shown by the Federal Census, last preceding such action, in addition to the other powers conferred by law, is hereby granted and shall hereafter, in addition, have the power to borrow money and to mortgage and encumber any part or all of its properties and facilities and the franchise and revenues and income from the operation thereof and everything pertaining thereto acquired or to be acquired to secure the payment of funds to purchase, build, improve, enlarge, extend or repair any of its wharves, docks, warehouses, levees, bulkheads, canals, waterways or other aids to navigation and as additional security therefor by the terms of such encumbrance may pledge and encumber the net income and revenues from the operation of the properties and facilities of said district and may provide in such encumbrance for a grant to the purchaser under sale or foreclosure thereunder of a franchise to operate the property and facilities so encumbered for a term of not over twenty years after such purchase, subject to all laws regulating same then in force.

Sec. 2. No such obligation shall ever be a debt of such district but solely a charge upon the property and facilities so encumbered and such revenues and income shall never be reckoned in determining the power of such navigation district to issue any bonds for any purpose authorized by law.

Sec. 3. Such districts shall have the power to issue evidence of such indebtedness secured by said encumbrance bearing interest not exceeding six (6%) per cent. and maturing not to exceed twenty years after date thereof but said encumbrance and said evidences of indebtedness shall contain this clause: "The holder hereof shall never have the right to demand payment of any obligation out of any funds raised or to be raised by taxation."

Sec. 4. When the revenues and income of said properties and facilities of a navigation district shall be encumbered under this law the expense of operation and maintenance necessary to render efficient service of said properties and facilities shall always be a first lien and charge against such revenues and income prior to and superior to the lien of said

encumbrance. No encumbrance shall be foreclosed because of default of said district until said default has existed for a period of ninety days and notice thereof has been served upon the governing body of said district.

Sec. 5. The encumbrance may provide for a trustee to enforce foreclosure and in the event of foreclosure may provide for the grant of a franchise to the purchaser under foreclosure to operate the properties encumbered for a period of not to exceed twenty years from the date of default and the district shall have the option at any five year period for twenty years after default to repurchase said properties upon reasonable terms and at reasonable prices to be set forth in said encumbrance.

Sec. 6. Such district shall also have the right to borrow funds for current expenses and to issue warrants therefor, payable not later than the close of any calendar year for which loans are made, such warrants not to exceed in the aggregate the anticipated revenue of the district and to bear interest not to exceed six (6%) per cent. per annum.

Sec. 7. The management and control of any such property and facilities so encumbered during the time they are encumbered shall be in the hands of the Commissioners of said district as provided by law. [Acts 1931, 42nd Leg., Spec. L., p. 192, ch. 89.]

[Art. 8263d. Navigation districts authorized to contract with United States]

Sec. 1. Two (2) or more navigation districts incorporated under the laws of the State of Texas, all, or parts of which are situated within a single county, and which may be interested in, or in the judgment of the governing bodies of such district, may be benefited by any navigation project which has been approved by Act of Congress of the United States, or by the Secretary of War, shall have power to enter into contracts with the Government of the United States, and with any one or more of such navigation districts interested in such common project, for the purpose of consummating such project, or in aid thereof; and are expressly authorized, as parts of such contracts, to assume joint, or joint and several liability for the construction, completion, and consummation of such project, and for the acquisition of real or other property in connection therewith; to lend and contribute funds of such navigation districts to the United States, or to any other such navigation district, in support, or in aid of such project; and to assume and become responsible for valid obligations of the United States, or of any such navigation district or districts, incurred in furtherance of such common project.

Sec. 2. All contracts so made and entered into by such navigation district shall be approved by resolution of the governing bodies of such districts and shall be executed by the presiding officer of such governing body, duly attested by the corporate seal of the navigation district.

Sec. 3. It is the purpose and intent of this Act to confer upon navigation districts incorporated under the laws of this State, and jointly or mutually interested in a navigation project which has been approved by the Government of the United States, either by Act of Congress, or Act of the Secretary of War, the fullest possible power of contract with regard to such navigation project of common interest. [Acts 1931, 42nd Leg., 1st C. S., p. 24, ch. 12.]

## TITLE 129—WILLS

Art. 8291. [7865] [5343] [4867] Posthumous children

When a testator shall have children born and his wife enceinte, the posthumous child, if unprovided for by settlement and pretermitted by his last will and testament, shall succeed to the same portion of the father's estate as such child would have been entitled to if the father had died intestate; toward which portion the devisees and legatees shall con-

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tribute proportionately out of the parts devised and bequeathed to them by such last will and testament; (provided, however, that where the surviving wife is the mother of all of testator's children and said surviving wife is the principal beneficiary in said testator's last will and testament to the entire exclusion, by silence or otherwise, of all of said testator's children, then and in that event the foregoing provisions of this Article shall not apply or be considered in the construction of said last will and testament. [As amended Acts 1931, 42nd Leg., p. 329, ch. 196, § 1.]

**Art. 8292. [7866] [5344] [4868] After-born child**

If a testator having a child or children born at the time of making his last will and testament, shall at his death, leave a child or children born after the making of such last will and testament, the child or children so after born and pretermitted shall, unless provided for by settlement, succeed to the same portion of the father's estate as they would have been entitled to if the father had died intestate; toward raising which portion the devisees and legatees shall contribute proportionately out of the parts devised and bequeathed to them by such last will and testament, in the same manner as is provided in Article 8291, (provided, however, that where the surviving wife is the mother of all of testator's children and said surviving wife is the principal beneficiary in said testator's last will and testament to the entire exclusion, by silence or otherwise, of all of said testator's children, then and in that event the foregoing provisions of this Article shall not apply or be considered in the construction of said last will and testament. [As amended Acts 1931, 42nd Leg., p. 329, ch. 196, § 2.]

### TITLE 130—WORKMEN'S COMPENSATION LAW

**Art. 8306. Damages and compensation for personal injuries**

Sec. 9. If the deceased employee leaves no legal beneficiaries, the Association shall pay all expenses incident to his last sickness as a result of the injury and in addition a funeral benefit not to exceed \$250.00.

Where any deceased employee leaves legal beneficiaries, but is buried at the expense of his employer or any other person, the expense of such burial, not to exceed \$250.00, shall be payable out of the compensation due the beneficiary or beneficiaries of such deceased employee, subject to the approval of the Board. [As amended Acts 1931, 42nd Leg., p. 303, ch. 178, § 1.]

Sec. 12d. Upon its own motion or upon the application of any person interested showing a change of condition, mistake or fraud, the Board at any time within the compensation period, may review any award or order, ending, diminishing or increasing compensation previously awarded, within the maximum and minimum provided in this Law, or change or revoke its previous order denying compensation, sending immediately to the parties a copy of its subsequent order or award. Provided, when such previous order has denied compensation, application to review same shall be made to the Board within twelve months after its entry, and not afterward. Review under this Section shall be only upon notice to the parties interested. [As amended Acts 1931, 42nd Leg., p. 260, ch. 155, § 1.]

Sec. 12i. If it be established that the injured employee were a minor when injured and that under normal condition his wages would be expected to increase, that fact may be considered in arriving at his average weekly wages, and compensation may be fixed accordingly.

A minor who has been employed in any hazardous or other employment which is prohibited by any Statute of this State, shall nevertheless be entitled to receive compensation under the terms and provisions of this Act. Provided, that this Section shall not be construed to excuse or justify any person, firm or corporation employing or permitting to be employed

a minor in any hazardous or other employment prohibited by any Statute of this State. [As amended Acts 1931, 42nd Leg., p. 259, ch. 154, § 1.]

Effective May 20, 1931. A typographical error designates this section 121 instead of 12i.

Sec. 19. [Sec. 1] If an employee, who has been hired in this State, sustain injury in the course of his employment he shall be entitled to compensation according to the Law of this State even though such injury was received outside of the State, and that such employee, though injured out of the State of Texas, shall be entitled to the same rights and remedies as if injured within the State of Texas, except that in such cases of injury outside of Texas, the suit of either the injured employee or his beneficiaries, or of the Association, to set aside an award of the Industrial Accident Board of Texas, or to enforce it, as mentioned in Article 8307, Sections 5-5a, shall be brought either

a. In the county of Texas where the contract of hiring was made; or

b. In the county of Texas where such employee or his beneficiaries or any of them reside when the suit is brought, or

c. In the county where the employee or the employer resided when the contract of hiring was made, as the one filing such suit may elect.

Providing that such injury shall have occurred within one year from the date such injured employee leaves this State; and provided, further, that no recovery can be had by the injured employee hereunder in the event he has elected to pursue his remedy and recovers in the state where such injury occurred.

[Sec. 2] That this amendatory Act shall be effective and be deemed and held to be in effect as of March 28, 1917, that being the effective date of the Act of 1917, Chapter 103, and that every such suit heretofore filed by either party in a Court of Texas having jurisdiction of the amount involved, to set aside an award of the Industrial Accident Board of Texas where the injury occurred outside of Texas, shall be held and deemed to have been properly filed, and the Court to have jurisdiction thereof in the cases mentioned in Section 1 hereof where the injury occurred outside of Texas, if filed in a Court of Competent Jurisdiction as to amount in either of the counties mentioned in Section 1 hereof if the Court entertained jurisdiction of such suit; and provided that where any such suit by either party to set aside any such award was dismissed on the ground that the Court, because of the injury having occurred outside of Texas, had no jurisdiction thereof, then that either party to any proceeding or claim before the Industrial Accident Board of Texas relating to an injury which occurred outside of Texas, shall have six months after this amendatory Act becomes effective in which to bring suit to set aside any award of said Board heretofore made by it in such cases where the injury occurred outside of Texas, such suit to be brought in the proper county or counties, as mentioned in Section 1 of this Act, but provided, further, that where neither party to any such award made attempt to set the award aside, that such award shall be deemed and held to be in full force and effect. [As amended Acts 1931, 42nd Leg., p. 133, ch. 90, § 1.]

[Art. 8306a. Discount for present payment]

Sec. 1. In all cases when the payments of weekly compensation due an injured employe or beneficiary coming within the provisions of the Workmen's Compensation Act are accelerated by increasing the amount of compensation by correspondingly decreasing the number of weeks for which the same is to be paid, and when the liability of the insurance company is redeemed by the payment of a lump sum, by agreement of parties interested, or as a result of an order made by the Industrial Accident Board or a judgment rendered by a court of competent jurisdiction, and when advanced payments of compensation are made, and in all cases when com-



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compensation is paid before becoming due, discount shall be allowed for present payment at six (6%) per cent compounded annually.

Provided, however, future installments of compensation payable to alien beneficiaries, not residents of the United States, may be commuted and paid according to the terms and provisions of Section 17, Article 8306 of the Revised Civil Statutes of 1925; and provided further when either party shall appeal from the award of the Industrial Accident Board to the District Court, the District Court shall try the matter appealed from only, and shall not in said trial adjudicate in any way any right to exemplary damages, as is granted in Article 16, Section 26, of the State Constitution. [Acts 1931, 42nd Leg., p. 415, ch. 248, § 1.]

Effective 90 days after May 23, 1931, date of adjournment. Section 2 repeals all conflicting laws and parts of laws.

#### Art. 8307. Industrial Accident Board

Sec. 4. The Board may make rules not inconsistent with this Law for carrying out and enforcing its provisions, and may require any employee claiming to have sustained injury to submit himself for examination before such Board or someone acting under its authority at some reasonable time and place within the State, and as often as may be reasonably ordered by the Board to a physician or physicians authorized to practice under the Laws of this State. If the employee or the Association requests, he or it shall be entitled to have a physician or physicians of his or its own selection present to participate in such examination. Refusal of the employee to submit to such examination shall deprive him of his right to compensation during the continuance of such refusal. When a right to compensation is thus suspended no compensation shall be payable in respect to the period of suspension. If any employee shall persist in insanitary or injurious practices which tend to either imperil or retard his recovery, or shall refuse to submit to such medical or surgical treatment or other remedial treatment recognized by the State, as is reasonably essential to promote his recovery, the Board may in its discretion order or direct the Association to reduce or suspend the compensation of any such injured employee. No compensation shall be reduced or suspended under the terms of this Section without reasonable notice to the employee and an opportunity to be heard.

When authorized by the board, the Association shall have the privilege of having any injured employee examined by a physician or physicians of its own selection, at reasonable times, at a place or places suitable to the condition of the injured employee and convenient and accessible to him. The Association shall pay for such examination and the reasonable expense incident to the injured employee in submitting thereto. The injured employee shall have the privilege to have a physician of his own selection present to participate in such examination. Provided, when such examination is directed by the board at the request of the Association, the Association shall pay the fee of the physician selected by the employee, such fee to be fixed by the Board.

Process and procedure shall be as summary as may be under this Law. The Board or any member thereof shall have the power to subpoena witnesses, administer oaths, inquire into matters of fact, examine such parts of the books and records of the parties to a proceeding as relate to questions in dispute, punish for contempt in the same manner and to the same extent as a District Court may do, and to bar persons guilty of unethical or fraudulent conduct from practicing before the Board. All rulings and decisions of the Board relating to disputed claims shall be upon questions of fact and in accord with the provisions of this Law. [As amended Acts 1931, 42nd Leg., p. 175, ch. 102, § 1.]

Sec. 5. All questions arising under this law, if not settled by agreement of the parties interested therein and within the provisions of this

law, shall, except as otherwise provided, be determined by the Board. Any interested party who is not willing and does not consent to abide by the final ruling and decision of said Board shall within twenty (20) days after the rendition of said final ruling and decision by said Board, file with said Board notice that he will not abide by said final ruling and decision. And he shall within twenty (20) days after giving such notice bring suit in the county where the injury occurred to set aside said final ruling and decision and said Board shall proceed no further toward the adjustment of such claim, other than hereinafter provided. Whenever such suit is brought, the rights and liability of the parties thereto shall be determined by the provision of this law and the suit of the injured employe or person suing on account of the death of such employe shall be against the association if the employer of such injured or deceased employe at the time of such injury or death was a subscriber as defined in this law. If the final order of the Board against the association, then the association and not the employer shall bring suit to set aside said final ruling and decision of the Board, if it so desires, and the Court shall in either event determine the issues in such cause instead of the Board upon trial de novo and the burden of proof shall be upon the party claiming compensation. The Industrial Accident Board shall furnish any interested party in said claim pending in Court upon request free of charge, with a certified copy of the notice of the employer becoming a subscriber filed with the Board and the same when properly certified to shall be admissible in evidence in any Court in this State upon trial of such claim therein pending and shall be prima facie proof of all facts stated in such notice in the trial of said cause unless same is denied under oath by the opposing party therein. In case of recovery the same shall not exceed the maximum compensation allowed under the provisions of this law. If any party to any such final ruling and decision of the Board, after having given notice as above provided, fails within said twenty (20) days to institute and prosecute a suit to set the same aside, then said final ruling and decision shall be binding upon all parties thereto, and, if the same is against the association, it shall at once comply with such final ruling and decision, and failing to do so the Board shall certify the fact to the Commissioner of Insurance and such certificate shall be sufficient cause to justify said Commissioner to revoke or forfeit the license or permit of such association to do business in Texas. [As amended Acts 1931, 42nd Leg., p. 378, ch. 224, § 1.]

Sec. 8. A majority of the Board shall constitute a quorum to transact business, and the act or decision of any two members thereof shall be held the act or decision of the Board, except as otherwise herein specifically provided. No vacancy shall impair the right of the remaining member or members of the Board to exercise all the powers of the Board. The Board shall provide itself with a seal on which shall be inscribed the words "Industrial Accident Board, State of Texas." Any Order, award or proceeding of said Board when duly attested by any member of the Board or its secretary, shall be admissible as evidence of the act of said Board in any Court of this State. [As amended Acts 1931, 42nd Leg., p. 132, ch. 89, § 1.]

[Art. 8307a. Suit to set aside decision of Industrial Accident Board; transfer to county where injury occurred]

Any interested party who is not willing and does not consent to abide by the final ruling and decision of the Industrial Accident Board shall, in the manner and within the time provided by Section 5 of Article 8307, Revised Civil Statutes of 1925, file notice with said Board, and bring suit in the county where the injury occurred to set aside said final ruling and decision; however, in the event such suit is brought in any county other than the county where the injury occurred, the Court in which same is filed shall, upon ascertaining that it does not have jurisdiction to render

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judgment upon the merits, transfer the case to the proper Court in the county where the injury occurred. Provided, however, that notice of said transfer shall be given to the parties and said suit when filed in the court to which the transfer is made, shall be considered for all purposes, the same as if originally filed in said court. [Acts 1931, 42nd Leg., p. 351, ch. 208, § 1.]

#### Art. 8308. Employers' Insurance Association

Sec. 7. Any employer of labor in this State who may be subject to the terms of this Law or to the terms of the "Longshoremen's and Harbor Workers' Compensation Act" of the United States may become a subscriber to the Association. [As amended Acts 1931, 42nd Leg., p. 289, ch. 170, § 1.]

Sec. 16a. Whenever the Association shall have accumulated at the end of any calendar year, an admitted surplus in excess of incurred losses, expenses and unearned premiums or other liabilities amounting to the sum of Two Hundred Thousand (\$200,000.00) Dollars or more, the liability of its members to assessment under Article 8308, Section 15, shall be suspended, and it shall be authorized to issue policies not subject to assessment. It shall be the duty of the Board of Insurance Commissioners to determine promptly after the filing of the annual Statement of the Association whether or not such an amount of surplus exists and if it finds that it does, it shall so state in a certificate. Such certificate shall remain in full force and effect for one (1) year or until such time as a later report to or examination by the Department of Insurance shall show the surplus to be less than Two Hundred Thousand (\$200,000.00) Dollars, whereupon the Board of Insurance Commissioners shall cancel and revoke such certificate and require the Association to issue policies subject to assessment under Article 8308, Section 15, as they were prior to the time when such surplus of Two Hundred Thousand (\$200,000.00) Dollars or more was first accumulated. [As amended Acts 1931, 42nd Leg., p. 203, ch. 119, § 1.]

Sec. 21. If a subscriber, who has complied with all the rules, regulations and demands of the association, is required by any Judgment of a Court at Law, or by any Judgment of a Court of Equity or of admiralty and maritime jurisdiction to pay any employee any damages, actual or exemplary, on account of any personal injury sustained by any such employee in the course of his employment during the period of subscription the association shall pay to the subscriber the full amount of the Judgment and the costs assessed therewith, if the subscriber shall have given the Association notice of the bringing of the action upon which the Judgment was recovered and an opportunity to appear and defend the same in his or its name. [As amended Acts 1931, 42nd Leg., p. 289, ch. 170, § 2.]

[Art. 8309a. Hearing of claim by Industrial Accident Board; postponement of hearing]

When an injured employee of a subscriber under the Workmen's Compensation Act has sustained an injury in the course of employment and filed claim for compensation and given notice as required by Law, the Industrial Accident Board shall hear his claim for compensation within a reasonable time. Provided, however, when such injured employee is being paid compensation as provided in the Workmen's Compensation Act, and the Insurance Association is furnishing either hospitalization or medical treatment to such employee, the Industrial Accident Board may, within its discretion, delay or postpone the hearing of his claim, and no appeal shall be taken from any such order made by the Board. [Acts 1931, 42nd Leg., p. 304, ch. 179, § 1.]

Effective May 21, 1931. Section 2 repeals conflicting laws and parts of laws.







# SUPPLEMENT

TO THE

# PENAL CODE

## TITLE 4—OFFENSES AGAINST THE STATE, ITS TERRITORY, AND REVENUE

### [Art. 101a. Failure to report taxes collected and delinquent taxes]

Any officer of any unit of government within the county, who shall fail, neglect or refuse to furnish the information required to be furnished by him under the provisions of this Act, when requested as herein provided, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for a period of not less than one (1) month, nor more than twelve (12) months, or by both such fine and imprisonment. [Acts 1931, 42nd Leg., p. 500, ch. 279, § 5.]

Effective 90 days after May 23, 1931, date of adjournment. Sections 1-4, 6, 7 of said Acts 1931, 42nd Leg., p. 500, ch. 279, are published as Rev. Civ. St. art. 7264b.

### [Art. 131a. False entries as to natural gas tax; examination of books]

Sec. 6. Whoever shall, as a producer or as agent or representative of a producer, knowingly make any false entries or fail to make any proper entries in the books required by this Act with intent to defraud the State; or whoever as such, shall knowingly make a false or incomplete report as required by the provisions of this Act; or whoever as such shall knowingly fail or refuse to make the report required to be made; or whoever, as such shall destroy, mutilate or secrete any of the records required to be kept by the provisions of this Act; or whoever shall, as such, hide or secrete with intent to defraud, any of the property upon which a lien is created hereunder, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in a sum of not less than One Hundred (\$100.00) Dollars, nor more than One Thousand (\$1,000.00) Dollars, or be confined in the County Jail not more than twelve (12) months, or by both such fine and imprisonment; and, in addition thereto, shall forfeit to the State of Texas, for any said offense or the violation of any of the provisions hereof, or any rule or regulation, a penalty of One Thousand (\$1,000.00) Dollars for each such offense, to be recovered by the Attorney General.

Sec. 7. The Attorney General, Comptroller and Railroad Commission shall have the right to examine any of the books, records or properties of any producer, and of any other person in Texas buying gas from any such producer. Any person refusing such examination shall be liable for the punishment and penalties prescribed in the foregoing section. [Acts 1931, 42nd Leg., p. 111, ch. 73.]

Articles 131a, 131b, effective 90 days after May 23, 1931, date of adjournment. Sections 1-5, 8, 9 of said Acts 1931, 42nd Leg., p. 111, ch. 73, are published as Rev. Civ. St. art. 7047b. Section 10 repealed in part art. 6060, sections 11-13 are published as Rev. Civ. St. art. 7047e.

**[Art. 131b. Sale of cigarettes in unstamped packages; counterfeiting stamps]**

Sec. 14. After this Act shall take effect any person who shall knowingly and wilfully sell or offer for sale in this State, either as principal or as agent, any cigarettes except in packages or parcels bearing the stamps, properly cancelled, evidencing the payment of the tax thereon as levied by this Act, shall, for each such sale, upon conviction be fined not less than Twenty-five (\$25.00) Dollars, nor more than Five Hundred (\$500.00) Dollars, or be punished by imprisonment in the County Jail for not less than ten (10) days nor more than one (1) year, or by both such fine and imprisonment; and any person, firm or corporation who shall sell or offer for sale, or aid or abet the sale of any cigarettes in packages or parcels not bearing the stamps, properly cancelled, evidencing the payment of the tax thereon as levied by this Act, shall be liable to the State for a penalty of Five Hundred (\$500.00) Dollars for each such unlawful sale, to be recovered at the suit of the State in any District Court of Travis County for the benefit of the State Available School Fund.

Sec. 15. Any person, other than the State Treasurer or his duly authorized agent, who shall print or engrave or directly aid in or cause the printing or engraving of any stamp or stamps evidencing or purporting to evidence the payment of any tax levied by this Act, or who shall use or consent to the use of any counterfeit or unauthorized stamps in connection with the sale or offering for sale of any cigarettes, or shall place or cause to be placed on any package or parcel containing or to contain such cigarettes, any such unauthorized or counterfeit stamps, shall upon conviction be punished by imprisonment in the penitentiary for not less than two (2) nor more than twenty (20) years. [Acts 1931, 42nd Leg., p. 111, ch. 73.]

See note to art. 131a.

**[Art. 141a. Sale of gasoline without permit]**

Whoever, as distributor, shall sell any gasoline or gasoline substitute upon which a tax is required to be paid by this Act without having first obtained and at the time having a valid permit as required by this Act, or whoever shall sell any gasoline or gasoline substitute in this State as agent, employee, or representative of a distributor upon which a tax is imposed by this Act, knowing that such distributor has not obtained a permit as required by this Act, or that said distributor does not at the time have a valid permit, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than One Hundred (\$100.00) Dollars nor more than Five Thousand (\$5,000.00) Dollars, or be confined in the county jail not more than six months or both such fine and imprisonment. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 17.]

This article was designated as art. 7065g, published as Pen. Code, art. 141a. Civ. Sts., but being a penal provision is

**[Art. 141b. Destroying records affecting gasoline tax]**

If any person shall destroy, mutilate, or secrete any of the records required to be kept by the provisions of this Act, or shall refuse to allow the Comptroller or his representatives or the Attorney General or his representatives to examine the same, he shall be guilty of a misdemeanor, and shall be fined in a sum of not less than One Hundred (\$100.00) Dollars nor more than Five Thousand (\$5,000.00) Dollars, or be confined in the county jail not more than six months, or both such fine and imprisonment. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 17.]

This article was designated as art. 7065i, published as Pen. Code, art. 141b. Civ. Sts., but being a penal provision is

**[Art. 141c. False entries as to gasoline tax]**

Whosoever shall as distributor or as agent or representative of a distributor, knowingly make any false entry or fail to make entries in the



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books required to be kept by this Act, with intent to defraud the State, or whoever as such shall knowingly make a false or incomplete return as required by the Comptroller of Public Accounts to be made, under this Act, shall be guilty of a misdemeanor, and upon conviction therefor, shall be fined in a sum not less than One Hundred (\$100.00) Dollars, nor more than One Thousand (\$1,000.00) Dollars, or to be confined in the county jail not more than six (6) months, or by both such fine and imprisonment. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 17, as amended Acts 1931, 42nd Leg., p. 163, ch. 98, § 6.]

This article was designated as art. 7065k, published as Pen. Code, art. 141c. Civ. Sts., but being a penal provision is

**[Art. 141d. False statements under gasoline tax act]**

Whoever willfully or knowingly makes any false statement in any claim made or filed under the provisions of this Act as to any material fact required to be given by this Act shall be guilty of a misdemeanor, and shall be punishable by a fine of not less than Two Hundred (\$200.00) Dollars, nor more than Two Thousand (\$2,000.00) Dollars, or by imprisonment in the county jail for not less than thirty (30) days nor more than one (1) year, or both such fine and imprisonment. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 17.]

This article was designated as art. 7065o, published as Pen. Code, art. 141d. Civ. Sts., but being a penal provision is

**[Art. 141e. Disclosing information as to franchise tax report]**

If the Secretary of State or any other State officer or employee, or any other person, having access to any franchise tax report filed as provided by law, including any shareholder who is permitted to examine the report of any corporation as provided in Section 2 hereof, shall make known in any manner whatever not provided by law the amount or source of income, profits, losses, expenditures, or any particulars thereof or any other information pertaining to the financial condition of the corporation set forth or disclosed in such report, he shall be punished by a fine not exceeding One Thousand Dollars (\$1,000.00) or confinement in jail for not exceeding one year, or both. [Acts 1931, 42nd Leg., p. 441, ch. 265, § 3.]

Effective 90 days after May 23, 1931, date as Rev. Civ. St. art. 7084, and section 2 of adjournment. Section 1 of said Acts as Rev. Civ. St. art. 7089. Section 3 repeals part of art. 7089a. 1931, 42nd Leg., p. 441, ch. 265, is published

**[Art. 146a. Failure to make report as to use of State automobile or truck or making false report]**

Sec. 1. Whoever uses an automobile or truck owned by this State for any purpose shall make a written report of such use to the Head of the Department, Institution, Board, Commission, or other Agency of this State having charge of such automobile or truck, such reports to be made daily when such vehicles are in use, a separate report being made for each day, and such reports shall be made on forms prescribed by the State Auditor. Such reports shall show the purpose for which such vehicle was used, the mileage traveled, the amounts of gasoline and oil consumed, the passengers carried, and such other information as may be necessary to provide a proper record of the use of such vehicle. Said reports shall be official records of the State and shall be subject to inspection by any official of this State who shall be authorized to audit or inspect claims, accounts or records of any State Department, Institution, Board, Commission or Agency of the State.

Sec. 2. Penalty for failure to make reports. Whoever uses any automobile or truck owned by this State for any purpose, and fails to make and file a report of such use as required by this Act within ten (10) days after the use of said automobile or truck shall be fined not less than Five Dollars (\$5.00) nor more than One Hundred Dollars (\$100.00).

Sec. 3. Penalty for making false report. Whoever uses any automobile or truck owned by this State for any purpose, and makes a false or

fraudulent report of such use shall be fined not less than Five Dollars (\$5.00) nor more than One Hundred Dollars (\$100.00). [Acts 1931, 42nd Leg., p. 374, ch. 220.]

[Art. 147a. Preservation of archaeological matter]

Sec. 1. It shall hereafter be unlawful for any person in this State to remove, destroy, or mutilate any archaeological<sup>1</sup> matters in caves, rock shelters, or in prehistoric burials, camp sites, kitchen middens, funeral mounds, prehistoric paintings, engravings, or inscriptions; west of the Pecos River; or to remove, destroy, or mutilate any prehistoric bones or relics in this State West of the Pecos River, except as herein provided, and if any person shall violate the provisions hereof, he shall be guilty of a misdemeanor, and upon conviction shall be fined in a sum not less than One (\$1.00) Dollar or not more than Twenty-five (\$25.00) Dollars.

Sec. 2. If any person shall desire to remove, mutilate or destroy any protected archaeological<sup>1</sup> matters, prehistoric bones and relics, unless the same be for the purpose of cleaning, clearing or removing of same from any waters or lands for the purpose of building any highway or making any improvement, when such clearing is reasonably necessary thereto, he shall, at the time of such removal, mutilation or destruction, have in his possession the consent of the owner of said land in writing, which said instrument shall clearly describe said land and clearly grant such authority, stating the name of the person to whom it is granted, and shall bear the address of the permitor and permittee. Provided, however, that if the owner of said land be a non-resident, of said county, then such consent must be acknowledged by a Notary Public or other authority, in the same manner as a conveyance; if said lands be State lands, or public lands, then the consent of the Commissioners' Court of said county, in writing shall be had. Every such person removing the above described property shall have in his possession at the time of said removal, and while the same is being removed, and while the same is at any other time in his possession, such written consent, and shall exhibit the same to any peace officer. But the Commissioners' Court in granting such permit shall take into consideration the limited supply of such matters in said county, and shall see that only such soil is taken as is actually necessary to preserve same in removing them, and that the same are not exhausted by such removal.

Sec. 3. The sections and parts of sections hereof are hereby declared independent of each other, and should the courts declare invalid any sections or parts of sections hereof, then it is hereby declared as the Legislative intent that the remaining sections or parts of sections would have been enacted without such invalid sections or parts thereof. [Acts 1931, 42nd Leg., 1st C. S., p. 71, ch. 32.]

<sup>1</sup> Should be archaeological.

## TITLE 6—OFFENSES AFFECTING THE RIGHT OF SUFFRAGE

[Art. 205a. Mailing poll tax receipts, penalty]

Anyone violating this Act [Acts 1929, 41st Leg., 1st C. S., ch. 51, p. 111, §§ 1, 2, 3, amending Rev. Civ. St. 1925, arts. 2963, 2965, 2968], upon conviction, shall be fined not less than \$25.00 nor more than \$200.00. [Acts 1929, 41st Leg., 1st C. S., p. 111, ch. 51, § 4.]

Sections 1, 2 and 3 of Acts 1929, 41st Leg., thereof are published as articles 2963, 2965 1st C. S., p. 111, ch. 51, being amendments and 2968, Rev. St. 1925.

[Art. 246a. Immediate delivery of returns]

Any chairman of a political party or other person or officer violating or failing to comply with any provision of this Act [Rev. St. 1925, art.

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3124] shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$25.00 nor more than \$500.00, or be confined in the County jail not to exceed thirty days, or by both such fine and imprisonment. [Acts 1929, 41st Leg., p. 570, ch. 275, § 2.]

Section 1 of said Acts 1929, 41st Leg., p. 570, ch. 275, was an amendment to Rev. Civ. Sts. art. 3124.

## TITLE 7—RELIGION AND EDUCATION

**Art. 287. [Permitting sale of certain articles on Sunday; regulations as to motion picture shows]**

The preceding Article shall not apply to markets or dealers in provisions as to sales of provisions made by them before nine o'clock A. M., nor to the sales of burial or shrouding material, newspapers, ice, ice cream, milk, nor to any sending of telegraph or telephone messages at any hour of the day or night, nor to keepers of drug stores, hotels, boarding houses, restaurants, livery stables, bath houses, or ice dealers, nor to telegraph or telephone offices, nor to sales of gasoline, or other motor fuel, nor to vehicle lubricants, nor to motion picture shows, or theatres operated in any incorporated city or town, after one o'clock P. M.

Sec. 2. The Commissioners or City Council of the towns or cities in which said motion picture shows or theatres are located shall have the right and power by proper ordinance to prohibit or regulate the keeping open or showing of such motion picture shows or theatres on Sunday. [As amended Acts 1931, 42nd Leg., p. 195, ch. 116.]

Effective 90 days after May 23, 1931, date of adjournment. Section 3 provides that if any section of the act is held invalid, such decision shall not affect the remainder.

**[Art. 294a. Violation of duty by census trustee]**

Any Census trustee who shall wilfully fail or refuse to obtain the necessary information in regard to any child who should be included in the Scholastic Census on the first day of September next thereafter or who shall wilfully fail or refuse to include any child within said ages in his rolls or shall wilfully make any false report in his rolls or summaries shall be guilty of false swearing and shall be punished as prescribed by Law for that offense. And if the County Superintendent finds or believes that any Census Trustee has violated any duty required under this Act, such County Superintendent shall report said Census Trustee to the Grand Jury of the county at its next session after discovering such breach of duty. [Acts 1931, 42nd Leg., p. 42, ch. 33, § 2.]

Effective March 24, 1931, date published as Rev. Civ. St. art. 2817a. said Acts 1931, 42nd Leg., p. 42, ch. 33, is

**[Art. 301a. Conducting commercial college without permit]**

Any person, or each member of any partnership or each member of any association of persons or each officer, including each director of any corporation which opens and conducts a commercial college or branch college or school without first having obtained the permit required in Section One of this Act, and without first having executed the bond required in Section Two of this Act, shall be guilty of a misdemeanor and punishable by fine of not less than one hundred dollars, nor more than five hundred dollars, and each day said college continues to be open and operated shall constitute a separate offense. [Acts 1929, 41st Leg., p. 523, ch. 250, § 4.]

Section 1-3, 5 and 6 are published as Rev. Civ. Sts., Art. 1415a. Section 7 provides that if any section is held invalid, the remainder shall continue in effect.

[Art. 301b. Operation of school busses; motor vehicles to stop when bus is receiving or discharges passengers]

Sec. 1. All vehicles used for the transportation of pupils to and/or from any school or college, shall have a sign on the front and rear and on each side of said vehicle, showing the words "School Bus" and said words shall be plainly readable in letters not less than six (6) inches in height. It shall be the duty of the operator of such "School Bus" vehicle to see that such signs are displayed as above provided, and it shall be unlawful to operate any such "School Bus" vehicle unless such signs are so displayed thereon. When any such "School Bus" vehicle stops, every operator of a motor vehicle or motorcycle approaching the same from any direction shall bring such motor vehicle or motorcycle to a full stop before proceeding in any direction; and in event such "School Bus" vehicle is receiving and/or discharging passengers, the said operator of such motor vehicle or motorcycle shall not start up or attempt to pass in any direction until the said "School Bus" vehicle has finished receiving and/or discharging its passengers.

Sec. 2. Any party who violates any of the provisions of Section 1 of this Act shall, upon conviction thereof, be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than Ten (\$10.00) Dollars nor more than Five Hundred (\$500.00) Dollars, or confined in the county jail not to exceed ninety (90) days, or both such fine and imprisonment; provided, however, that if death results to any person, caused either actually or remotely by a noncompliance and/or violation of any of the provisions of this Act, then and in that event, the party or parties so offending shall be punished as is now provided by law. [Acts 1931, 42nd Leg., p. 368, ch. 215.]

Effective 90 days after May 23, 1931, date any section is held invalid, such decision of adjournment. Section 3 provides that if shall not affect the remainder.

## TITLE 8—OFFENSES AGAINST PUBLIC JUSTICE

[Art. 380a. Collecting debts for others]

Any Justice of the Peace, sheriff, constable or other peace officer in this State, who shall receive for collection or undertake the collection of any claim for debt for others except under and by virtue of the processes of law prescribing the duties of such officers, or who shall receive compensation therefor except as prescribed by law, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Two Hundred Dollars nor more than Five Hundred Dollars, and in addition to such fine may be removed from office. Provided, however, that nothing herein shall be construed to prohibit any Justice of the Peace who is authorized by law to act for others in the collection of debts from undertaking such collections where the amount is beyond the jurisdiction of the Justice Court. [Acts 1929, 41st Leg., p. 483, ch. 227, § 1.]

Section 2 of said Act 1929, 41st Leg., p. 483, ch. 227, repeals all conflicting laws and parts of laws. Section 2a provides that if any section is held invalid, such holding shall not affect the remainder.

[Art. 383a. Clerks' failure to perform duties as depositories of trust funds]

Any county or district clerk who fails to perform any duty required by this Act [Civ. art. 2558a; P. C. art. 383a], or shall do or perform any act prohibited by the provisions of this Act [Civ. art. 2558a; P. C. art. 383a] shall be punished by fine of not exceeding Five Thousand Dollars (\$5,000.00), or by imprisonment in jail not exceeding two years, or by both such fine and imprisonment, and in addition thereto may be punished for contempt. [Acts 1930, 41st Leg., 4th C. S., p. 21, ch. 14, § 15.]

Sections 1-14 of Acts 1930, 41st Leg., 4th C. S., p. 21, ch. 14, are published as Civ. Sts. art. 2558a.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

[Art. 395a. Furnishing incorrect or refusal to furnish information as to farm areas; assessor's failure to perform duty]

Sec. 6. Any person, firm, or corporation who shall furnish an Assessor or his Deputies any information knowing the same to be incorrect, or any person, firm, or corporation who shall refuse to furnish information shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than Twenty-five Dollars (\$25.00), and not more than One Hundred Dollars (\$100.00).

Sec. 7. Any Assessor who shall fail or refuse to perform wholly or in part the services required by this Act, on the rules and regulations of the Commissioner of Agriculture, shall not be paid by the State of Texas for any work done in connection therewith, and shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum of not less than Fifty Dollars (\$50.00), and not more than Two Hundred Fifty Dollars (\$250.00).

Sec. 8. Any Assessor who shall fail or refuse to perform wholly or in part the services required by this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum of not less than One Hundred Dollars, (\$100.00) nor more than Five Hundred Dollars (\$500.00). [Acts 1931, 42nd Leg., p. 498, ch. 278.]

Effective 90 days after May 23, 1931, date of adjournment. Sections 1-5, 9 of said Acts 1931, 42nd Leg., p. 498, ch. 278 are published as Rev. Civ. St. art. 55b. Sections 10, 11, are referred to as notes to art. 55b.

[Art. 414a. Neglect of duty by comptroller or treasurer]

Any person who shall knowingly and willfully violate any provision of this Act shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for not less than 30 days nor more than six months, or by both such fine and imprisonment. [Acts 1930, 41st Leg., 5th C. S., p. 230, ch. 73, § 5.]

Sections 1-3 of Acts 1930, 41st Leg. 5th C. S., p. 230, ch. 73, are published as Civ. Sts. articles 4343, 4368, 4388, being amendments thereof.

[Art. 414b. Neglect of duty concerning budget]

Any officer, employee or official of the State Government, or of the County Government, or of any school district who shall refuse to comply with the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1000.00), or be imprisoned in the county jail for not less than one month, or more than twelve months, or shall be punished by both such fine and imprisonment. [Acts 1931, 42nd Leg., p. 339, ch. 206, § 20.]

Effective 90 days after May 23, 1931, date of adjournment. Sections 1-19 and 20a of Acts 1931, 42nd Leg., p. 339, ch. 206, are published as Civ. Stat. arts. 689a-1 to 689a-18 and 689a-20.

[Art. 418a. Officer's failure to serve and violation of jury wheel law]

Sec. 15. If any of the officers mentioned in Section 1, of this Act [Civ. St. art. 2116b] shall wilfully or negligently fail to serve as herein provided, or if any of said officers shall wilfully or negligently fail to designate one of their deputies for such service, or if after such designation such deputy shall wilfully or negligently fail to serve, the officer so failing to serve or to designate a deputy or the deputy so failing to serve shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than Fifty nor more than Five Hundred Dollars.

Sec. 16. If any person shall put into the wheel or take from the wheel, except at the times and in the manner provided for in this Act [Civ. St. art. 2116b], a card or cards bearing the name or names of any

person, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than Fifty nor more than Five Hundred Dollars.

Sec. 18. If any person shall violate any of the provisions of this Act [Civ. St. art. 2116b], or shall wilfully or negligently fail or neglect to perform any duty herein required of him, then where no penalty is specifically imposed by the terms of this Act [Civ. St. art. 2116b], he 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. [Acts 1929, 41st Leg., 1st C. S., p. 176, ch. 67.]

Sections 1-14 of Acts 1929, 41st Leg., 1st C. S., p. 176, ch. 67, are published as Rev. Civ. St. art. 2116b. Section 17 repeals certain specified articles and all conflicting laws and parts of laws.

#### [Art. 422a] Penalty

Any officer or person who shall refuse to permit the examination or access to the books, accounts, reports, vouchers, papers, documents or cash drawer or cash of his office, department, Institution, Board or Bureau of the State to the State Auditor and Efficiency Expert, or who shall in any way interfere with such examination, shall be guilty of a misdemeanor and upon conviction shall be fined not less than One Hundred (\$100.00) Dollars nor more than One Thousand (\$1,000.00) Dollars, or by imprisonment in the county jail for not less than one (1) month nor more than twelve (12) months, or by both such fine and imprisonment. [Acts 1929, 41st Leg., 1st C. S., p. 222, ch. 91, § 8.]

Sections 1-7 of Acts 1929, 41st Leg., 1st C. S., p. 222, ch. 91, are published as Rev. Civ. St. arts. 4413a-1 to 4413a-7.

[Art. 425a. Repealed by Acts 1929, 41st Leg., p. 33, ch. 11, § 2]

[Art. 427c. Clerk's failure to notify Industrial Accident Board of Appeals or give notice of judgment]

Sec. 1. That in every case appealed from the Industrial Accident Board to any District or County Court, the clerk of such court, shall, within twenty (20) days after the filing thereof, mail to the Industrial Accident Board a notice giving the style, number and date of filing such suit; and shall within twenty (20) days after judgment is rendered in such suit, mail to the Industrial Accident Board a certified copy of such judgment. The duties devolving upon District and County Clerks under this Act shall constitute a part of their ex officio duties and for such services they shall not be entitled to any fee.

In every such case the attorney preparing the judgment shall file the original and a copy of same with the clerk of the Court. However, the failure of such attorney to comply with this provision shall not excuse the failure of the clerk of a District or County Court to mail a certified copy of such judgment to the Industrial Accident Board as above provided.

Sec. 2. Any clerk of a District or County Court who fails to comply with the provisions of this Act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$250.00. [Acts 1931; 42nd Leg., p. 308, ch. 182.]

Art. 429. [424] [293] [273] False personation of officer

Whoever falsely assumes or pretends to be a Judicial or Executive Officer of this State or Justice of the Peace, sheriff or deputy, constable or any other Judicial or ministerial officer of any county or a State Ranger in this State and takes upon himself to act as such shall be guilty of a misdemeanor and shall be confined in jail not exceeding six months or be fined not exceeding Five Hundred (\$500.00) Dollars or by both such fine and imprisonment. [As amended Acts 1931, 42nd Leg., p. 430, ch. 259, § 1.]

## TITLE 9—OFFENSES AGAINST THE PUBLIC PEACE

### Art. 478. [205] Drinking liquor on train

Whoever shall drink intoxicating liquor as a beverage in or upon any railway passenger train, coach, closet, vestibule or platform connected therewith, while said train or coach is in the service of passenger transportation, or shall drink such liquor on any truck, bus or automobile, airplane or dirigible while same is being operated as a common carrier of passengers, shall be fined not less than ten nor more than one hundred dollars. Nothing herein shall prevent the use of such liquor as a stimulant in case of actual sickness of the person using it. [As amended Acts 1929, 41st Leg., p. 69, ch. 34, § 1.]

### [Art. 480a. Shooting on public road]

Any person who shoots or discharges any gun, pistol or firearm in, on, along or across any public road in this State shall be fined not more than One Hundred Dollars. [Acts 1929, 41st Leg., 2nd C. S., p. 4, ch. 3, § 1.]

### [Art. 489a. Sale or lease of weapon to minor or person under heat of passion]

If any person shall knowingly sell, rent, or lease any pistol to a minor, or any other person under the heat of passion, he shall be guilty of a misdemeanor; or, if any person violates any of the provisions hereof, he shall be guilty of a misdemeanor, and upon conviction, punished by a fine of not less than Ten Dollars (\$10.00), nor more than Two Hundred Dollars (\$200.00), provided that no person may purchase a pistol unless said purchaser has secured from a Justice of Peace, County Judge, or District Judge, in the county of his or her residence a certificate of good character. Said certificate to be kept with the permanent record of the dealer. No person may purchase a pistol who has served a sentence for a felony.

Nothing in this bill shall affect the law against carrying pistols. [Acts 1931, 42nd Leg., p. 447, ch. 267, § 4.]

Effective May 28, 1931. Sections 1-3, 6, of published as Rev. Civ. St. 7047d. Section 5 said Acts 1931, 42nd Leg., p. 447, ch. 267, are repeals art. 7068.

## TITLE 10—OFFENSES AGAINST MORALS, DECENCY AND CHASTITY

### [Art. 490a. Cohabiting in this State; bigamy; when]

Every person, having a husband or wife living, who shall marry another person, without this State, and shall afterward live with or cohabit with such other person within this State, shall be adjudged guilty of bigamy, and punished in the same manner as provided in Art. 490 of the Penal Code of the State of Texas. [Acts 1931, 42nd Leg., p. 10, ch. 9, § 1.]

### Art. 529. [511] [367] [345] Interference with dead bodies

If any person not authorized by law or by a relative for the purpose of reinterment, shall disinter, disturb, remove, dissect, in whole or in part, or carry away, any human body or the remains thereof, or remove any jewels, apparel or anything therefrom, or shall conceal said body, knowing it to be so illegally disinterred, he shall be confined in the penitentiary for not more than twenty-five (25) years, or be confined in jail for not more than twelve (12) months, or fined not\* more than Five Hundred Dollars (\$500.-00), or be punished by both such fine and imprisonment in jail. [As amended Acts 1931, 42nd Leg., p. 448, ch. 268, § 1.]

**Art. 534. Contributing to delinquency of child**

In all cases where any child shall be a 'Delinquent child' or a 'neglected child' as defined in the Statutes of this State, or when any person is an habitual drunkard or an addict to cocaine, morphine or other narcotics, and in all cases where a child is caused to become a delinquent child or a dependent and neglected child under the age of seventeen years, whether previously convicted or not, the parent, guardian or person having the custody of, or the person responsible for such child, habitual drunkard or narcotic addict, or any person who by any act encourages, causes, acts in conjunction with, or contributes to the delinquency, dependency or the neglect [of] such child, habitual drunkard or narcotic addict, or who shall in any manner cause, encourage, act in conjunction with or contribute to the delinquency, dependency or the neglect of any such child under the age of seventeen years, or habitual drunkard or narcotic addict shall be fined not exceeding five hundred (\$500.00) dollars, or be imprisoned in jail not to exceed one year or both. By the term delinquency as used herein is also meant any act which tends to debase or injure the morals, health or welfare of such child, habitual drunkard or narcotic addict, and includes the use of tobacco in any form, drinking intoxicating liquor, the use of narcotics, going into or remaining in any bawdy house, assignment house,

\*[not]

disorderly house, or road house, hotel, public dance hall where prostitutes, gamblers or thieves are permitted to enter and ply their trade, going into a place where intoxicating liquors or narcotics are kept, drunk, used or sold or associating with thieves and immoral persons or cause them to leaving [leave] home or to leave the custody of their parents or guardian or persons standing in lieu thereof without first receiving their consent or against their will or who by undue influence, cause such habitual drunkard or narcotic addict to unlawfully co-habit with any person known to them to be an habitual drunkard or narcotic addict, and any other act which would constitute such a child a delinquent or cause it to become a delinquent by committing such act. [As amended Acts 1929, 41st Leg., p. 238, ch. 103, § 1.]

Bracketed [leave] inserted by compiler.

## TITLE 11—OFFENSES AGAINST PUBLIC POLICY AND ECONOMY

**Art. 546. [524] Director borrowing funds**

Any director of a State bank or Banking and Trust Company, incorporated under the laws of this State, who shall, either directly or indirectly, borrow any of the funds of such bank in excess of ten per cent of its capital and surplus, without the consent of a majority of the directors of the bank first having been obtained and made a matter of record at a regular meeting of the Board, or without the written consent of such majority of the directors, other than the borrowers, being jointly executed by them and filed in the archives of such bank before the loan is made; and any officer of a State bank or Banking and Trust Company who shall knowingly become indebted to such State bank or Banking and Trust Company, directly or indirectly, in any sum whatever, without the consent of a majority of the Board, other than the borrower, obtained or recorded or filed in like manner, and any officer or director of such State bank or Banking and Trust Company who shall knowingly loan or assent to the loaning of any of its funds to any officer, or any of its funds to any director in excess of ten per cent of its capital and surplus, without such consent being first obtained and recorded or filed, or who shall knowingly permit any such officer or director to become indebted to such State bank or Banking and Trust Company or liable to it without such consent, shall be confined in the



penitentiary for a term of not less than two years. [As amended Acts 1931, 42nd Leg., p. 318, ch. 189, § 1.]

[Art. 546a. Loaning trust funds to bank officers]

That it shall be unlawful for any Officer, Director or employee of any State bank, State Bank and Trust Company, or other corporation doing a Trust business, to loan any Trust funds under the control of said State bank, State Bank and Trust Company, or other corporation doing a Trust business, to any Director, Officer or employee of any such State bank, State Bank and Trust Company, or other corporation doing a Trust business, and any Director, Officer or employee knowingly violating this Act shall be guilty of a felony and shall be punished by confinement in the penitentiary for a period of not less than two, nor more than ten years. [Acts 1931, 42nd Leg., p. 16, ch. 16, § 1.]

[Art. 546b. Loaning funds held in trust under certain powers to bank officers]

Sub-Division B. It shall be unlawful for any Bank and Trust Company to lend any officer, director or employee any funds held in trust under the powers conferred by this Article. Any officer, director or employee making such loan, or to whom such loan is made, shall be guilty of a felony and punishable by confinement in the penitentiary for not less than two years nor more than five years. [Acts 1931, 42nd Leg., p. 292, ch. 173, § 1.]

Effective May 21, 1931. Sub-division A  
is published as part of Rev. Civ. St. art.  
396.

[Art. 559a. False advertisement of bank's condition]

Any officer, director or stockholder of any State Bank or State Bank and Trust Company doing business under the laws of this State, or any person acting for such Bank or Bank and Trust Company, who shall write, print, publish or advertise in any manner, or shall cause to be written, printed or advertised in any manner, any false statement pertaining to the financial condition of such Bank or Bank and Trust Company, shall be fined not less than one Hundred Dollars nor more than One Thousand Dollars, or be confined in the county jail not less than three months nor more than twelve months, or both such fine and imprisonment. [Acts 1929, 41st Leg., 1st C. S., p. 158, ch. 59, § 1.]

[Art. 580a. Insurance policies payable in merchandise or burial materials prohibited]

Sec. 1. It shall hereafter be unlawful for any person, corporation, insurance company, fraternal organization, burial association or other association to write, sell or issue any certificate, policy, contract or membership, maturing upon the death of the person holding the same or upon the death of some member of the holder's family, if such certificate, policy, contract or membership provides that it is to be paid or settled, or if the plan of such person, corporation, organization or association provides that its certificates, policies, contracts or memberships are to be paid or settled, in merchandise or services rendered, or agreed to be rendered, or by furnishing burial materials or burial services, or in discounts on the regular prices of merchandise, burial materials or funeral services or other services; or if such certificate, policy, contract or membership is to be paid at maturity in anything except money.

Sec. 2. Any person, corporation, insurance company, fraternal organization, burial association or other association which shall hereafter write, sell or issue any certificate, policy, contract, or membership prohibited by the foregoing section of this Act shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not less than Ten Dollars (\$10.00) nor more than Two Hundred Fifty Dollars (\$250.00), each sale

of any such policy, contract or membership shall constitute a separate offense. [Acts 1931, 42nd Leg., p. 247, ch. 147.]

[Art. 580b: Misrepresentations as to terms of insurance policy]

Sec. 1. No Life, Health or Casualty Insurance Corporation including corporations operating on the cooperative or assessment plan, Mutual Insurance Companies, and Fraternal Benefit Associations or Societies, and any other societies or associations authorized to issue insurance policies in this State, and no officer, director, representative or agent therefor or thereof, or any other person, corporation or co-partnership, shall issue or circulate or cause or permit to be issued or circulated, any illustrated circular or statement of any sort, misrepresenting the terms of any policy issued by any such corporation or association or any certificate of membership issued by any such society or corporation, or other benefits or advantages permitted thereby, or any misleading statement of the dividends or share of surplus to be received thereon, or shall use any name or title of any policy or class of policies, or certificate of membership or class of such certificate, misrepresenting the true nature thereof. Nor shall any such corporation, society or association, or officer, director, agent or representative thereof, or any other person, make any misleading representations or incomplete comparisons of policies or certificates of membership to any person insured in such corporation, association or society, or member thereof, for the purpose of inducing or tending to induce, such person to lapse, forfeit or surrender his said insurance or membership therein.

Sec. 2. If any person shall violate any of the provisions of Section 1, hereof, he shall be guilty of a misdemeanor, and, upon conviction, shall be fined in a sum not less than Twenty-five (\$25.00) Dollars nor more than Five Hundred (\$500.00) Dollars, or be imprisoned in the county jail not more than sixty (60) days, or by both such fine and imprisonment.

Sec. 3. The Commissioner of Insurance, upon giving five (5) days' notice by registered mail, and upon hearing had for that purpose, may forfeit the charter; permit or license to do business of any society, association or corporation violating the provisions hereof, and may forfeit likewise the certificate of any person to write such insurance, where a certificate is required by Law. [Acts 1931, 42nd Leg., p. 332, ch. 199.]

[Art. 590a. Mutual Aid Associations, penalty]

Any person or persons who shall violate any of the provisions of this law [Vernon's Rev. Civ. St. 1925, arts. 4875a-1 to 4875a-31] shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not more than five hundred (\$500.00) dollars. [Acts 1929, 41st Leg., p. 563, ch. 274, § 28.]

Art. 602. Desertion of wife or child

Any husband who shall willfully desert, neglect or refuse to provide for the support and maintenance of his wife who may be in necessitous circumstances, or any parent who shall willfully desert, neglect or refuse to provide for the support and maintenance of his or her child or children under sixteen years of age, shall be confined in the penitentiary for not more than two years, or be confined in jail for not more than six months, or fined not less than Twenty-five (\$25.00) Dollars nor more than Five Hundred (\$500.00) Dollars, or be punished by both such fine and imprisonment in jail. [As amended Acts 1931, 42nd Leg., p. 479, ch. 276, § 1.]

Effective 90 days after May 23, 1931, date 195, § 1 (effective 90 days after March 14, of adjournment. This article was also 1925, date of adjournment). amended by Acts 1929, 41st Leg., p. 427, ch.

Art. 604. Allowance for support

The Court during its term, or Judge thereof in vacation after the filing of complaint against or after the return of indictment of any person for the crime of wife, or of child, or of wife and child desertion shall upon applica-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

tion of the complainant give notice to the defendant of such application and may upon hearing thereof enter such temporary orders as may seem just, providing for the support of deserted wives and children or both, pendente lite, and may punish for the violation or refusal to obey such order as for contempt. [As amended Acts 1931, 42nd Leg., p. 58, ch. 38, § 1.]

[Art. 606a. Bringing child into state for placing out or adoption without consent of State Board of Control]

Sec. 6. It shall be unlawful for any person, for himself or as agent or representative of another, to bring or send into this State any child below the age of sixteen (16) years for the purpose of placing him out or procuring his adoption without first having obtained the consent of the State Board of Control, which may be made by application directly to the Board of Control, or through the County Child Welfare Board. Said consent shall be given on a regular form to be prescribed by the Board of Control and no person shall bring any such child into this State without such permit and without having filed with the Board of Control a bond payable to the State, on a form to be prescribed by the Attorney General, and approved by the Board, in the penal sum of One Thousand (\$1,000.00) Dollars, conditioned that the person bringing or sending such child into this State will not send or bring any child who is incorrigible or unsound of mind or body; that he will remove any such child who becomes a public charge or pay the expense of removal of such charge, who, in the opinion of the Board of Control, becomes a menace to the community prior to this adoption or becoming of legal age; that he will place the child under a written contract approved by the County Child Welfare Board and the Board of Control; and that the person with whom the child is placed shall be responsible for his proper care and training. Before any child shall be brought or sent into the State for the purpose of placing him in a foster home, the person so bringing or sending such child shall first notify the Board of Control of his intention and the Board of Control shall immediately notify the County Child Welfare Board, who shall make a report to the Board of Control on the person whom it is indicated will have charge of the child, and shall obtain from the Board of Control a Certificate stating that such home is, and such person or persons in charge, are in the opinion of the Board of Control, suitable to have charge of such child. Such notification shall state the name, age and description of the child, the name and address of the person to whom the same is to be placed, and such other information as may be required by the Board of Control, and the same shall be sworn to by such person. The Board of Control shall require the person sending said child into the State, or the person who is in charge of the same after he has been brought here, to make a report at certain stated times, and in the event such reports are not made such Board shall be authorized to deport said child from this State and the expenses thereof shall be recovered under said bond; provided, however, that nothing herein shall be deemed to prohibit a resident of this State from bringing into the State a relative or child for adoption into his own family. The Board of Control and Child Welfare Boards shall not allow minors to come into and be brought into this State in violation of this Act.

Sec. 7. If any person shall bring into this State or direct, conspire, or cause to be brought into or sent into this State any child in violation of the foregoing section, he shall be guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not less than Twenty-five (\$25.00) Dollars nor more than One Thousand (\$1,000.00) Dollars, or by confinement in the County Jail not exceeding twelve months, or by both such fine and imprisonment. [Acts 1931, 42nd Leg., p. 323, ch. 194.]

Effective May 22, 1931. Sections 1 to 5, ch. 194, are published as Rev. Civ. St. art. 8 to 12 of said Acts 1931, 42nd Leg., p. 323, 695a.

**Art. 614. [1511] Engaging in roping contest**

Any person, who shall engage in a roping contest with other persons or alone, in which cattle or other animals are roped as a test or trial of skill of the person or persons engaged in such roping contest, for any money or prize of any character, or for any championship, for anything of value, or upon the result of which, any money or anything of value is bet or wagered, shall be fined not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars. Each animal roped, or attempted to be roped, shall be a separate offense; provided however, that nothing in this Act, shall prevent roping contests without betting or wagering wherein calves or goats are roped as a test or trial of skill, so long as the contestant shall not throw or drag the calf or goat before dismounting from a horse. [As amended Acts 1931, 42nd Leg., p. 352, ch. 209, § 1.]

**[Art. 614a. Endurance contests limited to twenty four hours]**

Sec. 1. All personal, physical and mental endurance contests in public competition for prizes, awards or admission fees shall not continue longer than twenty-four (24) hours in any one continuous competitive period of endurance. All contestants having engaged in any endurance contest continuously for a period of twenty-four (24) hours shall be required to cease from such contest for a period of twenty-four (24) hours before recommencing the same or any other period of personal, physical and mental endurance in public competition for prizes or awards or admission fees.

Sec. 2. Each promoter of any personal, physical, mental endurance contests in public competition for prizes, awards or admission fees who shall violate any provision of this Act or any person who shall enter such contest shall be fined not less than One Hundred (\$100.00) Dollars nor more than One Thousand (\$1,000.00) Dollars for each offence, or confined in the County Jail not less than thirty (30) days nor more than ninety (90) days, or by both such fine and imprisonment.

Sec. 3. The provisions of this Act shall not apply to any athletic contests of schools, colleges, and universities of the State nor to any trial contests for the purpose of testing the strength and capacity of materials and machinery of any kind. [Acts 1931, 42nd Leg., p. 337, ch. 204.]

**Art. 689. Penal article**

Any person who violates any provision of the preceding Articles of this Chapter shall be confined in the penitentiary for not less than one nor more than five years. [As amended Acts 1931, 42nd Leg., p. 233, ch. 138, § 1.]

**TITLE 12—PUBLIC HEALTH**

**[Art. 698a. Prohibiting pollution of streams]**

Sec. 1. It shall be unlawful to throw, cast, discharge or deposit crude petroleum, oil, acids, sulphur, salt water, oil refinery wastes or oil well wastes in or on any stream, water course or natural body of water of this State or in such proximity thereto that such crude petroleum, oil, acids, sulphur, salt water, oil refinery wastes or oil well wastes will reach such stream, water course or natural body of water; providing, however, that salt water or sulphur water, when such sulphur water is so treated that it will not be harmful to aquatic life or marine organisms, may be deposited in the tidal waters of this State; and providing further that when it is charged that there is a violation of this Act by throwing, casting, discharging or depositing crude petroleum, oil, refinery wastes or oil well wastes into any of the waters of this State adequate proof must be submitted that crude petroleum, oil, refinery wastes or oil well wastes or accumulations of such deposits, covered an area of such water in excess of ten thousand (10,000) square feet or was on the surface of a river, stream, bayou or channel of this State for a distance in excess of three hundred (300) feet.

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Sec. 2. Provided that salt water may be discharged into a fresh water stream or other natural body of fresh water of this State at such times and in such quantities that it will not be harmful to nor contribute to the injury nor prevent the propagation of aquatic life, nor render such water unfit for livestock, domestic or irrigation purposes. All discharges of salt water contributing to conditions inhibited by this Act or cumulative of conditions inhibited by this Act shall be violations of this Act; providing that any and all discharges of salt water into a fresh water stream or other natural body of fresh water of this State, that produces or contributes to a salinity in excess to two thousand parts of salt in one million parts of water shall be violations of this Act.

Sec. 3. Any person violating any provision of this Act or any director or officer of a corporation or member of a firm or partnership or receiver whose corporation, firm, partnership or receivership is responsible for the operations causing a violation of any provision of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than Two Hundred Dollars (\$200.00) nor more than One Thousand Dollars (\$1,000.00), and each day that such violation is committed shall constitute a separate offense. The Game, Fish and Oyster Commission and its representatives is charged with the duty of enforcing the provisions of this Act and all fines and fees of the arresting officer, imposed for violations of this Act, shall be remitted to the Game, Fish and Oyster Commission and deposited in the State Treasury to the credit of the Special Game Fund. [Acts 1931, 42nd Leg., 1st C. S., p. 88, ch. 42.]

Section 4 of said acts makes its provisions cumulative of existing laws and provides if any provision is held unconstitutional such

decision shall not affect the remainder of the act.

#### [Art. 701a. Children's nurseries]

Any person, association or corporation, who shall attempt to operate without a license as herein provided, or who shall violate any of the provisions of this Act, [Rev. Civ. St. 1925, Art. 4442a] shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail not more than 30 days or by a fine of not less than \$25.00 nor more than \$500.00; and if operating under a license such license may be revoked by the State Board of Health. [Acts 1929, 41st Leg., p. 444, ch. 204, § 7.]

Section 8 of said Acts 1929, 41st Leg., p. 444, ch. 204, repeals all conflicting laws and parts of laws, except Rev. St. 1925, art. 4442, and Pen. Code, art. 701. Section 9

provides that if any provision is held invalid, the remainder shall continue in force. Sections 1-6 are published as Rev. St. art. 4442a.

#### [Art. 719a. Marketing citrus fruit unfit for consumption]

That as used in this Act the word "person" shall extend to and include persons, partnerships, associations and corporations; and the word "box" refers to standard size containers now in common use in this State in the packing and shipping of citrus fruit; and the words "Citrus fruit" shall extend and include only the fruits of citrus grandis, osbeck, commonly and hereafter called grapefruit or pomelo, and citrus siensis, osbeck, commonly called sweet or round oranges, and hereinafter called oranges; and the words "packing house" shall extend to and include any structure or place prepared for and used for packing and otherwise preparing citrus fruit for market or transportation; the word "grove" to extend to and include any yard, garden, orchard or any separate or integral unit or area where citrus fruit is grown; and the words "distributing house" shall extend to and include any structure, railroad, car, truck, or place used for carrying, receiving, or distributing citrus fruit shipped from any other State into Texas; and the words "out of State" shall extend to and include any citrus fruit produced outside of Texas and shipped into this State,

[As amended Acts 1929, 41st Leg., p. 636, ch. 288; Acts 1931, 42nd Leg., p. 406, ch. 244, § 1.]

Sec. 2. It shall be unlawful for any person to sell or offer for sale any citrus fruit that is immature, unripe, overripe, frozen, or frost damaged, or otherwise unfit for consumption, or to transport, prepare, receive, or deliver for transportation or market, any citrus fruit between the 1st day of September and the next succeeding December 15th, both dates inclusive, in any year, unless such fruit is accompanied by a stamp or stamps as provided herein to evidence the certificate of inspection and maturity thereof as defined in this Act, issued by a duly authorized citrus fruit inspector, or special citrus fruit inspector, or by a duly authorized inspector of the United States Bureau of Agricultural Economics.

The certificates of inspection and maturity mentioned in this Act shall be of such number, form, size, and character, as the Commissioner of Agriculture of this State may by rule or regulation prescribe, and shall be used in such manner as to identify the fruit to which they relate. All inspections shall be made in the groves where the fruit is grown. Any person desiring inspection shall be entitled to have such inspection made by the State Inspectors in the grove or such part of a defined area of a grove as is desired under such rules and regulations as the Commissioner of Agriculture may prescribe. If upon inspection, as to the citrus fruit in such grove which passes the required test, the owner of such citrus fruit shall be entitled to a clearance certificate permitting him to have the fruit, identified in such clearance certificate, removed from the trees.

The maturity stamps as mentioned herein shall be delivered to such owner or shipper at the packing house as provided herein upon the payment of the fee as hereinafter provided in accordance with the number of boxes of fruit to be shipped.

Provided that it shall be unlawful during the remaining period of from December 16th to August 31st following, both dates inclusive, when inspection is not required by this Act, for any person to sell, offer for sale, transport, deliver, or prepare for sale or transportation, any citrus fruit which is immature or otherwise unfit for consumption, or for any person to receive such fruits under a contract of sale, or for the purpose of sale, offering for sale, transportation or delivery for transportation thereof. Provided further, that the provisions of this Act shall not apply to sales of citrus fruits "on the trees," nor to common carriers or their agents when the fruit accepted for transportation or transported by such common carrier is accompanied by a proper certificate of maturity and inspection of such fruits, as hereinafter provided, or when accepted by them for transportation between the 16th day of December in any year and the 31st day of August, next thereafter, both dates inclusive, or transportation of the fruit from the grove to the packing house located within this State. [As amended Acts 1929, 41st Leg., p. 636, ch. 288; Acts 1931, 42nd Leg., p. 406, ch. 244, § 1.]

Sec. 3. That within the purpose and meaning of this Act, pomelos (grapefruit) shall be deemed to be mature only when the total soluble solids of the juice is not less than ten per cent (10%) and when the minimum ratio of total soluble solids of the juice thereof to the anhydrous citric acid shall be seven to one (7-1); provided, however, that the early seeded varieties of grapefruit shall be deemed mature after September 1st of each year and the seedless variety after November 15th of each year when the total soluble solids is not less than nine per cent (9%) and when the ratio of total soluble solids of the juice thereof to the anhydrous citric acid is as follows:

(a) When the total soluble solids of the juice is not less than nine per cent (9%), the minimum ration of total soluble solids to the anhydrous citric acid shall be six and one-half to one (6.5-1).

(b) When the total soluble solids of the juice is not less than ten per

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cent (10%), the minimum ratio of total soluble solids to the anhydrous citric acid shall be six to one (6-1).

(c) When the total soluble solids of the juice is not less than eleven per cent (11%), the minimum ratio of total soluble solids to the anhydrous citric acid shall be five and one-half to one (5.5-1).

(d) When the total soluble solids of the juice is not less than twelve per cent (12%), the minimum ratio of total soluble solids to the anhydrous citric acid shall be five to one (5-1).

(e) That within the meaning and purposes of this Act, oranges shall be deemed to be mature when the juice thereof contains not less than eight (8) per centum of the total soluble solids to each part of the anhydrous citric acid.

(f) In determining the total soluble solids, the Brix hydrometer shall be used, and the reading of the hydrometer corrected for temperature shall be considered as the per centum of the total soluble solids. Anhydrous citric acid shall be determined by titration of the juice, using standard alkali and phenolphthalein as the indicator, the total acidity being calculated as anhydrous citric acid.

(g) All citrus fruit not conforming to the above standards shall be deemed and held to be immature within the meaning of this Act. [As amended Acts 1929, 41st Leg., p. 636, ch. 288; Acts 1931, 42nd Leg., p. 406, ch. 244, § 1.]

Sec. 3A. It is provided however, that in addition to the above maturity requirements and standards set out in Section 2 above, the Commissioner of Agriculture may prescribe additional seasonal requirements from time to time to the end that citrus fruit shall at all times be fit for human consumption before being offered for sale. [Acts 1931, 42nd Leg., p. 406, ch. 244, § 1.]

Sec. 4. The owner, manager, or operator of each packing house or place at which it is intended to pack or prepare citrus fruit for market, or transportation during the then present or next ensuing citrus fruit shipping season, shall register annually such packing house and its location, shipping points, and his Post Office address with the Commissioner of Agriculture of this State not less than ten (10) days before packing or otherwise preparing any citrus fruit for sale or transportation in or at such packing house; and shall, in addition to such registration, give the said Commissioner of Agriculture not less than seven (7) days written notice of the date on which the packing or other preparation for sale or transportation between October 15th and December 16th, both dates inclusive, of the current or next ensuing season's crop to be begun. It shall be unlawful for any person to operate a citrus fruit packing house or to pack or otherwise prepare for sale or transport any citrus fruit in such packing house without having previously registered said packing house and given notices herein required; provided that no certificate of inspection and maturity of any fruit shall be issued by any authorized inspector to any packing house or the agents or representatives thereof which has not been registered with the Commissioner of Agriculture of this State during the then current year, or has not given to said Commissioner of Agriculture the notices as required by this Act, nor until after the payment of any inspection fee required by this Act.

(b) When the Commissioner of Agriculture has reason to believe that citrus fruit from States other than Texas is green he is authorized herein to test such fruit; however, the standard for the testing of such out of State fruit shall be on the same basis as that used in the State wherein such citrus fruit is grown; provided that where such State has no maturity standard then the Texas maturity standard shall apply. [As amended Acts 1929, 41st Leg., p. 636, ch. 288; Acts 1931, 42nd Leg., p. 406, ch. 244, § 1.]

Sec. 5. Any vendor or shipper of citrus fruit between the dates of October 15th and December 15th, both dates inclusive, each year shall pay to the Commissioner of Agriculture of this State a fee of two and one-half ( $2\frac{1}{2}$ ) cents each for each box of citrus fruit by him or them sold or transported or delivered for transportation; or when such fruit is sold or transported in one-half boxes, baskets, or other containers less than half of the standard size containers, the fee shall be one and one-half ( $1\frac{1}{2}$ ) cents for each such basket, container or half box; or when such fruit is sold or transported in bulk, the fee shall be two and one-half ( $2\frac{1}{2}$ ) cents for each eighty (80) pounds or fraction thereof of such fruit.

Such fee shall be due and payable when the fruit is prepared for market or transportation and payment thereof shall be evidenced by stamps, as hereinafter provided. And it shall be unlawful to sell, deliver, transport, or deliver for transportation, or receive for transportation, any citrus fruit, payment of the fee for which is not evidenced by proper stamps to be provided by the Commissioner of Agriculture. Provided, however, that the provisions of this Section shall not apply to the transportation or carriage of fruit from groves to packing houses within the State. [As amended Acts 1929, 41st Leg., p. 636, ch. 288; Acts 1931, 42nd Leg., p. 406, ch. 244, § 1.]

Sec. 6. It shall be the duty of the Commissioner of Agriculture to furnish vendors and shippers of citrus fruits with such stamps to be attached to packages of fruit prepared for sale or delivery for transportation, or to be affixed to the bill of lading where shipment is in bulk. [As amended Acts 1931, 42nd Leg., p. 406, ch. 244, § 1.]

Sec. 7. It shall be the duty of any vendor or shipper of citrus fruit to properly and securely affix and attach to each package of citrus fruit prepared for sale or delivery for transportation, or to the bill of lading or other shipping receipt therefor when shipment is in bulk, the necessary stamp or stamps to evidence payment of the inspection fee herein provided. [As amended Acts 1931, 42nd Leg., p. 406, ch. 244, § 1.]

Sec. 8. It shall be unlawful for any authorized inspector to make or issue any false certificate as to inspection, maturity, or payment of inspection fees. [As amended Acts 1931, 42nd Leg., p. 406, ch. 244, § 1.]

Sec. 9. All citrus fruit prepared for sale or transportation, or which is being prepared for such purposes, or is being delivered for sale or transportation, that may be found to be immature or otherwise unfit for consumption upon inspection and testing, is hereby declared to be a public nuisance, detrimental to the public health, and the sale thereof declared to be a fraud upon the public and shall be seized and destroyed by Citrus Fruit Inspectors, or by the Sheriff of the county where found; provided that the owner of such citrus fruit that is immature or otherwise unfit for consumption may be allowed to retain possession of the same, subject to such regulations as the Commissioner of Agriculture may prescribe for the disposition thereof. [As amended Acts 1929, 41st Leg., p. 636, ch. 288; Acts 1931, 42nd Leg., p. 406, ch. 244, § 1.]

Sec. 10. Upon recommendation of the Commissioner of Agriculture, the Governor may in each year appoint and commission as many Citrus Fruit Inspectors for such period or periods, not exceeding one year, as said Commissioner may deem to be necessary for the effective enforcement of this Act. Such Inspectors shall make and file in the office of the Secretary of State, the oath required by the Constitution of this State, and shall give a good and sufficient bond in the sum of One Thousand Dollars (\$1,000.00), payable to the Governor of the State of Texas and conditioned for the faithful performance of the duties of such office. All persons authorized under the provisions of this Act to inspect and certify to the maturity of citrus fruit shall be governed in the discharge of their duties as such Inspectors by the provisions of this Act, and by the rules and regulations pursuant thereto prescribed by the Commissioner of Agriculture as here-



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in authorized and shall perform their duties under his direction and supervision. [As amended Acts 1931, 42nd Leg., p. 406, ch. 244, § 1.]

Sec. 11. The salary of each Citrus Fruit Inspector or "Special Citrus Fruit Inspector" shall be at the rate of One Hundred and Fifty Dollars (\$150.00) per month and in addition thereto shall receive his or her necessary traveling and other expenses incurred by him or her in the discharge of his or her duties as such Inspector, which shall be paid upon approval of accounts therefor by the Commissioner of Agriculture. The Commissioner of Agriculture is hereby authorized to employ such additional field and other agents and clerical assistance, at such times and for such periods, and to incur and pay any other expenses including the traveling expenses of the Commissioner of Agriculture during the citrus fruit season, as may be necessary for the effective enforcement of this Act, and to secure the payment of the inspection fees hereby imposed under the authority of this Act.

In cases of emergency or necessity when no Citrus Fruit Inspector is available for the inspection of citrus fruit in any particular locality in this State, the Commissioner of Agriculture may designate some fit and competent individual to inspect, test, and certify as to such fruit offered for sale or transportation in such locality. Certificate made or issued by such designated individual shall be signed by him or her as "Special Citrus Fruit Inspector"; he or she shall not be required to give bond, but shall be subject to the penalties imposed by this Act for violation of any of the provisions thereof. [As amended Acts 1931, 42nd Leg., p. 406, ch. 244, § 1.]

Sec. 12. In the inspection of the citrus fruit in the grove as is provided herein, inspectors shall take samples for analysis from the trees and from such fruit in the area for which inspection is requested, in the presence of the owner or agent or representative of such owner of such grove. Sufficient samples of grapefruit or oranges, each fairly representative of such of the fruit for which clearance certificate is desired shall be drawn by the inspector, witnessed by the owner, agent, or owner's representative. For such fruit as passes the required test the Commissioner of Agriculture shall issue his certificate of clearance permitting such fruit to be removed and offered for sale; provided, however, that where the Commissioner of Agriculture or State Inspector has reason to believe that immature and green fruit is in fact being offered for sale, such immature or green fruit shall be condemned and it shall be unlawful for any person willfully to substitute green fruit for ripe fruit for which a clearance certificate has been issued; and for the determination of whether any such substitute has in fact taken place the Commissioner of Agriculture shall have the right and is herein fully empowered to test at the packing shed or elsewhere any fruit being offered for sale or for shipment. [As amended Acts 1929, 41st Leg., p. 636, ch. 288; Acts 1931, 42nd Leg., p. 406, ch. 244, § 1.]

Sec. 13. No State Inspector, or individual designated by the Commissioner of Agriculture as "Special Citrus Fruit Inspector" or duly authorized inspector of the United States Bureau of Economics, shall be authorized to inspect, test, or issue a certificate of inspection and maturity or quality of any fruit, except at a regularly registered packing house or distributing house, or grove, as herein defined. [As amended Acts 1929, 41st Leg., p. 636, ch. 288; Acts 1931, 42nd Leg., p. 406, ch. 244, § 1.]

Sec. 14. It shall be unlawful for any person to obstruct or resist any authorized Inspector in the performance or discharge of any duty imposed or required by him or her by the provisions of this Act. [As amended Acts 1931, 42nd Leg., p. 406, ch. 244, § 1.]

Sec. 15. Any person who shall violate any of the provisions of this Act, or do, or commit any Act herein declared to be unlawful, shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than Twenty-five Dollars (\$25.00) nor more than Five Hundred Dol-

lars (\$500.00) or by imprisonment for not to exceed six (6) months, or both such fine and imprisonment, in the discretion of the Court. [As amended Acts 1931, 42nd Leg., p. 406, ch. 244, § 1.]

Sec. 16. All money received by the Commissioner of Agriculture for inspection fees and certificates of inspection and maturity shall be paid by him to the State Treasurer who shall deposit said money to the account of "Citrus Fruit Inspection Fund." All salaries and other expenses incurred in the execution and enforcement of the provisions of this Act shall be paid out of such "Citrus Fruit Inspection Fund" by vouchers approved by the Commissioner of Agriculture and warrant issued thereon by the Comptroller. [As amended Acts 1931, 42nd Leg., p. 406, ch. 244, § 1.]

Effective May 27, 1931. Section 2 repeals all conflicting laws and parts of laws.

[Art. 725a. Regulating traffic in narcotics]

Sec. 1. (a) "Narcotic drug," as used herein, shall mean and include opium, morphine, heroin, cocoa leaves, cocaine, marijuana, or any compound, manufacture, or salt, derivative, or preparation thereof. "Drug" when used herein shall mean narcotic drug.

(b) It shall be unlawful for any person to possess, have under his control, or deal in, dispense, sell, deliver, transport, distribute, prescribe, traffic in, or give away any narcotic drug. Any person violating this Section shall be guilty of a felony, and, upon conviction thereof, shall be punished for the first offense by fine not exceeding Two Thousand (\$2,000.00) Dollars, or by imprisonment in the State penitentiary for not more than five (5) years, or by both such fine and imprisonment; and, for the second offense, by fine of not less than One Thousand (\$1,000.00) Dollars nor more than Five Thousand (\$5,000.00) Dollars, or by confinement in the State penitentiary for not less than one year nor more than ten years, or by both such fine and imprisonment.

Sec. 2. Said foregoing Section shall not apply: (a) To the possession or control of any of the said drugs, in the regular course of a lawful business, profession, employment, occupation, or duties by manufacturers of said drugs; importers or exporters of said drugs; persons engaged in the wholesale drug trade; registered pharmacists actually engaged as retail druggists; bona fide owners of pharmacies or drug stores; duly licensed and practicing physicians; duly licensed and practicing dentists; duly licensed and practicing veterinarians; warehousemen, or common carriers, engaged, bona fide, in handling or transporting said drugs; persons regularly and lawfully in charge of drugs in dispensaries, hospitals, asylums, sanatoriums, poor houses, jails, penitentiaries, or other public or private institutions; nurses under the supervision of a physician; persons in charge of laboratory where such drugs are used for the purpose of scientific and medical research only; captains, or proper officers, of ships upon which no regular physician is employed, for actual medicinal needs of the officers and crews of their own ships only; persons in the employ of the United States, or of this State, or any county or municipality of this State, and having such drugs in their possession by reason of their official duties, and having such drugs in their possession by reason of their employment. Provided, however, that said persons are duly registered under the laws of this State and the laws of the United States, if required by said laws to be registered; provided, further, that all original stamped packages of said drugs received in this State by said persons must bear the manufacturer's numbers to identify the lot of shipment.

(b) To the possession of any of the said drugs by persons who have obtained them, bona fide, from a duly licensed and practicing physician, dentist or veterinarian, or in pursuance of a written prescription given them by a duly licensed and practicing physician, dentist or veterinarian, and that the drugs are contained in a proper labeled container, showing if obtained upon written prescription, serial number of prescription, name and address

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of the physician, dentist or veterinarian who issued prescription, his own name and address, and the kind and quantity of drugs; or, if obtained direct from a physician, dentist or veterinarian, the name and address of said physician, dentist or veterinarian, his own name and address and the kind and quantity of drug.

(c) To the sale, barter, exchange, or giving away any of the said drugs in the conduct of a lawful business, by a manufacturer, exporter, importer, or person engaged in the wholesale drug trade, to a manufacturer of said drugs; an exporter of said drugs; a person engaged in the wholesale drug trade; a duly licensed pharmacist or retail druggist; a duly licensed physician, dentist or veterinarian; a bona fide hospital, dispensary, asylum or sanatorium; the captain or proper officer, of a ship upon which no regular physician is employed, for the actual medicinal needs of the captain and officers of such ship only. Provided, however, such transactions are made pursuant to and on receipt of a written order signed and dated in ink or indelible pencil by the person to whom the drugs are furnished, and said orders are to be preserved for a period of at least two years by the person furnishing the drugs, in such manner as to be readily accessible to inspection by duly authorized officers, employees, and agents of the United States, or of this State, or of any county or municipality of this State. Provided, further, that all parties to the transactions are duly licensed and registered according to the laws of this State and the laws of the United States, if required by said laws to be licensed and registered.

(d) To the sale, dispensing, distribution, furnishing, or giving away, any of the said drugs in the conducting of lawful business, by a duly licensed pharmacist in connection with the sale of said drugs at retail to a duly licensed physician, dentist or veterinarian; a bona fide hospital, dispensary, asylum, sanatorium or a person in charge of a laboratory where such drugs are used for the purpose of scientific and medical research only; the captain, or proper officer, of a ship upon which no regular physician is employed, for the actual medicinal needs of the officers and crew of such ship only; a person in the employ of the United States, or of this State, or of any county, or municipality of this State, purchasing and receiving the same in his official capacity. Provided, such transactions are made on a written order signed and dated in ink or indelible pencil by the person to whom the drugs are furnished, said order should be preserved for a period of two years by the person furnishing the drugs, and should be readily accessible to inspection by duly authorized officers, employees, and agents of the United States, or of this State, or any county or municipality of this State. Provided, further, that all parties are duly licensed and registered in accordance with the laws of this State and the laws of the United States, if required by said laws to be licensed and registered.

(e) To the sale, dispensing, distribution, furnishing, or giving away, in the conduct of a lawful business, any of the said drugs by a duly licensed pharmacist or druggist in pursuance to, and on receipt of, the original written prescription of a duly licensed and practicing physician, dentist or veterinarian, which prescription must be signed in ink or indelible pencil by the prescriber, dated as of the day on which signed, and bear the full name and address of the person for whose personal and medicinal use it was issued. Provided, said prescription is serially numbered by the druggist and the name of the person filling it; has endorsed on the back thereof the name and address of the person to whom the drug is delivered, and is preserved for at least two years in such manner as to be readily accessible to inspection by duly authorized officers, employees, and agents of the United States, or of this State, or of any county or municipality of this State. Provided, further, that the person filling said prescription affixes to the container of the drugs furnished a label showing the serial number of the prescription, the kind and quantity of drugs, the name and address of the store where the prescription was filled, the name and address of the prescriber,

and the name and address of the person to whom the drugs are delivered. Provided, further, however, that all parties to such transactions are duly licensed and registered in accordance with the laws of this State and the laws of the United States, if required by said laws to be licensed and registered.

(f) To the sale, dispensing, prescribing, administering, any of the said drugs to a bona fide patient by a duly licensed and practicing physician, dentist or veterinarian, duly registered under the laws of this State and the laws of the United States. Provided, said drugs are furnished in good faith for legitimate and medicinal purposes, and not for the purpose of evading the provisions and intentment of this Act. Provided, further, that a record of all said drugs so furnished, except such as are personally administered by said physician, dentist or veterinarian in cases of emergency, be made and preserved for at least two years in such manner as to be readily accessible to inspection by duly authorized officers, employees, and agents of the United States, or of this State, or of any county or municipality of this State, which record must show the kind and quantity of drugs dispensed, the date on which dispensed, and the name and address of the person to whom dispensed. Provided, further, however, that all such drugs furnished by said physician, dentist or veterinarian for administering to the patient during the absence of said physician, dentist or veterinarian shall be contained in a labeled receptacle, showing the kind and quantity of drugs furnished, the name and address of the patient, the name and address of the physician, dentist or veterinarian who furnished the drugs.

Sec. 3. All written orders in pursuance of which any of the aforementioned drugs are purchased by any person authorized under the laws of this State and the laws of the United States to possess such drugs in the conduct of a lawful business or profession, shall be executed in duplicate by the person purchasing the drugs. The original of said order shall be sent or given to the person from whom the drugs are ordered and the duplicate of said order shall be retained by the person purchasing the drugs. Upon receiving the drugs ordered the purchaser shall file in a safe place the duplicate copy of the order and shall preserve same for at least two years in such manner as to be readily accessible to inspection by duly authorized officers, employees, and agents of the United States, or of this State, or of any county or municipality of this State. Any person failing to comply with, or violating any of these provisions shall be guilty of a misdemeanor, and upon conviction shall be fined in a sum not less than Twenty-five (\$25.00) Dollars nor more than Five Hundred (\$500.00) Dollars.

Sec. 4. No duly licensed and practicing physician, dentist or veterinarian shall sell, dispense, prescribe, administer, distribute, or give away any of the aforesaid drugs to any person known to such physician, dentist or veterinarian to be an habitual user of any of the said drugs, unless said drugs are prescribed, dispensed, administered, or given for the treatment or cure of some malady other than the drug habit. Provided, however, if any duly licensed and practicing physician, duly registered under the laws of this State, desires to undertake, in good faith, the cure of the habit of taking or using opium or any of its derivatives in any form, such physician may prescribe or dispense opium or its derivatives to a patient under confinement in some public or private institution licensed as such by the State Board of Health or in a public jail or penal institution; provided that in every such case, the physician shall himself make a physical examination of the patient, and shall report within seventy-two hours, in writing, to the State Health Officer, the name and address of such patient, the name and address of the institution in which such patient is confined, or the character of such other restraint imposed to prevent such patient from obtaining said drugs from other sources, together with his diagnosis of the case and the amount and nature of the drug prescribed or dispensed in the first treatment; and, provided, further, that such physician shall also report, in writing, to the State Health Officer, every thirty days thereafter, and when

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the patient leaves his care, the details and the result of the treatment. Any person divulging any information contained in any report required under this Section, except for the purpose of enforcing this Act, or to a physician who may, in the opinion of the State Health Officer, be entitled to such information for the purpose of enabling him to comply with the provisions of this Act, shall be sentenced to pay a fine not exceeding One Thousand (\$1,000.00) Dollars, or be confined in the county jail not exceeding one year, or both by fine and imprisonment.

Sec. 5. It shall be unlawful for any physician, dentist, or veterinarian to administer, dispense, give away, deliver, or prescribe any of the aforesaid drugs, except after physical examination of the person or animal for whom said drugs are intended, said examination to be made at the time said prescription is issued, or at the time said drugs are administered, dispensed, given away, or delivered by said physician, dentist, or veterinarian. No veterinarian shall sell, dispense, distribute, give or prescribe any of said drugs for the use of a human being. Any person who violates any provision of this Section shall be punished as provided in Section 1 of this Act.

Sec. 6. No prescription for any of the aforesaid drugs shall be refilled. No licensed pharmacist, or druggist, duly registered under the laws of this State and the laws of the United States, and regularly engaged in the sale of the aforesaid drugs at retail, shall fill any prescription for any of the said drugs without first verifying the proper issuance and correctness of said prescription, if for any reason, the proper issuance or presentation thereof appears questionable. The filling of a prescription for any of the said drugs later than the second day following the day on which said prescription was issued shall be prima facie evidence which may be rebutted, that the drugs were dispensed for unlawful purposes and that both the person who issued said prescription and the person who filled it have violated Section 1 of this Act.

Sec. 7. It shall be unlawful for any licensed and practicing physician, dentist, or veterinarian, duly registered under the laws of this State and the laws of the United States, to administer to himself as a habitual user, any of the aforesaid drugs merely to satisfy his craving for the same, or to prescribe for the use of narcotic drugs with the purpose that the drugs be returned to him. Any person violating this Section shall be punished as provided in Section 1.

Sec. 8. It shall be unlawful for any person to use, take or administer to himself, or cause to be administered to himself, or administer to any other person or cause to be administered to any other person, any of the aforesaid drugs, except under the advice and direction, and with the consent of, a licensed and practicing physician or dentist, duly registered under the laws of this State and the laws of the United States; and, the use, in any manner, of any of the aforesaid drugs by any person for the satisfaction of his craving therefor is prohibited. The possession of any of the aforesaid drugs by any person not authorized by law to have such possession, shall be prima facie evidence of the unlawful possession of the aforesaid drugs. Any person violating the provisions of this Section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding Five Hundred (\$500.00) Dollars, or by commitment to an institution approved under this Act for the treatment of drug addicts, for such period as may be necessary for a cure, but not exceeding one year at any one time; and upon being discharged as cured such patient shall be released on parole for a further period of one year under such rules and restrictions as may be specified by the State Board of Health as convicts are now paroled. Any person so committed who has been confined in such institution for at least six months and who has been refused a certificate of cure and release by the superintendent of such institution, may obtain a trial of the question of the cure of his addiction to the use of the aforesaid drugs in the same manner and with the same effect as is provided by the

laws of this State, for the trial or re-trial of insane persons. The State Board of Health, acting through the State Health Officer, shall make provisions for the public treatment at one or more of the State institutions, of such addicts committed under this Section. Provided, that any drug addict voluntarily offering and submitting himself for treatment under this Section at any of the institutions specified under this Act for the treatment of drug addicts shall not be liable for any violation of this Section theretofore committed by such voluntary patient.

Sec. 9. It shall be unlawful for any person authorized under the laws of this State and the laws of the United States to have in his possession, deal in, sell, dispense, distribute, give away, or dispose of in any manner any of the aforesaid drugs, in the conduct of a lawful business or profession, to obtain possession of said drugs for any purpose other than the use thereof in the conduct of a lawful business or profession. Whoever violates the provisions of this Section shall be punished as provided in Section 1 of this Act.

Sec. 10. Any person purchasing or obtaining in any manner any of the aforesaid drugs contrary to the provisions of this Act shall be punished as provided in Section 1 of this Act. The possession of any of the said drugs by a person not a licensed physician, dentist, veterinarian, or any other person authorized to have possession thereof because of a lawful business or profession, which drugs are not in a container properly labeled in accordance with the provisions of this Act, shall be prima facie evidence of a violation of this Section, and the burden of justifying his possession by proving lawful acquirement shall be upon the accused.

Sec. 11. Whoever, for the purpose of evading or assisting in the evasion of any provision of this Act, shall falsely represent himself to be a person lawfully authorized to have in his possession, deal in, sell, dispense, distribute, administer, give away or dispose of in any manner any of the aforesaid drugs; or whoever shall make false representations, in writing or orally, or give a false name or address to any physician, dentist, veterinarian, pharmacist, or druggist, for the purpose of securing a prescription, for said drugs or the delivery of said drugs; or whoever shall forge or alter, or assist or abet another in forging or altering any prescription or other order for any of the said drugs, or shall utter any forged prescription or other order for any of the said drugs, shall be punished as provided in Section 1 of this Act.

Sec. 12. The license of any physician, dentist, veterinarian, pharmacist or nurse, duly registered under the laws of this State and the laws of the United States, who shall be twice convicted of a felony under this Act, either on voluntary plea of guilty or by a court or jury verdict, shall be revoked, and he shall forever thereafter be ineligible to secure a license within this State.

Sec. 13. The Board of Medical Examiners or Officers of this State duly empowered to issue a license to a physician, dentist, veterinarian, pharmacist, or nurse, authorizing the practice of his profession in this State, may, at any time, and after a fair hearing held upon reasonable notice, revoke such license upon the production of sufficient evidence that the licensee is addicted to the use of any of the aforesaid drugs. Whenever it shall appear to such board of officers that such physician, dentist, veterinarian, pharmacist, or nurse is no longer addicted to the use of said drugs they may reissue said license. Provided, however, that an appeal may be prosecuted to one of the district courts of Travis County by the person whose license is revoked in the same manner as orders of the Railroad Commission fixing rates on railroads may be appealed from.

Sec. 14. The provisions of this Act shall not apply to the possession, manufacture, sale, dispensing, or giving away, of preparations and remedies which do not contain more than two grains of opium, or more than one-fourth grain of morphine, or more than one-eighth grain of heroin,

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or more than one grain of codeine, or any salt, or derivative of them in one fluid ounce, or if a solid or semi-solid preparation, in one avoirdupois ounce; or to liniments, ointments, or other preparations which are prepared for external use only, and which are unfit for internal use, and do not contain any cocaine or any of its salts or alpha or beta eucaine or any of their salts or any synthetic substitute for them; or to decocanized cocoa leaves; provided, that such remedies and preparations are manufactured, sold, dispensed, distributed, given away, or possessed for legitimate and medicinal purposes and not for the purpose of evading the provisions and intentment of this Act; provided, further, that any manufacturer, producer, compounder, or vendor of said preparations and remedies is duly licensed and registered under the laws of this State and the laws of the United States, and makes or causes to be made, a record of all sales, exchanges, or gifts of such preparations, showing the date of sale, the name and address of the person to whom sold, the nature and quantity of preparation or remedy sold, and the purpose for which sold, which record shall be preserved for a period of at least two years in such manner as to be readily accessible to inspection by duly authorized officers, employees, and agents of the United States, or of this State, or of any county or municipality, of this State. Provided, further, however, that none of these preparations or remedies may be sold, dispensed, distributed, or given away to, or for the use of any known habitual user of the aforesaid drugs, or any child of twelve years of age or under, except in pursuance of the original written prescription of a duly licensed physician or dentist.

Sec. 15. The provisions of this Act, as applying to cocoa leaves, marijuana, or any compound, manufacture, salt, derivative or preparation thereof, shall equally apply to the flowering tops and the young shoots of cannabis indica, cannabis americana and cannabis sativa, or to any preparation or derivative of them, and to the smoking thereof; and no person shall plant, cultivate or knowingly have growing upon his property any cannabis indica, cannabis americana or cannabis sativa, except for legitimate medical, scientific or commercial purpose and then only on permit from, and under regulations prescribed by, the State Board of Health. Provided, that the provisions of this Section shall not apply to preparations produced, manufactured, possessed, controlled, sold, prescribed, administered, dispensed, compounded, or used in good faith for medicinal and scientific purposes, which do not contain more than four grains of the extract of cannabis indica, cannabis americana or cannabis sativa, or any other derivative or preparation of cannabis indica, cannabis americana or cannabis sativa of any greater pharmacologic potency, in one fluid ounce, if a solid or semisolid preparation, in one avoirdupois ounce; or to liniments, ointments or other preparations containing cannabis indica, cannabis americana or cannabis sativa or derivatives thereof, which are prepared for external use and are susceptible of such use alone; but, all such exempt preparations shall otherwise be subject to the provisions of Section 14 of this Act.

Sec. 16. Any store, shop, warehouse, building, vehicle, steamboat, vessel, or any place whatever, which is resorted to by drug addicts for the purpose of using habit-forming drugs, as defined in this Act, or which is used for the illegal possession or sale of such, shall be deemed a common nuisance, shall, upon conviction, be penalized in accordance with the provisions of Section 1 of this Act.

Sec. 17. Every person who visits or resorts to any place described in the foregoing Section for the Purpose of using, smoking or in any way taking habit-forming drugs as defined in this Act, shall, upon conviction, be guilty of a misdemeanor and shall be penalized according to the provisions of Section 8 of this Act.

Sec. 18. Any automobile or other vehicle, or any vessel, used to convey, carry or transport any of the drugs mentioned in this Act, which are

not lawfully possessed or transported, is hereby declared to be forfeited to the State, and may be seized by any duly authorized peace officer; provided, that nothing contained in this Section shall apply to common carriers, or to any employee acting within the scope of his employment under this Act.

Sec. 19. It shall not be necessary to negative in any complaint indictment, or information any of the exceptions set out in this Act, and, when the defendant shall rely upon any of the said exemptions as a defense or justification, the burden of proving the exemption shall be upon him.

Sec. 20. It shall be the duty under this Act of all judges of Courts having criminal jurisdiction in this State at every regular term thereof to charge all regularly empanelled grand juries to diligently inquire into and investigate all cases of the violation of the provisions of this Act, and to make a true presentment of all persons guilty of such violations.

Sec. 21. The provisions of this Act shall be enforced by the State Health Officer and the State Health Officer and his representatives shall have the right to examine, at any time, any or all of the records required by this Act to be kept; and the State Health Officer may further require persons dealing in, buying, selling, handling, or giving away any of the drugs specified in this Act to make such reports to him, as he may deem necessary or advisable: This Section shall not be construed to exclude the other duly constituted authorities in this commonwealth from enforcing the provisions of this Act.

Sec. 22. The State Board of Health shall have the power to promulgate rules and regulations for the enforcement of the provisions hereof, and if any person shall violate any of the provisions hereof or any such rule or regulation, he shall forfeit to the State of Texas as a penalty not less than One Thousand (\$1,000.00) Dollars nor more than Ten Thousand (\$10,000.00) Dollars for each such violation, and each day's violation thereof shall constitute a separate offense. Said penalties shall be collected by the Attorney General and/or County or District Attorney, and suits to collect the same may be instituted in Travis County, Texas.

Sec. 23. All drugs, opium smoking appliances, unlawfully possessed under this Act may be seized by any peace officer acting under his authority under the laws of this State and turned over to the State Health Officer. Said seized drugs and appliances shall either be destroyed, or disposed of by gift to State Institutions or by sale to wholesale druggists or for scientific purposes, all in the discretion of the State Health Officer. [Acts 1931, 42nd Leg., p. 154, ch. 97.]

Effective April 30, 1931. Section 24 of said act provides that it shall not affect any act done or offense committed or any civil action or proceeding or criminal cause had or commenced before it takes effect.

#### [Art. 734a. Texas Barber Law]

Sec. 1. That it shall be unlawful for any person to engage in the practice or attempt to practice barbering in the State of Texas without a certificate or registration as a registered barber issued pursuant to the provisions of this Act, by the Board of Barber Examiners hereinafter created.

Sec. 2. That it shall be unlawful for any person to serve or attempt to serve as an assistant barber under a registered barber within the State of Texas without a certificate of registration as a registered assistant barber, issued by the Board herein provided for.

Sec. 3. That it shall be unlawful for any person to operate a barber shop within this State unless such shop shall at all times be under the direct supervision and management of a registered barber. [Acts 1929, 41st Leg., 1st C. S., p. 166, ch. 65.]

Sec. 4. Barber shop, as defined herein, shall mean any place where barbering is practiced in this State, and the practice of barbering is hereby defined to be the following practices for hire or reward when not done



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in the practice of medicine, surgery, osteopathy, or necessary treatments of healing the body by one authorized by law to do so;

(a) Shaving or trimming the beard or cutting the hair.

(b) By giving any of the following treatments by any person engaged in shaving or trimming the beard and/or cutting the hair;

(1) Giving facial and scalp massages, or applications of oils, creams, lotions, or other preparations, either by hand or electrical appliances;

(2) Singeing, shampooing, or dyeing the hair or applying hair tonics;

(3) Applying cosmetic preparations, antiseptics, powders, oils, clays, or lotions to the scalp, face, neck, or that part of the body above the shoulders.

Provided, however, that nothing contained in this Act shall be construed to include those engaged in beauty culture, or what is commonly known as beauty shops, or hair dressing parlors, or such other places where such persons giving treatments [treatments] or applications therein do not shave or trim the beard or cut the hair, and provided further that any person in any such places exempt shall obtain a certificate to cut or bob the hair only, if he or she desires to cut or bob the hair in such places, and upon the issuance of such a certificate may do any or all of the things set out above, except shaving or trimming the beard. Provided, that persons not authorized or qualified hereunder to cut the hair may clip hairs as a necessary incident to giving beauty treatments, curling or treating the hair for cosmetic, remedial, or like purposes; but such persons shall not clip the hair as a separate treatment or undertaking where a separate or additional charge is made therefor, whether done directly or indirectly.

The first class of persons named herein shall be issued a certificate of a certain color, which shall have stamped thereon "Certificate Class A" and the second class provided for herein, who only bob or cut the hair, shall be issued a Certificate on a different color of paper, which shall have stamped thereon "Certificate Class B". [Acts 1929, 41st Leg., 1st C. S., p. 166, ch. 65, as amended Acts 1930, 41st Leg., 5th C. S., p. 134, ch. 15, § 2.]

Section 8 of Acts 1930, 41st Leg., 5th C. S., p. 134, ch. 15, provides that if any part or parts of the act are held invalid, such decision shall not affect the remainder and repeals all conflicting laws or parts of laws.

This amendment by Acts 1930 cited to the text consists principally of the definition of barber shop and the practice of barbering as contained in the first paragraph and the addition of the provisos after subd. (3) not contained in the original section.

Sec. 5. No registered assistant barber shall independently practice barbering, but he may as an assistant barber do any or all of the acts constituting the practice of barbering under the immediate personal supervision of a registered barber. [Acts 1929, 41st Leg., 1st C. S., p. 166, ch. 65.]

Sec. 6. It shall be unlawful for any person to follow the occupation of cutting hair, or practice as a haircutter in any beauty shop or hair dressing parlor or elsewhere for hire as hereinbefore provided unless excepted by this act, unless such person shall have first obtained a Certificate, as herein provided, which certificate shall authorize the cutting of hair only in such parlor or establishment where such haircutting is for hire or reward. Applications for such certificates styled "Class B" must possess the qualifications required of others made amenable to the provisions of this act, and the application shall be made likewise and the same fees paid. Before any certificate is issued to such haircutter he or she shall submit to an examination to test their qualifications as a haircutter, and such examination shall be held and conducted in the same manner and by the same persons as is required by law of "Class A", except that such applicants shall only be examined as to their skill, ability and knowledge of properly performing the art or science of haircutting, and their knowledge of hygiene and sanitation pertaining thereto.

Any person who for a period of two years prior to the taking effect

of this act, was bobbing or cutting hair in any beauty shop or hair dressing establishment shall be entitled to a certificate without taking an examination. Application shall be made in the same manner as that made for "Class A". "Class A" and "Class B" as used herein shall refer to the classifications prescribed herein and shall include Registered Barbers and Registered Assistant Barbers as defined and used in the sections of this act.

Registered Barbers and Registered Assistant Barbers may obtain "Class B" as well as "Class A" Certificates, and shall be governed under the same provisions as "Class A" barbers or assistant barbers. The following persons shall be exempt from the provisions of this act while in the proper discharge of their professional duties in addition to those heretofore exempt:

(a) Persons authorized under the laws of the State of Texas to practice medicine, or osteopathy;

(b) Commissioned or authorized medical or surgical officers of the United States Army, Navy, or Marine Hospital service;

(c) Registered Nurses. [Acts 1929, 41st Leg., 1st C. S., p. 166, ch. 65, as amended Acts 1930, 41st Leg., 5th C. S., p. 134, ch. 15, § 3.]

Sec. 7. Any person is qualified to receive a certificate of registration to practice barbering

(a). Who is qualified under the provisions of Section 8 of this Act;

(b). Who is at least eighteen years of age;

(c). Who is of good moral character and temperate habits; and

(d). Who has passed a satisfactory examination conducted by the Board to determine his fitness for practicing barbering.

Provided, however, that an applicant for a certificate of registration to practice as a registered barber who fails to pass a satisfactory examination conducted by the Board must continue to practice as an assistant barber for an additional six months before he is again entitled to take the examination as a registered barber.

Sec. 8. Any person is qualified to receive a certificate of registration as a registered assistant barber

(a). Who is at least sixteen and one-half years of age; and

(b). Who is of good moral character and temperate habits; and

(c). Who has graduated from a school of barbering approved by the Board; and

(d). Who has passed a satisfactory examination conducted by the Board to determine his fitness to practice as a registered assistant barber. [Acts 1929, 41st Leg., 1st C. S., p. 166, ch. 65.]

Sec. 9. Any firm, corporation or person desiring to conduct or operate a barber school or college in this state shall first obtain from the Board of Barber Examiners a permit to do so, and shall keep the same prominently displayed. No such school or college shall be approved unless such school or college requires as a prerequisite to graduation a course of instruction of not less than one thousand hours (1,000), to be completed within a period of not less than six months; and unless said school or college requires as a prerequisite to the admission thereto, applicants to demonstrate their ability to read intelligently and write clearly the English language; and no certificate or permit shall be issued to an applicant as provided for herein, unless said applicant demonstrates his or her ability to read intelligently and write clearly the English language as determined by an examination conducted by the Board.

Such schools or colleges shall instruct students in such subjects as may be necessary and beneficial in teaching the practice of barbering, including the following subjects: Scientific fundamentals of barbering; Hygienic bacteriology; Histology of the hair, skin, muscles and nerves; Structure of the head, face and neck; Elementary chemistry relating to sterilization and antiseptics; Diseases of the skin and hair; Massaging

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and manipulating the muscles of the scalp, face, and neck; Haircutting, shaving, and bleaching and dyeing of the hair. However, if said school does not care to teach persons who apply for 'Class A' but only Class B Certificates, shaving need not be taught.

"If said Board refuses to issue a permit to any such school or college, such school or college may by written request demand the reasons for said refusal and if said school or college shall thereupon meet said requirements and makes a showing that the requirements of this law have been complied with, then if said Board refuses to issue said permit a suit may be instituted by such school or college in any of the District Courts of Travis County Texas, to require said Board to issue such permit. Any such suit must be filed within twenty days after the final order of said Board refusing to issue such permit is entered, provided registered notice is mailed or it is otherwise shown that said school or college has notice within ten days from the entering or making of said order.

"In the event such school or college after a permit is issued to it violates any of the requirements of this law, either directly or indirectly, then said Board shall suspended [suspend] or revoke the permit of any such school or college. Before suspending or revoking any such permit, said Board must give such school or college a hearing, notice of which hearing shall be delivered to such school or college at least twenty days prior to the date of said hearing. If said Board suspends or revokes said permit at said hearing, then such school or college may file suit to prevent the same or to appeal from said order. Any and all suits filed hereunder shall be filed within twenty days from the date of the order of said Board in any of the District Courts of Travis County, Texas, and not elsewhere, and order shall not become effective until said twenty days has expired.

"The Attorney General or any District or County Attorney may institute any injunction proceeding or such other proceeding as to enforce the provisions of this act, and to enjoin any barber, assistant barber, or school or college from operating without having complied with the provisions hereof and each shall forfeit to the State of Texas the sum of Twenty-five dollars per day as a penalty for each days violation, to be recovered in a suit by the District or County Attorney, and/or the Attorney General". [Acts 1929, 41st Leg., 1st C. S., p. 166, ch. 65, as amended Acts 1930, 41st Leg., 5th C. S., p. 134, ch. 15, § 4.]

Sec. 10. Each applicant for an examination shall

(a) Make application to the Board on blank forms prepared and furnished by the Board for an examination before the Board, which application shall be in such form and shall contain such matters as may be required by the Board, and shall be verified by the oath of said applicant:

(b) Each applicant shall at the time of the presentation of the application furnish to the Board photographs of such applicant, one to accompany the application and one to be returned to the applicant to be presented to the Board when applicant appears for examination.

(c) Each applicant shall at the time of the presentation of the application pay to the Board the fee required under this Act.

Sec. 11. The Board shall conduct examination of applicants for certificates of registration to practice as registered barbers and of applicants for certificates of registration to practice as registered assistant barbers and of applicants to enter barber schools to determine their educational fitness, not less than four times each year, at such times and places as the Board may determine and designate. The examination of applicants for certificates of registration as registered barbers and as registered assistant barbers shall include both a practical demonstration and a written and oral test, and shall embrace the subjects usually taught in schools of barbering approved by the Board.

Sec. 12. Whenever the provisions of this Act have been complied with, the Board shall issue to any applicant a certificate of registration

as a registered barber or as a registered assistant barber, where such applicant shall have passed a satisfactory examination making an average grade of not less than seventy-five per cent, and who shall possess the other qualifications required by this Act.

Sec. 13. Any person who is at least sixteen and one-half years of age, and who can furnish evidence of good moral character and temperate habits, and who has a diploma showing graduation from a seven-grade grammar school, or its equivalent as determined by an examination conducted by the Board, and either

(a) Has a license or certificate of registration as a practicing barber from another State or country, which has substantially the same requirements for licensing or registering barbers as required by this Act, or

(b) Who can prove by personal affidavit that he has practiced as a barber in another State for at least two years immediately prior to making application in this State, and who possesses the qualifications required by this Act, shall, upon payment of the required fee, be issued a permit to practice as a journeyman barber only until he is called by the Board of Barber Examiners to determine his fitness to receive a certificate of registration to practice barbering. Should such applicant fail to pass the required examination he shall be allowed to practice as a journeyman barber until he is called by the Board for the next term of examination. Should he fail at the examination he must cease to practice barbering in this State.

Sec. 14. Any assistant barber who is at least sixteen and one-half years of age and who is of good moral character and temperate habits and who has a diploma showing graduation from a seventh grade grammar school, or an equivalent education as determined by an examination conducted by the Board, and who has a certificate of registration as an assistant barber in a State or country which has substantially the same requirements for registration as an assistant barber as is provided for by this Act, shall upon payment of the required fee be issued a permit to work as an assistant barber until called by the Board of Examiners for examination to determine his fitness to receive a certificate of registration as an assistant barber. Should such person be able to pass the required examination, he will be issued a certificate of registration as a registered assistant barber, and that the time spent in such other State or country as an assistant barber shall be credited upon the period of assistant barber required by this Act as a qualification to take the examination to determine his fitness to receive a certificate of registration as a registered barber.

Sec. 15. That any person who has practiced as an assistant barber in another State or country which does not have substantially the same requirements for registration as an assistant barber as is required by this Act, and who has the qualifications required in subdivisions (a), (b), (c), (d), and (e) of Section 8 of this Act, shall be credited with the time so spent as an assistant barber in such other State or country, upon the period of service as assistant barber required by this Act, as a qualification to take the examination to determine his fitness to receive a certificate of registration as a registered barber. [Acts 1929, 41st Leg., 1st C. S., p. 166, ch. 65.]

Sec. 16. That any person who has for two years immediately preceding the taking effect of this act been continuously engaged in the practice of barbering at one or more established places of business, shall be granted a certificate of registration as a Registered Barber without examination by making application to the Board on or before the expiration of sixty days after the passage of this act, and by paying the required fee of Ten Dollars (\$10.00). The required fee as referred to herein, shall mean ten dollars, but certificates shall be issued to those entitled thereto according to the classification under which they may fall, to wit: 'Class A' and

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'Class B'. [Acts 1929, 41st Leg., 1st C. S., p. 166, ch. 65, as amended Acts 1930, 41st Leg., 5th C. S., p. 134, ch. 15, § 5.]

Sec. 17. That any person who on or prior to the taking effect of this act was practicing as an Assistant Barber under the supervision of a practicing barber, shall be granted a Certificate of Registration to practice as an Assistant Barber by making application to the Board on or before the expiration of sixty days after the passage of this Act, and paying the required fee of Ten Dollars (\$10.00), and shall be given by the Board credit for the time previously spent in such practice, according to the classification under which they may fall, to wit, 'Class A' or 'Class B'. [Acts 1929, 41st Leg., 1st C. S., p. 166, ch. 65, as amended Acts 1930, 41st Leg., p. 134, ch. 15, § 6.]

Sec. 18. That any person who on or prior to the date of the taking effect of this Act was a student in a school of barbering is qualified upon graduation from such school to take the examination for a certificate of registration to practice as an assistant barber, without regard to whether such school complied with the standards for approval specified in Section 9 of this Act.

Sec. 19. Every holder of a certificate of registration shall display it in a conspicuous place adjacent to or near his work-chair in the shop in which he is working or employed.

Sec. 20. That every registered barber and every registered assistant barber, who continues in active practice or service, shall annually on or before the 1st day of November of each year renew his certificate of registration. Every certificate of registration which has not been renewed prior to that date shall expire on the 1st day of November of that year. A registered barber or a registered assistant barber, whose certificate of registration has expired, may, within thirty days thereafter and not later, have his certificate of registration restored upon making a satisfactory showing to the Board, supported by his personal affidavit, which in the opinion of the Board, will excuse the applicant for having failed to renew his certificate within the time required by this Act. Any registered barber who retired from the practice of barbering for not more than five years may renew his certificate of registration by making proper showing to the Board, supported by his personal affidavit, which in the opinion of the Board would justify the Board in issuing a certificate to such applicant as upon an original application upon payment of One Dollar (\$1.00) when filing affidavit as fee for making examination.

Sec. 21. The Board shall either refuse to issue or to renew, or shall suspend or revoke any certificate of registration for any one of, or a combination of the following causes:

- (a) Conviction of a felony shown by a certificate copy of the record of the trial wherein the conviction was had;
- (b) Gross malpractice or gross incompetency;
- (c) Continued practice by a person knowingly having an infectious or contagious or communicable disease;
- (d) Advertising by means of knowingly making false or deceptive statements;
- (e) Advertising, practicing, or attempting to practice under another's trade name or another's name;
- (f) Habitual drunkenness or habitual addiction to the use of morphine, cocaine, or other habit forming drugs;
- (g) Immoral conduct; and
- (h) The commission of any of the offenses described in Section 24 of this Act.

(i) No certificate shall be issued or renewed unless and until each applicant shall present a health certificate from a regular practicing medical doctor showing that the applicant is free from any kind of infectious or contagious diseases, tuberculosis, communicable diseases, free from the

use of any kind of morphine, cocaine, or other habit-forming drug, or a habitual drunkard and that said applicant shall make affidavit to said medical examination that all of said facts are true.

Sec. 22. That the Board shall neither refuse to issue nor to renew nor to suspend, nor revoke any certificate of registration, however, for any of the causes enumerated in Section 21 hereof unless the person accused has been given at least twenty days' notice in writing of the specific charge against him and shall have been given public hearing before the Board. Upon the hearing of such proceeding the accused shall have the right to be represented by counsel. The Board shall have the power to summon witnesses and to require the production of books, records, and prepare for the purpose of such hearing, and to administer oaths. Any District Court or any Judge of such Court in this State, in term time or in vacation, upon application by the accused or of the Board or a member thereof, may, by order duly entered, require the attendance of witnesses and the production of relevant books and papers before the Board, in any hearing relating to the refusal, suspension, renewal, or revocation, or issuing of a certificate of registration, and may order the sheriff or any other peace officer of the county wherein said order is made and entered to serve such process as may be issued in order to compel the attendance of witnesses before said Board, for which services so rendered by such officer or officers the fees and mileage of the sheriff and of witnesses shall be the same as allowed in Criminal cases and shall be paid from the fund of the Board as herein provided for, as other expenses of the Board are paid, however, the officers shall make claim for fees as in Criminal cases and be paid upon warrant drawn by the Comptroller as in Criminal cases. If the accused shall prevail at such hearing, the Board shall grant him the proper relief without delay. Any investigations, inquiry, or hearing thus authorized may be entertained or held by or before any members or members of the Board, and the finding or order of such member or members, when approved, and confirmed by the Board, shall be deemed a finding or order of the Board, and at such hearing the Board shall be represented by the District Attorney or County Attorney. [Acts 1929, 41st Leg., 1st C. S., p. 166, ch. 65.]

Sec. 22-A. If any person to whom a certificate or permit has been issued fails to comply with any of the requirements of this Act, the Board shall suspend or revoke such certificate or permit or refuse to renew the same. Before suspending, revoking or refusing to renew such certificate or permit the Board shall give the person holding same a public hearing, notice of which hearing shall be delivered to such person at least twenty days prior to the date thereof and shall state the grounds complained of, and notice by registered mail to his last known address shall be sufficient. If said Board suspend, revoke or refuse to renew such certificate or permit at said hearing, then such person may file suit to prevent same or to appeal from said order. Any and all suits filed hereunder shall be filed within twenty days from the date of the order of said Board in any of the District Courts of Travis County, Texas, and not elsewhere. [Acts 1929, 41st Leg., 1st C. S., p. 166, ch. 65, as amended Acts 1930, 41st Leg., 5th C. S., p. 134, ch. 15, § 7.]

Sec. 23. That the fees to be paid to the Board by an applicant for an examination to determine his fitness to receive a certificate of registration to practice barbering shall be Ten (\$10.00) Dollars.

The fees to be paid by an applicant for an examination to determine his fitness to receive a certificate of registration to practice as an assistant barber, which entitles the applicant to receive an examination to practice barbering without further charge, shall be Ten (\$10.00) Dollars.

Sec. 24. That each of the following offenses shall constitute a misdemeanor punishable upon conviction in a Court of competent jurisdic-

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tion by a fine of not less than Twenty-five (\$25.00) Dollars nor more than Two Hundred (\$200.00) Dollars:

(a) The violation of any of the provisions of Sections 1, 2, and 3, of this Act;

(b) Permitting any person in one's employ, supervision, or control to practice as an assistant barber unless that person has a certificate of registration as a registered assistant;

(c) Obtaining or attempting to obtain a certificate of registration by fraudulent representation;

(d) The wilful failure to display a certificate of registration as required by Section 13 of this Act; and

Sec. 25. That the wilful making of any false statement as to a material matter in any oath or affidavit which is required by the provisions of this Act to be made is false swearing and punishable as such under the laws of this State.

Sec. 26. That a Board to be known as the State Board of Barber Examiners is hereby created and shall consist of three members to be appointed by the Governor upon the taking effect of this Act. Each member of said Board shall be a practical barber who has followed the occupation of a barber of this State for at least five years immediately prior to his appointment. The members of the first Board appointed under this Act shall serve for three years, two years, and one year, respectively, as appointed, and members appointed thereafter shall serve for three years. The Governor may remove any member of the Board for cause. All members appointed by the Governor to fill vacancies in the Board caused by death, resignation, or removal shall serve during the unexpired term of his predecessor. [Acts 1929, 41st Leg., 1st C. S., p. 166, ch. 65.]

Sec. 27. The State Board of Barber Examiners shall elect one of its members as president, and shall elect a secretary and such other employees, as may be necessary, to carry out the provisions of this Act and H. B. 104 and provide for the compensation of such secretary and other employees. Said Board shall provide and equip suitable quarters for the maintenance of its office in the City of Austin, Texas, and shall adopt rules and regulations for the transaction of the business herein provided for, including a common seal for the authentication of its orders, certificates and records. The secretary shall keep a record of all proceedings of the Board and shall be the custodian of all such records and shall receive and receipt for all money collected by the Board. All money so received shall be immediately deposited with the State Treasurer, who shall credit same to a special fund to be [known] as "State Board of Barber Examiners Fund," which money shall be drawn from said special fund upon claims made therefor by the Board to the Comptroller; and if found correct, to be approved by him and vouchers issued therefor, and countersigned and paid by the State Treasury [Treasurer], which special fund is hereby appropriated for the purpose of carrying out all the provisions of this Act. That annually at the close of business on August 31 of each year a complete report of the business transaction by the Board showing all receipts and disbursements shall be made by the Board to the Governor of the State of Texas.

The Secretary shall give a surety bond, payable to the State of Texas in the sum of \$5,000.00, conditioned for the faithful performances of his duties as secretary, to be approved by the Board and filed with the State Comptroller. A majority of the Board in meetings duly assembled may perform and exercise all the duties and powers devolving upon the Board.

The compensation of the members of the Board shall be a per diem of \$10.00 per day for each day, exclusive of Sunday, when performing their duties at the main office in Austin, Texas, and \$10.00 per day, inclusive of Sunday, when performing their official duties when away from the main office at Austin, Texas, and in addition to the per diem provided for herein, they shall be entitled to their actual traveling expenses. Each

Board member shall make out, under oath, a complete itemized statement of the number of days engaged and the amount of their expenses when presenting same for payment. [Acts 1929, 41st Leg., 1st C. S., p. 166, ch. 65, as amended Acts 1929, 41st Leg., 2nd C. S., p. 129, ch. 62, § 1.]

Sec. 28. The State Board of Health shall make, establish and promulgate reasonable sanitary rules and regulations for the conduct of barber shops and barber schools. Said Board by and through the Health Department of the State of Texas, shall have authority, and it is made its duty to enter upon the premises of all barber shops and barber schools and inspect same at any time during business hours. That a copy of the sanitary rules and regulations adopted by said Board shall be furnished to the secretary of the State Board of Barber Examiners who shall in turn forward to each barber and barber school a copy of same. That a copy of the sanitary rules and regulations promulgated and adopted by the State Board of Health shall be kept posted in all barber shops and barber schools in this State. [Acts 1929, 41st Leg., 1st C. S., p. 166, ch. 65, as amended Acts 1929, 41st Leg., 2nd C. S., p. 129, ch. 62, § 2.]

Sec. 29. The Board shall keep a record of its proceedings relating to the issuance, refusal, renewal, suspension, and revocation of certificates of registration. This record shall also contain the name, place of business, and residence of each registered barber and registered assistant barber, and the date and number of his certificate of registration. This record shall be open to public inspection at all reasonable times.

Sec. 30. If any section, sub-section, sentence, clause, or phrase of this Act for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Act. [Acts 1929, 41st Leg., 1st C. S., p. 166, ch. 65.]

Section 31 of Acts 1929, 41st Leg., 1st C. S., p. 166, ch. 65, provided that the act should not be construed to repeal any law relating to barbering, but cumulative there-

of. Section 32 directed its citation as the Texas Barber Law and section 33 made it effective September 1, 1929.

#### Art. 739. [750] Authority to practice to be registered

It shall be unlawful for any one to practice medicine, in any of its branches, upon human beings within the limits of this State who has not registered in the District Clerk's office of every County in which he may reside, and in each and every County in which he may maintain an office or may designate a place for meeting, advising with, treating in any manner, or prescribing for patients, the certificate evidencing his right to practice medicine, as issued to him by the Texas State Board of Medical Examiners, together with his age, post office address, place of birth, name of medical college from which he graduated, and date of graduation, subscribed and verified by oath, which, if wilfully false, shall subject the affiant to conviction and punishment for false swearing, as provided by law. The fact of such oath and record shall be endorsed by the District Clerk upon the certificate. The holder of every such certificate must have the same recorded upon each change of residence to another County, as well as in each and every County in which he may maintain an office, or in which he may designate a place for meeting, advising with, treating in any manner, or prescribing for patients; and the absence of such record in any place where such record is hereby required shall be prima facie evidence of the want of possession of such certificate. [As amended Acts 1931, 42nd Leg., p. 74, ch. 49, § 3.]

Approved April 13, 1931, Sections 1 and 2 of said Acts 1931, 42nd Leg., p. 74, ch. 49

are published as Rev. Civ. St. arts. 4495, 4498.

#### Art. 743. Practice after license cancelled

If any person required to register as a practitioner of medicine under the provisions of Section 1 of this Act shall fail, neglect or refuse to apply for such registration and pay the annual registration fee before the expira-



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tion of sixty days after the 1st day of January of each year, his license to practice medicine, previously issued to him, shall stand suspended, so that, for thereafter practicing medicine, he shall be subject to the penalty imposed by Article 742 of the Penal Code of 1925 upon any person unlawfully practicing medicine in this State; provided, that such license shall be reinstated at any time upon written application of the holder, made to the Texas State Board of Medical Examiners, accompanied by payment of the annual registration fees in arrears; and an additional fee of One (\$1.00) Dollar, and without examination or the performance of any other condition.

And provided further that when any such suspended license is thus reinstated, the practitioner's license shall stand as if the same had never been suspended, and if any prosecutions have been filed or any penalties incurred on account of the practice of medicine by such practitioner during the period when such license stood suspended, said prosecutions and penalties shall be completely abated, and such reinstatement shall be a complete defense to the same. [As amended Acts 1931, 42nd Leg., p. 55, ch. 37, § 2.]

Approved March 27, 1931. Sections 1 and 3 of said Acts 1931, 42nd Leg., p. 55, ch. 37 are published as Rev. Civ. St. art. 4498a.

#### [Art. 758a. Penalty for violating Pharmacy Act]

Any person violating any provision of this Act [Rev. Civ. St. 1925, art. 4542a] shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than \$25.00 or [nor] more than \$200.00, or imprisoned in the county jail for not less than ten nor more than sixty days, or shall be punished by both such fine and imprisonment; and each day of violation shall be construed to constitute a separate offense. [Acts 1929, 41st Leg., p. 242, ch. 107, § 21.]

Sections 1-20 of said Acts 1929, 41st Leg., p. 242, ch. 107, are published as article 4542a, Civil Statutes. Section 18 expressly repeals Rev. Civ. St. 1925, arts. 4529 to 4542, and all conflicting laws and parts of laws, but makes no direct reference to Penal Code, arts. 755-758.

#### Article 773. Soliciting patients

No physician, surgeon, osteopath, masseur, optometrist, or any other person who practices medicine or the art of healing the sick or afflicted, with or without the use of medicine shall employ or agree to employ, pay or promise to pay, or reward or promise to reward any person, firm, association of persons, partnership or corporation for securing, soliciting or drumming patients or patronage. No person shall accept or agree to accept any payment, fee or reward, or anything of value, for securing, soliciting or drumming for patients or patronage for any physician, surgeon, osteopath, masseur, optometrist, or any other person who practices medicine or the art of healing with or without medicine. Whoever violates any provision of this Article shall be fined not less than One Hundred nor more than Two Hundred Dollars for each offense. Each payment or reward or fee or agreement to pay or accept a reward or fee shall be a separate offense. [As amended Acts 1931, 42nd Leg., 2nd C. S., p. 18, ch. 10, § 1.]

#### Art. 774. Advertising

The preceding Article shall not be construed to prohibit the inserting in a newspaper of any advertisement of such person's business, profession and place of business, or from advertising by handbills and paying for services in distributing same. [As amended Acts 1931, 42nd Leg., 2nd C. S., p. 18, ch. 10, § 2.]

**TITLE 13—OFFENSES AGAINST PUBLIC PROPERTY**

Art. 789. [Repealed by Acts 1929, 41st Leg., 2nd C. S., p. 72, ch. 42, § 18]

Art. 793. [Repealed by Acts 1929, 41st Leg., 2nd C. S., p. 72, ch. 42, § 18]

[Art. 802a. Placing drunken drivers on probation]

In all cases where a defendant is convicted of driving a motor vehicle while under the influence of intoxicating liquor or narcotics, the Jury at the same time shall add to their verdict the length of time that the defendant shall be prohibited from driving any motor vehicle on the highways of this State not to exceed two years. The Judge of the Court where such conviction is had shall cause to be entered on the Minutes of the Court an order prohibiting such defendant from driving any motor vehicle for a period of time found by the Jury. Any person violating such an order shall be deemed guilty of contempt and be punished in the manner now provided for contempt of Court. [Acts 1931, 42nd Leg., p. 268, ch. 162, § 1.]

[Art. 803a. Regulating arrests for speeding]

No officer shall have authority to make any arrests for violation of the laws of this State relating to the speed of motor vehicles unless he is at the time of such arrest wearing a uniform and badge clearly distinguishing him from ordinary civilians or private citizens, and shall have no authority to make any such arrests by designedly remaining in hiding or lying in wait unobserved [unobserved] in order to trap those [those] suspected of violating the speed laws in reference to motor vehicles. No such officer, and no sheriff, constable, marshal, policeman, traffic officer, or other officer shall be entitled to any fee for making an arrest or serving a warrant of arrest or claim; demand or receive any witness fee or commitment fee for an alleged violation of any law of this State relative to such speeding. It shall be the duty of the district or county attorney, as the case may be, to dismiss any and all prosecutions wherein it is shown that the arrest was made by designedly remaining in hiding or lying in wait unobserved in order to trap those suspected of violating such speed law, and this provision shall apply to such conduct by any highway officer, sheriff, deputy sheriff, constable, marshal, policeman, or any other officer of this State, or political subdivision thereof, provided any officer pursuing or lying in wait in any vehicle other than a motorcycle shall be held to be designedly remaining in hiding as defined in this Act. Provided, however, that the provision hereof pertaining to motor equipment and uniform, shall not apply to an arrest made within the incorporated limits of a city or town having a population less than Ten Thousand (10,000) inhabitants, according to the Federal Census report of 1920.

The venue of any prosecution for speeding of motor vehicles under State laws shall be in the justice precinct only wherein the offense was committed or in the precinct of the defendant's residence. The badge herein required to be worn by an officer making an arrest shall be diamond-shaped, and the uniform prescribed to be worn by such officer or officers shall consist of a cap, coat and trousers of dark grey color, provided that the uniform worn by city policemen within the corporate limits of an incorporated city or town may be either blue or dark grey in color.

If any peace officer willfully violates any provision of this Act, he shall, upon conviction, be fined in any sum not to exceed Two Hundred (\$200.00) Dollars.

The Attorney General or any County Attorney may institute quo warranto to oust from office any officer violating any provision of this Act or

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permit any deputy to do so. [As amended Acts 1929, 41st Leg., 2nd C. S., p. 83, ch. 47, § 1; Acts 1930, 41st Leg., 5th C. S., p. 239, ch. 76, § 1.]

Prior to the amendment by Act 1930, 41st Leg., 5th C. S., p. 239, ch. 76, this article contained no penalty for violation of its provisions and no provision as to quo warranto. The original act became effective March 29, 1927, and the amendment by Acts 1929, 41st Leg., 2nd C. S., p. 83, ch. 47, became effective 90 days after July 2, 1929, date of adjournment.

[Art. 803b. Badge and uniform of officers]

No Sheriff, Constable, or Deputy or either, shall have authority to arrest or accost any person for driving a motor vehicle over the highways of this State in violation of the law relating to motor vehicles unless he is at the time wearing on his left breast on the outside of his garment so that it can be clearly seen a badge showing his title, and unless he is also wearing a cap, coat or blouse, and trousers of dark grey color, or dark blue, which cap and other uniform shall be of the same color. Provided, if any person shall violate the provisions hereof, he shall be guilty of a misdemeanor and shall be punished as provided in Section 3 hereof, and if any officer charged by law so to do shall refuse to take any complaint or prosecute the same, he shall be removed from office. [Acts 1931, 42nd Leg., p. 503, ch. 280, § 3a.]

Effective 90 days after May 23, 1931, date of adjournment. Sections 1-3 of said Acts 1931, 42nd Leg., p. 503, ch. 280, are published as Rev. Civ. St. art. 6879a.

Art. 807. [Repealed by Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 16]

[Art. 807a. Operation of motor vehicles without license number plates]

Sec. 14a. Any person who operates a passenger car or a commercial motor vehicle or truck-tractor upon the public highways of this State during the month of January of any calendar year, without having displayed thereon and attached thereto two license number plates, one plate at the front and one at the rear, which have been duly and lawfully assigned for said vehicle for the current or next preceding calendar year, shall be guilty of a misdemeanor.

Sec. 14b. Any person who so operates a passenger car, or commercial motor vehicle or truck-tractor during the period from February 1st to December 31st, inclusive, of any calendar year, without two such license plates for the current year so displayed and attached shall be guilty of a misdemeanor.

Sec. 14c. Any person who operates a road-tractor, motor cycle, trailer or semi-trailer upon the public highways of this State during the month of January of any calendar year, without having attached thereto and displayed at the rear thereof, a license number plate duly and lawfully assigned therefor for the current year or next preceding calendar year shall be guilty of a misdemeanor.

Sec. 14d. Any person who operates a road-tractor, motor cycle, trailer or semi-trailer during the period February 1st to December 31st, inclusive, of any calendar year, without having so displayed and attached a number plate duly and lawfully assigned therefor for the current calendar year shall be guilty of a misdemeanor.

Any person convicted of a misdemeanor for a violation of this Section shall be fined in any sum not exceeding Two Hundred (\$200.00) Dollars.

Sec. 14e. Any person operating any motor vehicle, trailer or semi-trailer upon the highways on or after February 1st, of any calendar year with license plates for any preceding year attached or displayed shall be deemed guilty of a misdemeanor.

Sec. 14f. Any person violating any provisions of this Act [Civ. arts. 6675a-1 to 6675a-14] for the violation of which no other penalty is pre-

scribed shall be deemed guilty of a misdemeanor, and on conviction, shall be fined in any sum not exceeding Two Hundred (\$200.00) Dollars. [Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88.]

Effective Jan. 1, 1930. Section 16 of Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, repeals all conflicting laws and parts of laws and specially repeals Pen. Code, arts. 307, 310, 318-320, 325 and Civ. Sts., arts. 6675-6683, 6688-6693, 6697 and excerpts from its op-

eration tractors, graders or other machinery owned by cities, counties or Federal government and used on streets, alleys or roads. Section 18 makes the act effective Jan. 1, 1930. Sections 1-13a, 15, are published as Civ. St. arts. 6675a-1 to 6675a-14.

Art. 810. [Repealed by Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 16]

Art. 818. [Repealed by Acts 1929, 41st Leg., 2nd C. S., p. 72, ch. 42, § 18]

Arts. 818-820. [Repealed by Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 16]

Art. 821. Inscription on State vehicle

There shall be printed upon each side of every automobile, truck or other motor vehicle owned by the State of Texas, the word "Texas" followed in letters of not less than two (2) inches high by the title of the department, bureau, board, commission or official having the custody of such car, and such inscription shall be in a color sufficiently different from the body of the car so that the lettering shall be plainly legible at a distance of not less than one hundred (100) feet, and the official having control thereof shall have such wording placed thereon as prescribed herein, and whoever drives any automobile, truck or other motor vehicle belonging to the State upon the streets of any town or city or upon a public highway without such inscription printed thereon shall be fined not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00). [As amended Acts 1931, 42nd Leg., p. 373, ch. 219, § 1.]

Art. 823. [Repealed by Acts 1929, 41st Leg., 2nd C. S., p. 72, ch. 42, § 18]

Art. 824. [Repealed by Acts 1929, 41st Leg., 2nd C. S., p. 72, ch. 42, § 18]

Art. 825. [Repealed by Acts 1929, 41st Leg., 2nd C. S., p. 172, ch. 88, § 16]

Art. 827. [1570-1-2-3-4-5] Street railways

All persons or corporations owning or operating street railways or motor buses in or upon the public streets of any city of not less than twenty thousand inhabitants are required.

1. To carry children of the age of twelve years or less for one-half the fare regularly collected for the transportation of adults.

2. To sell or provide for the sale of tickets in lots of twenty, each good for one trip over the line or lines owned or operated by such person or corporation, for one-half the regular fare collected for the transportation of adults, to students in actual attendance upon any academic, public or private school of grades not higher than the grades of the public high schools situated within, or adjacent to the town or city in which such railway is located. Such tickets are required to be sold only upon the presentation by the student desiring to purchase them of the written certificate of the principal of the school which he attends showing that such student is in regular attendance upon such school and is within the grades herein provided. Such tickets are not required to be sold to such students and shall not be used except during the months when such schools are in actual session and such students shall be transported at half fare only when they present such tickets.

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3. To transport, free of charge, children of the age of five years or less when attended by a passenger of above said age.

4. To accord to all passengers referred to in this Article the same rights as to the use of transfers issued by their own or other lines as are or may be accorded to passengers paying full fare.

Any such person or any officer or employee of any such corporation or other person who knowingly violates any provision of this Article, or any person who misrepresents the age or the grade of any person for the purpose of securing the reduced fare herein provided for, shall be fined not less than Twenty-five nor more than One Hundred Dollars. [As amended Acts 1931, 42nd Leg., p. 828, ch. 343, § 1.]

[Art. 827a. Regulating operation of vehicles on highways]

Sec. 1. The following words and phrases, when used in this Act, shall, for the purpose of this Act, have the meanings respectively ascribed to them in this section, as follows:

"Vehicle." Every mechanical device in, upon or by which any person or property is or may be transported or drawn upon a public highway, including motor vehicles, commercial motor vehicles, truck-tractors, trailers, and semi-trailers, severally, as hereinafter defined, but excepting devices moved by human power or used exclusively upon stationary rails or tracks.

"Motor Vehicle." Every vehicle, as herein defined, which is self-propelled.

"Commercial Motor Vehicle." Any motor vehicle other than a motorcycle, designed or used for the transportation of property, including every vehicle used for delivery purposes.

"Truck-tractors." Every motor vehicle designed or used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

"Trailer." Every vehicle without motive power designed or used for carrying property or passengers wholly on its own structure and to be drawn by a motor vehicle.

"Semi-trailer." Every vehicle of the trailer type so designed or used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another motor vehicle.

"Department." The State Highway Department of this State, acting directly or through its duly authorized officers and agents. [Acts 1929, 41st Leg., 2nd C. S., p. 72, ch. 42, as amended by Acts 1931, 42nd Leg., p. 507, ch. 282, § 1.]

Sec. 2. It shall be unlawful and constitute a misdemeanor for any person to drive, operate or move, or for the owner to cause or permit to be driven, operated, or moved on any highway, any vehicle or vehicles of a size or weight exceeding the limitations stated in this Act or any vehicle or vehicles which are not constructed or equipped as required in this Act, or to transport thereon any load or loads exceeding the dimensions or weight prescribed in this Act; provided the department, acting directly or through its agent or agents designated in each county, shall have and is hereby granted authority to grant permits limited to periods of ninety (90) days or less for the transportation over State highways of such overweight or oversize or overlength commodities as cannot be reasonably dismantled or for the operation over State highways of super-heavy and oversize equipment for the transportation of such oversize or overweight or overlength commodities as cannot be reasonably dismantled; provided, that any haul or hauls made under such permits shall be made by the shortest practicable route; provided further, that the department shall designate the county judges of the respective counties in addition to [to] its other designated agents, who acting under the direction of the department shall have and are hereby granted authority to issue such permits over State highways; and provided further, that the Commissioners' Courts

through the county judges of the several counties of the State shall have and are hereby granted authority to grant such permits over the highways of their respective counties other than State highways, and the said county judges shall have and are hereby granted said authority independently of the said Commissioners' Courts until such time as the said courts shall have acted with respect thereto. Said Commissioners' Courts, in their discretion, may require a bond to be executed by an applicant in such amount as will guarantee the payment of any damages which any road or bridge traversed or crossed may sustain in consequence of the transportation aforesaid. [Acts 1929, 41st Leg., 2nd C. S., p. 72, ch. 42, as amended Acts 1931, 42nd Leg., p. 507, ch. 282, § 2.]

Sec. 3. (a) No vehicle shall exceed a total outside width, including any load thereon, of ninety-six (96) inches, except that the width of a farm tractor shall not exceed nine (9) feet, and except further, that the limitations as to size of vehicle stated in this section shall not apply to implements of husbandry, including machinery used solely for the purpose of drilling water wells, and highway building and maintenance machinery temporarily propelled or moved upon the public highways.

(b) No vehicle unladen or with load shall exceed a height of twelve feet six inches (12' 6"), including load.

(c) No motor vehicle, commercial motor vehicle, truck-tractor, trailer, or semi-trailer shall exceed a length of thirty-five (35) feet, and no combination of such vehicles coupled together shall exceed a total length of forty-five (45) feet, unless such vehicle or combination of vehicles is operated exclusively within the limits of an incorporated city or town.

(d) No train or combination of vehicles or vehicle operated alone shall carry any load extending more than three (3) feet beyond the front thereof, nor, except as hereinbefore provided, more than four (4) feet beyond the rear thereof.

(e) No passenger vehicle shall carry any load extending more than three (3) inches beyond the line of the fenders on the left side of such vehicle, nor extending more than six (6) inches beyond the line of the fenders on the right side thereof; provided, that the total over all width of such passenger vehicle shall in no event exceed ninety-six (96) inches, including any and all such load.

(f) Immediately upon the taking effect of this Act, it shall thereafter be unlawful for any person to operate or move, or for any owner to cause to be operated or moved, any motor vehicle or combination thereof over the highways of this State which shall have as a load or as a part of the load thereon any product, commodity, goods, wares or merchandise which is contained, boxed or bound in any container, box or binding containing more than thirty (30) cubic feet and weighing more than five hundred (500) pounds where there are more than fourteen (14) of such containers, boxes or bindings being carried as a load on any such vehicle or combination thereof; provided, that no number of any such containers, boxes or bindings shall be carried as the whole or a part of any load exceeding seven thousand (7000) pounds on any such vehicle or combination thereof; and provided, that if this subsection is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that this section be declared unconstitutional; provided, further, that if this Act or any section, subsection, sentence, clause or phrase thereof is held to be unconstitutional and invalid by reason of the inclusion of this section, the Legislature hereby declares that it would have passed this Act and any such section, subsection, sentence, clause or phrase thereof without this section. [Acts 1929, 41st Leg., 2nd C. S., p. 72, ch. 42, as amended Acts 1931, 42nd Leg., p. 507, ch. 282, § 3.]

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Sec. 4. Wherever the load or drawbar or coupling on any vehicle shall extend beyond the rear or the bed or body thereof, there shall be displayed at the end of such load or extension, in such position as to be clearly visible at all times from the rear of such load or extension, a red flag not less than twelve (12) inches both in length and width, except that between one-half hour after sunset and one-half hour before sunrise there shall be displayed at the end of any such load or extension a red light plainly visible under normal atmospheric conditions at least five hundred (500) feet from the rear of such vehicle. [Acts 1929, 41st Leg., 2nd C. S., p. 72, ch. 42, as amended Acts 1931, 42nd Leg., p. 507, ch. 282, § 4.]

Sec. 5. No commercial motor vehicle, truck-tractor, trailer, or semi-trailer shall be operated on the public highway outside of the limits of an incorporated city or town with a load exceeding seven thousand (7000) pounds on any such vehicle or train or combination of vehicles; and no motor vehicle, commercial motor vehicle, truck-tractor, trailer or semi-trailer having a greater weight than six hundred (600) pounds per inch width of tire upon any wheel concentrated upon the surface of the highway shall be operated on the public highways outside of the limits of an incorporated city or town; provided, however, that the provisions of this section shall not become effective until the first day of January, 1932. [Acts 1929, 41st Leg., 2nd C. S., p. 72, ch. 42, as amended Acts 1931, 42nd Leg., p. 507, ch. 282, § 5.]

Sec. 5. (a) Upon application for registration of any commercial motor vehicle, truck-tractor, trailer or semi-trailer, the applicant shall deliver to the tax collector, or one of his duly authorized deputies, an affidavit, duly sworn to before an officer authorized to administer oaths, showing the weight of said vehicle, which affidavit shall be kept on file by the collector. The license receipt issued to the applicant shall also show said weight. A copy of said receipt shall be carried at all times on any such vehicle while same is upon the public highway. Such affidavit, or a certified copy thereof, may be introduced as evidence showing the weight of said vehicle, and such affidavit shall be prima facie evidence of the weight thereof; provided, however, that it may be shown that said affidavit is false or that said weight inserted therein is incorrect. [Acts 1931, 42nd Leg., p. 507, ch. 282, § 6.]

Sec. 5. (b) The limitations imposed by this Act as to length of vehicle or combination of vehicles and weight of loads and of height of vehicle with load shall not apply to vehicles when used only to transport property from point of origin to the nearest practicable common carrier receiving or loading point or from a common carrier unloading point by way of the shortest practicable route to destination, provided said vehicle does not pass a delivery or receiving point of a common carrier equipped to transport said load, or when used to transport property from the point of origin to point of destination thereof when the destination of such property is less distant from the point of origin thereof than the nearest practicable common carrier receiving or loading point equipped to transport such load; provided, however, that in no event except by special permit, as hereinabove specifically provided, shall the length of said vehicles exceed fifty-five (55) feet or the weight of such loads exceed fourteen thousand (14,000) pounds; and provided, further, that the limitations imposed by this Act upon weight per inch width of tire shall apply to all such vehicles and loads; provided that if this Act or any other section, subsection, sentence, clause or phrase thereof, is held to be unconstitutional and invalid by reason of the inclusion of this section, the Legislature hereby declares that it would have passed this Act and any such section, subsection, sentence, clause or phrase thereof without this section. [Acts 1931, 42nd Leg., p. 507, ch. 282, § 7.]

Sec. 6. Any license and weight inspector of the State Highway department, having reason to believe [believe] that the gross weight of a

loaded vehicle is unlawful, is authorized to weigh the same either by means of portable or stationary scales, and to require that such vehicle be driven to the nearest scales in the event such scales are within two miles. The inspector may then require the driver or operator to unload immediately such portion of the load as may be necessary to decrease the gross weight of such vehicle to the maximum gross weight specified by this Act.

Sec. 7. (a) No motor vehicle shall be driven upon any highway outside of the limits of an incorporated city or town drawing or having attached thereto more than one trailer.

(b) The drawbar or other connection between any two vehicles, one of which is towing or drawing the other on a highway, shall not exceed twenty (20) feet in length from one vehicle to the other. [Acts 1929, 41st Leg., 2nd C. S., p. 72, ch. 42, as amended Acts 1931, 42nd Leg., p. 507, ch. 282, § 8.]

Sec. 8. Rate and speed of vehicle. It shall be unlawful for any person to operate or drive any motor or other vehicle upon the public highways of Texas at a rate of speed in excess of forty-five (45) miles an hour, or drive or operate a motor or other vehicle within the corporate limits of an incorporated city or town or within or through any town or village not incorporated, at a greater rate of speed than twenty (20) miles per hour, provided that it shall be unlawful to operate upon said public highways a commercial motor vehicle as defined in this Act of either a registered or actual gross weight of six thousand (6,000) pounds or less at a rate of speed in excess of forty (40) miles per hour or such vehicle of either a registered or actual gross weight of over six thousand (6,000) pounds, at a rate of speed in excess of twenty-five (25) miles per hour, or within the corporate limits of any incorporated city or town or within or through any town or village not incorporated at a rate of speed in excess of eighteen (18) miles per hour. Provided further, that it shall be unlawful to operate any motor vehicle engaged in this State in the business of transporting passengers for compensation or hire on any highway, road or thoroughfare not privately owned between cities, towns and villages at a rate of speed in excess of forty (40) miles per hour. [Acts 1929, 41st Leg., 2nd C. S., p. 72, ch. 42, as amended Acts 1931, 42nd Leg., p. 507, ch. 282, § 9.]

Sec. 9. Every motor vehicle, other than any road-roller, road machinery or farm tractor, having a width at any part in excess of seventy (70) inches shall carry two clearance lamps on the left side of such vehicle, one located at the front and displaying a white light visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of the vehicle, and the other located at the rear of the vehicle and displaying a red or yellow light visible under like conditions from a distance of five hundred (500) feet to the rear of the vehicle, both of which lights shall be kept lighted while any such vehicle is upon the highway from one-half hour after sunset to one-half hour before sunrise. A motor vehicle requiring clearance lights hereunder may, in lieu of such clearance lights, be equipped with adequate reflectors conforming as to color and marginal location to the requirements for clearance lights. No such reflector shall be deemed adequate unless it is so designed, located as to height and maintained as to be visible for at least two hundred (200) feet when opposed by the light of a motor vehicle displaying lawful, undimmed headlights at night on an unlighted highway. Reflectors herein referred to must be approved by the department as to specifications before they can be lawfully used on a vehicle, and it shall be unlawful and constitute a misdemeanor to use a reflector on a motor vehicle unless it has been approved by the department, and such approval by the department shall be firmly affixed to such reflector.

All vehicles not heretofore by law required to be equipped with specified lighted lamps shall carry one or more lighted lamps or lanterns displaying a white light visible under normal atmospheric conditions from



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a distance of not less than five hundred (500) feet to the front of such vehicle and displaying a red, or yellow light visible under like conditions from a distance of not less than five hundred (500) feet to the rear of such vehicle, which lights shall be kept lighted while the vehicle is upon a highway from one-half hour after sunset to one-half hour before sunrise. Provided, however, that vehicles drawn by animal power may in lieu of such lamps or lanterns be equipped with adequate reflectors.

Every owner, driver or operator of a vehicle while it is upon the main traveled portion of a highway during the period from one-half hour after sunset to one-half hour before sunrise, and at any other time when there is not sufficient light to render clearly discernible any person upon the highway for a distance of at least two hundred (200) feet ahead, shall keep lighted all lamps or lighting devices with which such vehicle is required to be equipped, whether the vehicle is in motion or not.

It shall be unlawful for any person to operate or move any vehicle upon a highway with a red light thereon visible directly from the front thereof, except, that this provision shall not apply to law enforcement officers, fire departments, and ambulances.

Every motor vehicle other than a motorcycle when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and to hold such vehicle including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels. Any motor vehicle or combination of motor vehicles, trailer, or semi-trailer or other vehicle, shall be equipped with brakes upon one or more of such vehicles, adequate to stop such combination of vehicles in dry weather upon a reasonably level surface within a distance of forty-five (45) feet from the spot where such brakes are first applied when such vehicle or combination of vehicles are traveling at a rate of speed of twenty (20) miles per hour.

Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order capable of emitting sounds audible under normal conditions for a distance of not less than two hundred (200) feet, and it shall be unlawful for any vehicle to be equipped with or for any person to use upon a vehicle any bell, siren, compression or exhaust whistle or for any person at any time to use a horn otherwise than as a reasonable warning or to make any unnecessary or unreasonably loud or harsh sound by means of a horn or other warning device, except that vehicles operated in the performance of duty by law enforcement officers, fire departments and ambulances may attach and use a bell, siren, compression or exhaust whistle.

Every motor vehicle engaged in the transportation of passengers for hire shall be equipped with at least one quart of chemical type fire extinguisher in good condition and conveniently located for immediate use.

It shall be unlawful for any person to operate or permit to be operated any commercial motor vehicle of over one ton carrying capacity upon the highway of this State without having first obtained a chauffeur's license as provided in Article 6687 of the Revised Civil Statutes of Texas of 1925. [Acts 1929, 41st Leg., 2nd C. S., p. 72, ch. 42, as amended Acts 1931, 42nd Leg., p. 507, ch. 282, § 10.]

Sec. 10. No person shall park or leave standing any vehicle, whether attended or unattended, upon the paved or improved or main traveled portion of any highway, outside of any incorporated town or city, when it is possible to park or leave such vehicle standing off of the paved or improved or main traveled portion of such highway; provided, in no event shall any person park or leave standing any vehicle, whether attended or unattended, upon any highway unless a clear and unobstructed width of

not less than fifteen feet upon the main traveled portion of said highway opposite such standing vehicle shall be left for free passage of other vehicles thereon, nor unless a clear view of such vehicle may be obtained from a distance of 200 feet in each direction upon such highway.

Whenever any peace officer or license and weight inspector of the Department shall find a vehicle standing upon a highway in violation of the provisions of this section, he is hereby authorized to move such vehicle or require the driver or person in charge of such vehicle to move such vehicle to a position permitted under this section.

Sec. 11. The Department is hereby authorized to classify, designate and mark both intrastate and interstate State Highways lying within the boundaries of this State and to provide a uniform system of marking and signing such highways under the jurisdiction of this State, and such system of marking and signing shall correlate with and so far as possible conform to the system adopted in other states.

Sec. 12. The Department, with reference to State Highways under its jurisdiction, is hereby authorized to designate main traveled or through highways by erecting at the entrances thereto signs notifying drivers of vehicles to come to a full stop before entering or crossing any such highway; and whenever any such sign has been so erected, it shall be unlawful for the driver or operator of any vehicle to fail to stop in obedience thereto.

Sec. 13. No unauthorized person shall erect or maintain upon any State Highway any warning or direction sign, marker, signal or light, and no person shall erect or maintain upon any highway any traffic or highway sign or signal bearing thereon any commercial advertising, provided nothing in this section shall be construed to prohibit the erection or maintenance of signs, markers, or signals bearing thereon the name of an organization authorized to erect the same by the Department.

Sec. 14. Any person who shall deface, injure, knock down or remove any sign, posted as provided in this Act shall be guilty of a misdemeanor.

Sec. 15. (a) It shall be unlawful and constitute a misdemeanor for any person to violate any of the provisions of this Act.

(b) Any person, corporation or receiver, who violates any provision of this Act shall, upon conviction, be punished by a fine of not more than Two Hundred Dollars (\$200.00); for a second conviction within one (1) year thereafter such person, corporation or receiver, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment in the County Jail for not more than sixty (60) days or by both such fine and imprisonment; upon a third or subsequent conviction within one (1) year after the second conviction such person, corporation or receiver shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00); or by imprisonment in the County Jail for not more than six (6) months, or by both such fine and imprisonment. Provisions hereof with respect to imprisonment shall not be applicable to corporations, but double the fines herein provided for may be imposed against them in lieu of imprisonment. [Acts 1929, 41st Leg., 2nd C. S., p. 72, ch. 42, as amended Acts 1931, 42nd Leg., p. 507, ch. 282, § 11.]

Sec. 16. To insure the adequate enforcement of this Act and all other laws relating to vehicles and their use on the public highways, the State Highway Department is hereby authorized to and shall employ one hundred twenty (120) State Highway Patrolmen, in which shall be included all License and Weight Inspectors now authorized by Law, who shall be charged with the duty of strictly enforcing said Laws. Included in said number shall be one (1) Chief, five (5) Captains, five (5) Lieutenants, five (5) Sergeants, and one hundred four (104) Privates. There shall also be employed one (1) Secretary, two (2) Stenographers, two (2) Typists, and four (4) File Clerks. All salaries shall be fixed by the Legislature and paid in twelve (12) equal monthly installments, and suf-

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ficient funds are hereby appropriated out of, and the Highway Commission is hereby authorized to use sufficient money out of, the State Highway Fund to pay for equipment, and all reasonable and necessary expenses for the proper functioning of said State Highway Patrol, including the establishment and maintenance of a Training School for State Highway Patrolmen. It is further provided, that before a State Highway Patrolman is permanently appointed, he shall take a course consisting of at least seven weeks' training in this school. Said patrolmen when appointed shall be given a Commission signed by the Chairman and one other member of the State Highway Commission and attested by the Chief of the Department, and anywhere in this State they shall be charged primarily with the duty of enforcing all the State Laws relating to vehicles and traffic on the public highways; and they are also vested with all the rights and powers of peace officers, to pursue and arrest any person for any offense when said person is found on the highway. All such persons appointed to the office of Highway Patrol in this State shall before entering upon the duties of such office take and subscribe to the oath as prescribed in the Constitution of this State and shall make and execute a good and sufficient bond in the sum of One Thousand (\$1,000.00) Dollars, payable to the Governor of this State and his successors in Office, with two or more good and sufficient sureties, conditioned that he will fairly and faithfully perform all the duties as may be required of him by law and that he will fairly and impartially enforce the law of this State and that he will pay over any and all moneys or turn over any and all property to the proper person legally entitled to same that may come into his possession by virtue of such Office. Said bond shall not be void for the first recovery, but may be sued on from time to time in the name of any person injured until the whole amount thereof is recovered. It shall be unlawful and constitute a misdemeanor for any person or persons to impersonate a State Highway Patrolman or to use any badge or operate any vehicle with the words "State Highway Patrol," "State Highway Police" or any other wording on such badge or vehicle that would cause anyone to believe that such person or persons were State Highway Patrolmen, except officers duly appointed by the State Highway Department. [Acts 1929, 41st Leg., 2nd C. S., p. 72, ch. 42, as amended Acts 1931, 42nd Leg., p. 278, ch. 164, § 1.]

Effective May 23, 1931. Section 12 of said act provides that it shall not restrict or limit the powers of cities and towns as to streets and other public places, provided that no city or town shall pass any ordinance establishing any limit or requirement less than is provided by the act.

Section 13 of said act provides that if any section is held invalid, such decision shall not affect the remainder. Section 14 repeals all conflicting laws and parts of laws.

Sec. 16a. The State Highway Patrol, License and Weight Inspectors, Headlight Division and any other Law Enforcement Agencies now in existence or hereafter created in connection with the Highway Department shall be known as the Law Enforcement Division of the Highway Department. This Division shall be under the Chief of the Highway Patrol as the Executive Head who shall work directly under and be responsible to The Highway Commission only. [Acts 1931, 42nd Leg., p. 278, ch. 164, § 1.]

Sec. 16a-1. Each and every employee regardless of designation of name as mentioned in this Act shall be required to take a special oath, swearing that so long as he is connected with the Highway Department he will not take any part in promoting the candidacy of any candidate for public office, by contributing his time, influence or contribute any money or valuable thing, but nothing shall be construed as denying any citizen the right to cast his individual vote for candidates for public office. [Acts 1931, 42nd Leg., p. 278, ch. 164, § 1.]

Sec. 16a-2. Any person guilty of violating the provisions of Section 16a-1 shall be discharged from employment by the State and shall not be

eligible to hold office under this Act for a period of five years. [Acts 1931, 42nd Leg., p. 278, ch. 164, § 1.]

Sec. 16a-3. A reasonable number of the Highway Patrol shall be assigned at least in part to night duty. [Acts 1931, 42nd Leg., p. 278, ch. 164, § 1.]

Effective 90 days after May 23, 1931, date of adjournment. Acts 1931, 42nd Leg., p. 278, ch. 164, § 1, amending section 16 of Acts 1929, 41st Leg., 2nd C. S., p. 72, ch. 42, adds the three sections 16a-1 to 16a-3.

[Art. 827b. Temporary registration for out of state visitors]

Sec. 1. The following words and phrases when used in this Act shall for the purpose of this Act have the meanings respectfully ascribed to them in this Section as follows:

"Vehicle" means every device in, or by which any person or property is or may be transported or drawn upon a public highway, except devices moved only by human power or used exclusively upon stationary rails or tracks.

"Motor Vehicle" means every vehicle as herein defined which is self-propelled.

"Passenger Car" means any motor vehicle other than a motorcycle or a bus as defined in this Act designed or used primarily for the transportation of persons.

"Commercial Motor Vehicle" means any motor vehicle other than a motorcycle designed or used for the transportation of property including every vehicle used for delivery purposes.

"Trailer" means every vehicle without motive power designed or used for carrying property or passengers wholly on its own structure and to be drawn by a motor vehicle.

"Semi-trailer" means every vehicle of the trailer type so designed or used in conjunction with a motor vehicle that some parts of its own weight and that of its own load rests upon or is carried by a motor vehicle.

"Owner" means any person who holds a legal title of a motor vehicle or who has the legal right of possession thereof or the legal right of control of said vehicle.

"Occasional Trip" means not to exceed five trips into this State during any calendar month nor to exceed five days on any one trip.

"Non-resident" means every resident of a state or country other than the State of Texas whose sojourn in this State, or whose occupation, or place of abode, or business in this State, if any, covers a total period of not more than one hundred and twenty days in the calendar year.

"Department" means the State Highway Department of this State, acting directly or through its duly authorized officers and agents.

Sec. 2. A non-resident owner of a motor vehicle, trailer, or semi-trailer which has been duly registered for the current year in the State or country of which the owner is a resident and in accordance with the laws thereof, may, in lieu of registering such vehicle as otherwise required by Law, apply to the State Highway Department through a County Tax Collector for the registration thereof as provided in this Act, except that the privileges granted as otherwise provided for in this Act shall not apply to any motor vehicle, trailer, or semi-trailer operated within this State for the transportation of persons or property for compensation or hire. Provided, however, that motor vehicles properly licensed in another State or country operated for compensation or hire may be allowed to make not to exceed two trips during any Calendar month and remain on each of said trips within the State not to exceed four days, without being registered in this State. [Acts 1930, 41st Leg., 5th C. S., p. 141, ch. 18, as amended Acts 1931, 42nd Leg., p. 34, ch. 27, § 1.]

Effective March 18, 1931. This act was filed without the Governor's signature.

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Sec. 3. The non-resident owner or operator of any passenger car shall within twenty-five days after commencing to operate such vehicle, or causing or permitting it to be operated within this State apply to the Department, through any County Tax Collector, for the temporary registration [registration] thereof upon the appropriate official from stating therein the name and home address of the owner and the temporary address, if any, of the owner or operator while within this State, the registration number of said vehicle assigned thereto in the state or country in which the owner is a resident, together with such description of the motor vehicle as may be called for in the form and such other statements of facts as may be required by the Department. Said application shall contain owner's authorization for the Chairman of the Texas State Highway Commission to accept service in behalf of said owner in any suit arising out of damages resulting from injury caused by said owner operating a motor vehicle upon the highways of Texas. Provided this provision relating to acceptance of service shall be construed as cumulative of all other laws or parts of laws relating to the service on non-residents. Each such application shall be accompanied by a fee of fifty cents, ten cents to be retained by the Tax Collector and fifteen cents to be placed in the General Funds of the county where collected and twenty-five cents to be remitted on Monday of each week to the State Highway Department, together with a copy of such receipt.

Sec. 4. The County Tax Collector shall file each application received, and issue to the owner a temporary registration certificate of distinctive form to be furnished by the Department containing the date it is issued, a brief description of the vehicle and a statement that the owner has procured temporary registration of such vehicle as a non-resident. Said certificate shall entitle the owner or operator of said vehicle to operate it in this State for a period not exceeding one hundred and twenty days from date of issuance of said certificate.

Sec. 5. No non-resident owner of a motor vehicle, trailer or semi-trailer shall operate any such vehicle or cause or permit it to be operated upon the public highways of this State, either before or while it is registered under this Section, unless there shall at all times be displayed thereon the registration number plates assigned to said vehicle [vehicle] for the current calendar year by the country or state of which such owner is a resident, nor unless the certificate of temporary registration, when issued thereto as in this Section provided shall be placed on said motor vehicle in the manner to be specified by the Department. Provided the Department shall not adopt any patented container, holder or device for the certificate of temporary registration nor shall any visitor be required by said Department to purchase or have said container, holder or device for said certificate. Provided that nothing in this Act shall prevent a non-resident owner of a motor vehicle from operating at will such vehicle in this State for the sole purpose of marketing farm products raised exclusively by him, nor a resident of an adjoining State or country from operating a privately owned and duly registered vehicle, nor operated for hire in this State at will, for the purpose of going to and from his place of regular employment and the making of trips for the purpose of purchasing goods, wares and merchandise. And provided, further, that any non-resident owner of a privately owned motor vehicle may be permitted to make an occasional trip into this State with such vehicle under the privileges of this Act without obtaining such temporary registration certificate. Any person violating any provision of this Section shall be deemed guilty of a misdemeanor; and upon conviction thereof shall be fined in any sum not exceeding Twenty-five (\$25.00) Dollars.

Sec. 6. If any person shall operate any such vehicle or any owner thereof shall operate or permit to be operated, any such vehicle within

this State for a period of more than twenty-five days without applying for the temporary registration thereof, as herein prescribed, unless otherwise provided for in this Act, he shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined in any sum not exceeding Twenty-five (\$25.00) Dollars. If any person shall operate any such vehicle or if any owner thereof shall operate or permit to be operated any such vehicle within this State after the expiration date of any certificate issued for such vehicle under the provisions of this Act without registering the vehicle under the laws governing the registration of the vehicles by the residents of this State or without having displayed thereon license number plates duly assigned therefor under the provisions of said laws, he shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in any sum not exceeding Twenty-five (\$25.00) Dollars. [Acts 1930, 41st Leg., 5th C. S., p. 141, ch. 18.]

Effective 20 days after March 20, 1930, date of adjournment. Section 7 of Acts 1930, 41st Leg., 5th C. S., p. 141, ch. 18, repealed Acts 1930, 41st Leg., 4th C. S., p. 49, ch. 28, §§ 1-8 which was a similar act providing for the temporary registration of

vehicles owned by citizens of another state and which required registration within 10 days after commencing operation of the vehicle in the state and imposed a penalty of \$200 for violating any of its provisions.

#### [Art. 827c. Regulating cotton trucks on highways]

Sec. 1. Declaration of Policy:—A serious traffic menace has been caused upon the public highways and public roads of this State because of the use of the highways and roads to truck a substantial part of the cotton crop, and because of the fact that most of the cotton crop of this State moves within a very short period of time. The moving of an even greater proportion of the annual cotton crop each year will increase the traffic menace upon the highways and roads of the State. The operation of cotton trucks over the public highways and public roads of the State of Texas at the present time has resulted in an unusual and an appalling loss of life of travelers upon the public roads and public highways of this State, has resulted in unwarranted destruction of the public highways of this State, has resulted in unwarranted and dangerous traffic congestion, has created an unusual and unwarranted traffic menace upon the public highways and public roads of the State, has created an unreasonable and unwarranted fire hazard upon the public highways and public roads of the State, and has made difficult and almost impossible the establishing and maintaining of a coordinated use of the highways by the general traveling public. It is declared to be the public policy of this State not to permit any one kind or character of truck traffic to be conducted upon the public highways and public roads of the State in such a manner as unreasonably to interfere with and unreasonably to make dangerous the use of the highways by the general traveling public in a reasonable and safe manner, or unreasonably to destroy such highways, and in order to guard against the dangers above mentioned this law is enacted.

Sec. 2. Definition of Vehicle.—For the purposes of this Act a vehicle is every mechanical device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

Sec. 3. It shall hereafter be unlawful for any person, firm, corporation or association of persons to operate or cause to be operated over the public highways of this State any vehicle or combination of vehicles carrying, singly or collectively, a load of more than ten (10) bales of cotton unless all of the bales of cotton carried in or on any such load shall have been compressed to a density of twenty-two (22) pounds per cubic foot or greater.

Sec. 4. It shall hereafter be unlawful for any person, firm, corporation or association of persons to operate or cause to be operated any vehicle or combination of vehicles carrying singly or collectively, a load of

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more than ten (10) square bales of compressed cotton or more than twenty (20) round bales of compressed cotton for a distance of greater than fifteen (15) miles over the public roads and public highways of this State unless said vehicle or combination of vehicles shall be equipped with a body or bodies constructed so as to completely enclose the load or loads carried thereon from the bottom, sides and ends, and unless all the floors, tops, sides and ends of such vehicle, or combination of vehicles, so enclosing such load or loads, shall be entirely constructed of wood, not less than one and one-half (1½) inches thick, or of iron, or of steel, or of a combination of such wood and, or, iron and, or, steel, to protect the load or loads from being spilled upon the roads or highways.

Sec. 5. The provisions of this Act shall not apply to the operation of vehicles or combinations of vehicles within an incorporated city or town in this State.

Sec. 6. Any person, association of persons or corporation violating any provision of this Act shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) and each day such vehicle or combination of vehicles is operated contrary to the provisions of this Act shall constitute a separate offense. [Acts 1931, 42nd Leg., p. 207, ch. 121.]

Effective May 13, 1931. Section 7 of said valid, such decision shall not affect the re-  
act declares that if any part is held in- mainder.

#### Art. 833. Forbidding use of highway

The County Commissioners of any precinct, or County Road Superintendent of any county, or road Supervisor whose road is affected, or the State Highway Commission, may have the authority by posting notices on the highways or roads under their respective control when from wet weather or recent construction or repairs such cannot be safely used without probable serious damage to same, or when the bridge or culverts on same are unsafe, to forbid the use of such highway or section thereof by any vehicle or loads of such weight or tires of such character as will unduly damage such highway. The notices provided for herein shall state the maximum load permitted and the time such use is prohibited and shall be posted upon the highway in such place as will enable the drivers to make detours to avoid the restricted highways or portions thereof; provided no road shall be closed until detours have been provided.

If the owner or operator of any such vehicle feels himself aggrieved by such action, he may complain in writing to the County Judge of such county, setting forth the nature of his grievance. Upon the filing of such complaint the County Judge shall forthwith set down for hearing the issue thus raised for a day certain, not more than three days later, and shall give notice in writing to such official of the day and purpose of each hearing, and at such hearing the County Judge shall hear testimony offered by the parties respectively, and upon conclusion thereof, shall render judgment sustaining, revoking or modifying such order heretofore made by the County Road Superintendent or Road Supervisor, or the State Highway Commission, and the judgment of the County Judge shall be final as to the issues raised. If upon such hearing the judgment sustains the order of the County Road Superintendent or road Supervisor and it appears that any violation of same has been committed by the complainant since posting such notices, he shall be subject to the same penalty hereinafter provided for such offense as if the same had been committed subsequent to the rendition of such judgment made upon such hearing.

Any party guilty of violating the provisions and directions of any such order or notice of the County Road Superintendent or road Supervisor, or the State Highway Commission, before or after it has been so approved by such judgment of the County Judge shall be fined not exceeding

Two Hundred Dollars. [As amended Acts 1929, 41st Leg., p. 660, ch. 294, § 1.]

#### Art. 834. Closing roads and bridges

The Commissioners' Court of any county subject to this law acting upon their own motion, or through the Superintendent where one is employed, or the State Highway Commission, shall have the power and authority to regulate the tonnage of trucks and heavy vehicles which by reason of the construction of the vehicle or its weight and tonnage of the load shall tend to rapidly deteriorate or destroy the roads, bridges and culverts along the particular road or highway sought to be protected, and notices shall be posted and shall state the maximum load permitted and the time such use is prohibited, and shall be posted upon the highway in such places as will enable the drivers to make detours to avoid the restricted highways or portions thereof.

If the owner or operator of any such vehicle feels himself aggrieved by such action, he may complain in writing to the County Judge of such county, setting forth the nature of his grievance. Upon the filing of such complaint, the County Judge shall forthwith set down for hearing the issue thus raised for a certain day, not more than three days later, and shall give notice in writing to such road official of the day and purpose of such hearing, and at such hearing the County Judge shall hear testimony offered by the parties respectively, and upon conclusion thereof shall rendered judgment sustaining, revoking or modifying such order theretofore made by the County Road Superintendent, and the judgment of the County Judge shall be final as to the issues so raised.

If upon such hearing the judgment sustains the order of the County Superintendent, or the State Highway Commission, and it appears that any violation of same had been committed by the complainant since posting such notices, he shall be subject to the same penalty hereinafter provided for such offense as if same had been committed subsequent to the rendition of such judgment made upon such hearing.

Any party guilty of violating the provisions and directions of such order of the County Road Superintendent or State Highway Commission, after it has been so approved by such judgment of the County Judge shall be fined not exceeding Two Hundred Dollars. [As amended Acts 1929, 41st Leg., p. 660, ch. 294, § 2.]

#### [Art. 835a. Failure to pay road tax]

If any person, liable for the payment of the road tax assessed against him under the provisions of this Act, shall fail or refuse to pay same when due he shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined a sum of not less than Five Dollars and not more than Twenty-five Dollars. [Acts 1929, 41st Leg., 3rd C. S., p. 234, ch. 4, § 4.]

Effective 20 days after July 20, 1929, date conflicting laws and parts of laws. Sections of adjournment. Section 5 of Acts 1929, 1-3 are published as Civ. St. art. 6770a. 41st Leg., 3rd C. S., p. 234, ch. 4, repeals all

#### [Art. 848a. Conservation of underground waters]

Sec. 1. It is hereby declared to be the policy and duty of the Texas State Board of Water Engineers to make and enforce rules and regulations for the conservation, protection, preservation and distribution of all underground, subterranean and percolating waters of every kind and nature whatsoever situated within the limits of the State of Texas.

Sec. 2. Every water well drilled, dug, or excavated in this State which encounters salt water or water containing mineral or other substances injurious to vegetation or agriculture shall be by the owner of said well securely plugged or cased, so that the salt water or other water containing mineral or other substances injurious to vegetation or agriculture shall be confined to the strata in which found, and said casing or plugging shall be done in such manner as to effectively prevent said salt water or water



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containing mineral or other substances injurious to vegetation or agriculture from escaping from the strata in which found into any other water bearing strata or onto the surface of the ground.

Sec. 3. All the foregoing Sections are declared to be equally applicable to wells heretofore drilled, dug or excavated, and wells hereafter to be drilled, dug or excavated.

Sec. 4. The Board of Water Engineers shall make rules and regulations for the effective enforcement of the foregoing Sections, and shall efficiently enforce same.

Sec. 5. If any owner of any well described in any of the foregoing Sections shall for a period of thirty days fail or refuse to securely and properly plug, case or cap the same after having been ordered to do so by the Board of Water Engineers, he shall be deemed guilty of a misdemeanor and shall be subject to a fine of not less than Ten (\$10.00) Dollars nor more than Five Hundred (\$500.00) Dollars for each and every day that he shall fail or refuse to plug, case or cap said well after the expiration of the time above stated, and each day that said owner so fails or refuses to plug, case or cap said well shall be considered a separate offense.

Sec. 6. The Board of Water Engineers shall do all things necessary for the conservation, protection, preservation and distribution of underground, subterranean and percolating waters in this State and shall make and enforce appropriate rules and regulations therefor and the specific enumeration of special powers and duties herein shall not be construed to deny the said Board other powers and duties necessary to the carrying out of the purposes of this Act as expressed in Sections 1 and 5 hereof. Failure for a period of more than thirty days to comply with any order of said Board issued in pursuance of the powers and duties herein created shall subject the person so violating said order to the penalties enumerated in Section 5 hereof. [Acts 1931, 42nd Leg., p. 432, ch. 261.]

#### [Art. 861a. Consent to buildings within campus of State Capitol]

Sec. 1. That it shall be unlawful for any officer of this State, or any employee thereof, or any other person to construct, build, or maintain within the Campus inclosure around the State Capitol in Austin any building, memorial, monument, statue or concessions or other structure, without the authority of the Legislature theretofore given by statute or concurrent resolution for that purpose.

Sec. 2. Any officer, employee of this State, or other person violating Section 1 of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred (\$100.00) Dollars, nor more than One Thousand (\$1,000.00) Dollars, or imprisoned in the County Jail of Travis County for a period of time not to exceed one year, or by both such fine and imprisonment. [Acts 1931, 42nd Leg., p. 780, ch. 312.]

#### Article 871. "Commissioner"

Commissioner abolished and duties conferred on Game, Fish and Oyster commission, see Art. 978f post.

#### [Art. 878a. Open seasons on white winged doves]

For the purposes of this Act a line beginning in the center of the main track of the Texas-Mexican Railway at the international boundary line between the United States and the Republic of Mexico, where said Texas-Mexican Railway crosses the international bridge between the United States and the Republic of Mexico at Laredo, Texas; thence, along the center of the main track of the Texas-Mexican Railway to the center of the main track opposite the passenger station served by the Texas-Mexican Railway in the City of Corpus Christi, Texas; thence, due east from said passenger station to the Gulf of Mexico; shall be the division line for the two zones hereby created for the purposes of this Act only. All that

territory within the State of Texas lying north or northerly of said division line shall be known as the North White Wing Zone, and all that territory within the State of Texas lying south or southerly of said division line shall be known as the South White Wing Zone. [Acts 1931, 42nd Leg., p. 238, ch. 142, § 1.]

**Art. 879.** [Repealed by Acts 1930, 41st Leg., 4th C. S., p. 29, ch. 19, § 1]

**Art. 879a.** [Wild white winged doves]

There shall be an open season, or period of time, when it shall be lawful to hunt, take or kill wild white winged doves in the North White Wing Zone, August 8th to October 31st of each year, both days inclusive; in the South White Wing Zone, August 20th to October 31st of each year, both days inclusive. [As amended Acts 1929, 41st Leg., p. 173, ch. 74, § 1; Acts 1931, 42nd Leg., p. 238, ch. 142, § 2.]

**Art. 879a—1.** [Repealed by Acts 1931, 42nd Leg., Spec. L., p. 211, ch. 102]

The article repealed was acts 1929, 41st 18, 1929.)  
Leg., p. 409, ch. 190, § 1 (effective March

[**Art. 879a—2.** Open season for doves in Archer and other counties]

There shall be an open season or period of time when it shall be lawful to hunt, take or kill wild mourning [mourning] doves in Archer, Baylor, Clay, Knox, Wilbarger, Young, Hill, Falls, Johnson, Somervell, Bell, Navarro, Bosque, McLennan, Wichita, Limestone and Milam Counties during the months of September and October of each year and it shall be unlawful to hunt, take or kill any such doves at any other time of the year. Any provision of law in conflict herewith, whether passed by the First Called Session of the 41st Legislature or at any other time, is hereby repealed. [Acts 1929, 41st Leg., 2nd C. S., p. 192, ch. 89, § 1.]

[**Art. 879a—3.** Open season for doves]

**Sec. 1.** There shall be an open season or period of time when it shall be lawful to hunt, take or kill wild Mourning doves in the North zone during the months of September and October; in the South Zone during the months of October and November, as such zones are defined in Article 878 of the Penal Code of the State of Texas, as amended in Chapter 222, page 326 of the 40th Legislature, Regular Session. All laws or parts of laws in conflict with this Act shall be and the same are hereby repealed.

**Sec. 2.** It shall be unlawful to hunt, take or kill any wild Mourning doves at any time except as provided in Section 1 of this Act.

**Sec. 3.** Any person who shall hunt, take or kill any wild Mourning doves at any time except as provided in Section 1 of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than Ten (\$10.00) Dollars, nor more than One Hundred (\$100.00) Dollars, and each bird so taken or killed shall constitute a separate offense. [Acts 1930, 41st Leg., 4th C. S., p. 29, ch. 19.]

**Art. 879c.** [Wild turkey gobblers]

There shall be an open season, or period of time, when it shall be lawful to hunt, take or kill wild turkey gobblers, in both the North and South Zones, November 16th, to the following December 31st, both days inclusive; provided, however, it shall be unlawful for any person or persons to hunt, take or kill wild turkey for a period of five years, from and after November 15, 1929, in any of the following counties: Callahan, Eastland, Stephens, Palo Pinto and Shackelford. [As amended Acts 1929, 41st Leg., 2nd C. S., p. 52, ch. 32, § 1.]

See, also, Pen. art. 879c-1 post.

The original article 879c did not contain

the proviso, which was added by the amendment.

**[Art. 879c—1. Killing wild turkeys]**

The open season for killing wild turkeys in any county composing the third, fifth, and fourteenth Senatorial Districts, and in counties having a population of over three hundred fifty thousand (350,000), according to the 1930 Federal Census, or any other census taken hereafter, shall be during the months of March and April. Whoever kills a wild turkey in any of said counties at any time other than during said open season, or whoever kills, in any of said counties, any wild turkey hen, or more than three wild turkey gobblers during any one year, shall be fined not less than Ten (\$10.00) Dollars nor more than One Hundred (\$100.00) Dollars. Each turkey killed in violation of this Act shall be a separate offense. [As amended Acts 1931, 42nd Leg., Spec. L., p. 417, ch. 202, § 1.]

**Art. 879e. [Wild ducks, geese, brant, snipe and gallinules]**

There shall be an open season, or period of time, when it shall be lawful to hunt, take or kill wild ducks of all kinds (except wild wood ducks), wild geese, wild brant, wild snipe of all kinds, (except Ross' geese and cackling geese), wild gallinules and wild coot or mud hen, in the North Zone from 12:00 o'clock noon October 16th, to the following January 15th, inclusive; in the South Zone from 12:00 o'clock noon, November 1st to the following January 15th inclusive. [As amended Acts 1929, 41st Leg., 2nd C. S., p. 52, ch. 32, § 1; Acts 1931, 42nd Leg., p. 251, ch. 151, § 1.]

**[Art. 879f—1. Prairie chickens or pinnated grouse]**

Sec. 1. It shall be unlawful for any persons to take, capture, kill or possess, or to attempt to take, capture or kill any prairie chicken or pinnated grouse at any time other than the open season provided therefor; provided that game lawfully taken during the open season may be held in possession for ten days after the close of the open season.

Sec. 2. The open season for prairie chickens or pinnated grouse shall be from the first day of September to the fourth day of September of each year, both days inclusive; provided that there shall be no open season on wild prairie chicken in Collingsworth and Wheeler Counties for a period of two years.

Sec. 3. It shall be unlawful to take, kill or have in possession more than ten prairie chickens or pinnated grouse in any one day or during the open season of each year.

Sec. 4. Any person violating any provision of this Act shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in any sum not less than Fifty (\$50.00) dollars nor more than Two Hundred (\$200.00) dollars, and each bird killed or possessed in violation of this Act shall create a separate offense. [Acts 1929, 41st Leg., p. 450, ch. 209.]

Section 5 of said Acts 1929, 41st Leg., p. 450, ch. 209, repeals all conflicting laws and parts of laws.

**[Art. 879f—2. Open season for prairie chickens]**

Sec. 1. The open season for prairie chicken shall be from the 1st day of September to the 4th day of September of each year, both days inclusive; provided that there shall be no open season on wild prairie chicken in Collingsworth and Wheeler Counties.

Sec. 2. Any person violating any provision of this Act shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than Fifty (\$50.00) Dollars nor more than Two Hundred (\$200.00) Dollars, and each bird killed or possessed in violation of this Act shall create a separate offense. [Acts 1931, 42nd Leg., Spec. L., p. 297, ch. 152.]

Effective 90 days after May 23, 1931, date of adjournment. Section 3 of said Act 1931 repeals all conflicting laws and parts of laws.

**Art. 879g. [Wild buck deer and wild bear]**

There shall be an open season, or period of time, when it shall be lawful to hunt, take or kill wild buck, deer, wild bear, in both the North and South Zones, November 16th to December 31st of each year, both days inclusive; provided, however, it shall be unlawful for any person or persons to hunt, take or kill wild deer for a period of five years, from and after November 15, 1929, in any of the following counties: Callahan, Eastland, Stephens, Palo Pinto and Shackelford. [As amended Acts 1929, 41st Leg., 2nd C. S., p. 52, ch. 32, § 2.]

**[Art. 879g—1. Black tail deer west of Pecos River]**

Hereafter it shall be unlawful to hunt, take or kill any Black Tail Deer in any part of this State west of the Pecos River, except during the period from the sixteenth to the thirtieth day of November inclusive of each year, and in said territory during said open season it shall be unlawful to hunt, take or kill any such deer unless it be a buck, with pronged horn, and it shall be unlawful to kill more than one such pronged horn buck during any one open season in said territory. Any person violating any provision of this Act shall be subject to fine of not less than fifty dollars nor more than two hundred dollars. [Acts 1929, 41st Leg., p. 230, ch. 95, § 1.]

**Art. 879h. [Wild squirrels]**

There shall be an open season, or period of time, when it shall be lawful to hunt, take or kill wild red or fox squirrels and wild gray squirrels, in both the North and South Zones, in the months of May, June and July, and in the months of October, November and December of each year; provided, however, that nothing in this Chapter shall prevent the keeping of squirrels in cages as domestic pets; and provided further, that it shall not be unlawful to kill squirrels in the following counties at any time, to wit: DeWitt, Caldwell, Guadalupe, San Saba, Mason, Gillespie, Llano, Kimble, Menard, Comal, McCulloch, Brown, Kerr, Burnet, Mills, Schleicher, Edwards, Gonzales, Austin, Real, Kendall, Victoria, Medina, Uvalde, Jackson, Wharton, Bandera, Lavaca, Fayette, Colorado, Callahan, Stephens, Eastland, Bastrop, Travis, Dimmit, Zavala, Blanco, Lampasas, Hamilton, Coryell, Matagorda, Brazoria, Washington, Throckmorton, Karnes, Wilson, Comanche, Hays, Goliad, Erath, Bosque, Hill, Waller, Tarrant, Wise, Cooke, Montague and Fort Bend. [As amended Acts 1929, 41st Leg., p. 108, ch. 52, § 1.]

**Art. 880. Hunting with dogs**

It is hereby declared unlawful for any person or persons to make use of a dog or dogs in the hunting or pursuing or taking of any deer. Any person or persons owning or controlling any dog or dogs, and who permits or allows such dog or dogs to run, trail or pursue any deer at any time, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum of not less than Twenty-Five (\$25.00) Dollars and not more than Two Hundred (\$200.00) Dollars; provided however, that this Article shall not apply to the counties of Matagorda, Wharton, Jackson and Fort Bend. And, provided, further that is [it] shall be lawful to use one dog for the purpose of trailing a wounded deer in the counties of Kimble, Sutton, Edwards, Medina, Dimmit, Uvalde, Zavala, Kerr, Mason, Gillespie, Tom Green, Shackelford, San Saba, Llano, Blanco, Burnet, Bandera, Comal, Real, Kendall, Wharton, Schleicher, Crockett, Guadalupe, Jackson, Wilson, Concho, Karnes, Jones, Atascosa, Baylor, Bexar, Brewster, Caldwell, Denton, DeWitt, Frio, Gonzales, Haskell, Hays, Hidalgo, Jack, Kaufman. [As amended Acts 1931, 42nd Leg., p. 853, ch. 361, § 1.]

**Art. 881. Possessing more than bag limit**

See art. 881a, post, as to ducks and geese.

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[Art. 881a. Bag limit of wild ducks and geese]

Sec. 1. It shall be lawful for any person to take, capture or kill not more than fifteen wild ducks and not more than four wild geese in any one day and to have in possession not more than thirty wild ducks and to have in possession not more than eight wild geese at any one time. All laws or parts of laws relative to bag limit and possession limit of wild ducks and wild geese in conflict herewith are hereby repealed.

Sec. 2. It shall be unlawful for any one person to take, capture or kill more than fifteen wild ducks in any one day and it shall be unlawful for any person to take or kill more than four wild geese in any one day. It shall be unlawful for any person to have in possession more than thirty wild ducks at any time and it shall be unlawful for any person to have in possession at any time more than eight wild geese at any one time. Provided, that any ducks or geese killed, taken or possessed in accordance with this Act must be taken, killed or possessed during the open season or period of time when ducks and geese may be taken, killed and possessed.

Sec. 3. Any person violating any of the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than Ten (\$10.00) Dollars and not more than Two Hundred (\$200.00) Dollars, and each fowl so taken, killed or possessed in violation of this Act shall constitute a separate offense. [Acts 1930, 41st Leg., 4th C. S., p. 8, ch. 7.]

Art. 904. Hunting with gun; license for

The amendment to this article by Acts 1929, 41st Leg., 2nd C. S. p. 37, ch. 23, § 1, was repealed by Acts 1931, 42nd Leg., p. 848, ch. 356, § 1. Effective May 26, 1931.

Art. 923 (g) [889a] Using deer call

Sections 1 and 2, Acts 1929, 41st Leg., p. 410, ch. 191, effective 90 days after March 14, 1929, date of adjournment provide a similar penalty for hunting deer, buck, doe or fawn in the limits of Bastrop County for a period of five years.

[Art. 923g-1. Deer in Parker and Palo Pinto Counties]

Sec. 1. That for five years from and after the passage of this Act, it shall be unlawful for any person to shoot at, or kill, any wild deer in Parker or Palo Pinto Counties.

Sec. 2. That whosoever shall violate the provisions of this act shall be guilty of misdemeanor and upon conviction thereof shall be fined not less than One Hundred (\$100.00) Dollars and not more than two hundred (\$200.00) Dollars, provided each deer so shot shall constitute a separate offense. [Acts 1929, 41st Leg., p. 507, ch. 243.]

[Art. 923g-2. Deer in Hemphill and other counties]

Sec. 1. That for five years from and after the passage of this Act, it shall be unlawful for any person to shoot at, or kill, any wild deer in Hemphill, Roberts or Hutchinson Counties.

Sec. 2. That whosoever shall violate the provisions of this Act shall be guilty of misdemeanor and upon conviction thereof shall be fined not less than One Hundred (\$100.00) Dollars and not more than Two Hundred (\$200.00) Dollars, provided each deer so shot shall constitute a separate offense. [Acts 1929, 41st Leg., p. 506, ch. 242.]

Art. 9237-1. Open season for squirrels in certain counties]

Hereafter it shall be lawful to kill squirrels at any time in the Counties of Travis, Williamson, San Saba, Llano, Lampasas, Burnet, Goliad, Blanco, Hays, Tom Green, Irion, Sterling, Concho, Erath, Bell and Hood. [Acts 1929, 41st Leg., p. 304, ch. 141, § 1, as amended Acts 1930, 41st Leg., 5th C. S., p. 230, ch. 72, § 1.]

Section 1 of Acts 1930, 41st Leg., 5th C. S., p. 230, ch. 72, amends acts 1929, 41st Leg., p. 304, ch. 141, § 1 by adding Tom Green, Irion, Sterling, Concho, Erath, Bell and Hood Counties.

**[Art. 92311-2. Squirrels in Panola and other counties]**

Sec. 1. It shall be unlawful for any one to hunt, take or kill any squirrel, except during the months of November, December and January of any year, in the following counties: Panola, Rusk, Angelina, Tyler, Sabine, San Augustine, Nacogdoches, Jasper, Newton, Cherokee, Jefferson, Orange, Hardin, Liberty, Shelby, San Patricio, Chambers.

It shall be lawful for anyone to hunt, take and kill squirrels [squirrels] in the Counties of Marion, Cass, Bowie, Morris and Smith during the months of May, June, July, November, December and January of any year. [Acts 1929, 41st Leg., p. 449, ch. 208, § 1, as amended Acts 1929, 41st Leg., 2nd C. S., p. 53, ch. 33, § 1.]

See, also, art. 92311-5 post.

Sec. 2. Any one who shall hunt, take or kill any squirrel in the counties named in this Act at any time except during the months of November, December and January shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum of not less than Ten (\$10.00) Dollars nor more than Fifty (\$50.00) Dollars and his hunting license shall be automatically cancelled and he shall not be entitled to receive another such license for a period of one year from the date of his conviction. Provided that each squirrel taken or killed in violation of this Act shall constitute a separate offense. [Acts 1929, 41st Leg., p. 449, ch. 208.]

**[Art. 92311-3. Williamson county squirrels]**

It shall be unlawful for any person to take or kill any squirrel or squirrels in Williamson County, Texas, during the months of January, February, March, April, August and September of any year, and the remainder of each year shall be an open season during which it shall not be unlawful to hunt or take wild squirrels in said county. Any person violating this Act shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$10.00 nor more than \$100.00. Any provision of any law in conflict with this act whether enacted at this Session or some other Session of the Legislature is hereby repealed insofar as Williamson County is concerned. [Acts 1929, 41st Leg., p. 431, ch. 199, § 1.]

**[Art. 92311-4. Squirrels in Colorado and other counties]**

It shall be unlawful for any person to hunt, take or kill squirrel, except during the months of May, June, July, October, November and December of any year in the following named counties: Colorado, San Patricio, Titus, Morris, Smith, Walker, San Jacinto, Waller, Fort Bend, Rusk, Matagorda, Brazoria, Bowie, Cherokee and Austin.

Sec. 2. Any person who shall hunt, take or kill any squirrel in violation of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than Ten (\$10.00) Dollars nor more than Fifty (\$50.00) Dollars. [Acts 1929, 41st Leg., 2nd C. S., p. 35, ch. 21, as amended Acts 1931, 42nd Leg., Spec. L., p. 101, ch. 36.]

Effective March 6, 1931. Section 3 of said act repeals all conflicting laws and parts of laws.

**[Art. 92311-5. Squirrels in Marion, Cass and Bowie Counties]**

Sec. 1. That from and after the passage of this Act it shall be unlawful for any person to hunt, take, or kill any squirrel except during the months of May, June, July, October, November, and December in the counties of Marion, Cass, and Bowie.

Sec. 2. Any person who shall hunt, take, or kill any squirrel in the counties named in this Act at any time except the above designated months shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum of not less than Ten (\$10.00) Dollars nor more than Fifty (50.00) Dollars, provided that each squirrel killed in violation

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of this Act shall constitute a separate offense. [Acts 1930, 41st Leg., 4th C. S., p. 29, ch. 18.]

See, also, art. 923ll-2, ante.

**Art. 923ll—6. [Bag limit on squirrels]**

It shall be unlawful for any person to take or kill more than ten (10) squirrels in any one day or to have in possession at any time more than twenty (20) squirrels; provided, however, that the terms and provisions of this Act shall not apply to the following counties: Aransas, Atascosa, Austin, Bandera, Bastrop, Bee, Blanco, Brown, Bosque, Brazoria, Burnet, Caldwell, Calhoun, Callahan, Chambers, Colorado, Cooke, Coryell, Comanche, Comal, Concho, Delta, DeWitt, Dimmit, Eastland, Edwards, Erath, Fayette, Fort Bend, Franklin, Galveston, Gillespie, Goliad, Gonzales, Guadalupe, Hays, Hamilton, Hill, Hopkins, Jackson, Karnes, Kerr, Kendall, Kimble, Lamar, Lampasas, Lavaca, Live Oak, Llano, Mason, Matagorda, McCulloch, Menard, Medina, Mills, Montague, Real, Red River, Refugio, San Patricio, San Saba, Schleicher, Stephens, Tarrant, Throckmorton, Travis, Uvalde, Victoria, Waller, Washington, Wharton, Wilson, Wise, Zavala. [Acts 1931, 42nd Leg., Spec. L., p. 453, ch. 233, § 1.]

Effective 90 days after May 23, 1931, date of adjournment. Section 2 of said Act 1931 repeals all conflicting laws and parts of laws.

**Art. 923pp. [Repealed by Acts 1931, 42nd Leg., p. 440, ch. 264, § 1]**

Effective 90 days after May 23, 1931, date of adjournment. The article repealed was Acts 1927, 40th Leg., 1st C. S., p. 102, ch. 34, § 1 (effective 90 days after June 7, 1927, date of adjournment) as amended Acts 1929, 41st Leg., 1st C. S., p. 181, ch. 68, § 1 (effective May 23, 1929).

**[Art. 923q. Fur bearing animals; closed season]**

**Sec. 1A.** It shall be unlawful for any person to take or attempt to take the pelt of any furbearing animal of this State at any time other than the open season provided therefor. The open season for taking pelts of furbearing animals shall be during the months of December and January of each year, except muskrats, the open season for which shall be from the 15th day of November to the 15th day of March, both days inclusive.

**Sec. 2.** Any person over the age of seventeen (17) years who takes or attempts to take the pelt or pelts of any of the fur-bearing animals of this State for the purpose of barter or sale, except persons who take the pelt or pelts of fur-bearing animals from their own land, or land on which such persons reside, before doing so, shall procure a trapper's license. If the trapper has been a resident of this State for twelve (12) months before applying for such license, he shall pay for such license the sum of One Dollar and Ten Cents (\$1.10), Ten (10) Cents of which shall be retained by the officer issuing the license. If he has not been a resident of this State for twelve (12) months prior to applying for such license, he shall pay for a nonresident trapper's license the sum of Twenty-five Dollars (\$25.00). Such license shall be issued by the Game, Fish and Oyster Commission and shall be available on and after September 1st of each year, and shall expire August 31st of the following year. All trapper's licenses shall have blanks for the name of the trapper, his place of residence, age, height, weight, color of eyes and color of hair. [As amended Acts 1931, 42nd Leg., p. 188, ch. 109, § 1.]

This article was also amended by Acts 1929, 41st Leg., p. 472, ch. 221, § 1 (effective September 1, 1930); Acts 1930, 41st Leg., 5th C. S., p. 185, ch. 45, § 1 (effective Sept. 1, 1930). Acts 1931 cited to the text effective May 5, 1931.

**Sec. 3.** That there be and is hereby levied a tax of one cent on each pelt taken from the furbearing animal, except pelts of raccoons and mink, the tax for which shall be five cents on each pelt, which tax shall be payable as herein provided.

Sec. 4. It shall be the duty of the Game, Fish and Oyster Commission to provide suitable tags to be attached to the pelts of furbearing animals, as a receipt for the tax which has been paid thereon. Such tag shall be available on and after September 1st of each year and shall be valid until August 31st of the year following. Tags shall be printed with the words "State of Texas—fur tax received 1 cent" and "State of Texas—fur tax received 5 cents," and shall show date of expiration, and have a blank for date pelt was tagged. The Game, Fish and Oyster Commission, or its authorized agents, shall issue tax receipt tags upon payment of the amounts for which such receipts are issued.

Sec. 5. It shall be the duty of the trapper to attach to the pelt of each furbearing animal taken by him a tax receipt tag as described herein for the amount of tax due on such pelt and place on each tag date it was tagged, before such pelt may be shipped, bartered, sold or offered for sale, and providing that all pelts held by a trapper for the purpose of sale shall be tagged within 5 days after the close of the open season for taking such pelts. It shall be unlawful for any dealer to purchase a pelt taken in this State or shipped from any point in this State which does not bear a tax receipt tag.

Sec. 6. Any person, firm or corporation, except the trapper selling his own catch, who barter, buys, offers to barter, offers to buy, sells or offers for sale the pelt or pelts of any furbearing animal protected by the laws of this State, before engaging in such business in this State, shall procure a license as a dealer from the Game, Fish and Oyster Commission or its authorized agents by the payment of the sum of Five Dollars and (\$5.50) fifty cents, fifty cents of which shall be retained by the officer issuing such license, provided that such applicant has been a resident of this State for 12 months prior to the application for license or is a resident firm or corporation organized 12 months prior to such application. All others shall be non-residents and shall procure a non-resident dealer's license from the Game, Fish and Oyster Commission at Austin, Texas, by the payment of Fifty (\$50.00) Dollars for each such license.

Sec. 7. That every dealer as defined in this Act must file with the Game, Fish and Oyster Commission not later than the 10th day of each month a complete sworn report on printed forms furnished by the Game, Fish and Oyster Commission of the kind and number of the pelts of furbearing animals purchased in this State and shipped out of this State during the preceding month. Provided that no report shall be required for those months during which no pelts are purchased in this State. And providing that those dealers who purchase pelts for manufacturing into a finished product in this State shall report by the 10th day of each month the number and kind of pelts purchased during the preceding month.

Sec. 8. The possession in this State of any undried pelt from a furbearing animal at any time other than during the open season for taking of such pelt, or within fifteen days after the close of such season, shall be prima facie evidence that such pelt was taken during the closed season.

Sec. 9. Any person who desires to take alive any of the furbearing animals of this State for the purpose of sale before taking any of the furbearing animals of this State for such purpose shall apply to the Game, Fish and Oyster Commission at Austin, Texas, for a Propagation Permit for which he shall pay the sum of Five (\$5.00) Dollars, which Permit shall be available on and after the first day of September of each year and shall be valid until August 31st of the following year. Any person holding a Propagation Permit may take and hold furbearing animals protected by the laws of this State, provided that such animals are taken during the period of time that it is lawful to do so, and provided that the pelts from such animals may not be taken at any time other than during the open season for taking such pelts. Any person who holds a Propaga-



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tion Permit shall file a report with the Game, Fish and Oyster Commission not later than the 16th day of March of each year, showing the number of each kind of furbearing animals held in captivity and giving the Commission the number of each kind of furbearing animal and pelts disposed of during the year previous.

Sec. 10. The pelts of all furbearing animals of this State are declared to be and continue to be the property of this State until all taxes levied thereon are paid, receipts for such taxes are issued and attached to such pelts, and all regulations herein are followed; provided, however, that any pelts taken during the open season for the taking of such pelts shall not come within the provision of this Act, when they are held for personal use.

Sec. 11. The Game, Fish and Oyster Commission and all Game and Fish Wardens in its employ are hereby directed to seize any and all pelts illegally taken or held by anyone and to hold them as evidence until after trial of the person or persons charged with illegally taking or holding of such pelt or pelts, and if the defendant is found guilty of taking or possessing such pelt or pelts, in violation of any provision of this Act, the pelt or pelts so seized as evidence shall be delivered to the office of the Game, Fish and Oyster Commission by the Game and Fish Warden, and the Game, Fish and Oyster Commission is hereby directed to sell such pelt or pelts. Prosecutions under this Act may be begun and carried on either in the county in which the pelts or animals were taken or from where they were shipped or in the county of this State in which they are received for sale.

Sec. 12. It shall be unlawful for any person, firm or corporation to take, sell, offer for sale or buy or offer to buy the pelts of furbearing animals in this State for a period of twelve months after date of conviction. Any person, firm or corporation violating any of the provisions of this Act upon conviction shall be fined in any sum not less than Ten (\$10.00) Dollars and not more than One Hundred (\$100.00) Dollars, and his trapper's or dealer's license shall be forfeited at time of conviction, and he shall not be entitled to purchase another such license for a period of one year.

Sec. 13. All monies collected from taxes, licenses, fines, sale of confiscated pelts and penalties for violation of this Act shall be deposited with the Treasurer of this State during the first week of each month and shall be credited to the Special Game Fund and used for the purposes provided for by law. [As amended Acts 1929, 41st Leg., p. 472, ch. 221, § 1, Acts 1930, 41st Leg., 5th C. S., p. 185, ch. 45, § 1.]

Subsection 14 of section 1 of Acts 1930, 41st Leg., 5th C. S., p. 185, ch. 45, repeals all conflicting laws and parts of laws, excepting Acts 1929, 41st Leg., 1st C. S., p. 181, ch. 68, § 1 (Pen. Code art. 923pp).

Subsection 15 of section 1 provides that if any section is held unconstitutional the

validity of any other section shall not be affected.

The amendment by Acts 1930, 41st Leg., 5th C. S., p. 185, ch. 45, amends the entire chapter 221 of Acts 1929, 41st Leg., p. 472 by making numerous changes therein and additions thereto.

Sec. 13-A. Provided, that the open season for taking pelts of furbearing animals in Cottle County shall be during the months of December, January and until the 15th day of February of each year, except muskrats, the open season for which shall be from the 15th day of November to the 1st day of April, both days inclusive. [Acts 1931, 42nd Leg., Spec. L., p. 416, ch. 201, § 1.]

[Art. 923q1. Repealed by Acts 1929, 41st Leg., p. 70, ch. 36, § 1]

Art. 923qa—1. [Repealed by Acts 1931, 42nd Leg., p. 440, ch. 264, § 1]

Effective 90 days after May 23, 1931, date of adjournment. The article repealed was Acts 1929, 41st Leg., 2nd C. S., p. 36, ch. 22 (effective 20 days after July 2, 1929, date of adjournment), as amended Acts 1930, 41st Leg., 5th C. S., p. 154, ch. 24, § 1 (effective 20 days after March 20, 1930, date of adjournment).

The repeal of this act, makes no reference to an amendment of section 2 by Acts 1931, 42nd Leg., p. 847, ch. 355, § 1, effective May 21, 1931, which read as follows:

"Sec. 2. It shall be unlawful for any person at any time to take any fur-bearing animals of this State with a steel trap, snare, or deadfall or any other mechanical device other than a gun or pistol in any of the counties to which this Act applies.

"Provided, however, that this provision shall not apply to a trapper employed by the United States Government, the State of Texas, or by the Commissioners' Court of any of the counties mentioned herein, and that this provision shall not apply to trapping within the bounds of the State Game Preserves that may be located in any of the counties herein mentioned when doing so is under the direction of the Game, Fish and Oyster Commissioner.

"Provided, however, that this Act shall apply only to the Counties of Panola, Shelby, Nacogdoches, Rusk, Cherokee, Angelina, San Augustine, Hardin, Harris, Harrison, Polk, San Jacinto, Trinity, Liberty, Anderson, Sabine, Brazos, Burleson, Washington, Madison, Grimes and Montgomery."

[Art. 923qa—2. Quail and fur bearing animals in Stephens County]

Sec. 1. That hereafter, for a period of three years from and after the passage of this Act, it shall be unlawful to kill or capture, or take possession of any quail or any fur-bearing animal in Stephens County, Texas, provided, however, that the provisions of this Act shall not apply to the killing or capturing of wolves and catamounts.

Sec. 2. Any one violating the provisions of this Act shall upon conviction in a court of competent jurisdiction be fined not less than Two hundred (\$200.00) Dollars or more than Five Hundred (\$500.00) Dollars, or imprisoned in jail for not more than ninety days or both. [Acts 1930, 41st Leg., 4th C. S., p. 80, ch. 41.]

[Art. 923qa—3. Transportation of wolves forbidden]

Sec. 1. It shall be unlawful for any person to transport, or to cause to be transported, any live wolf within this State.

Sec. 2. It shall be unlawful for any person to possess or to receive, or to transport or to have for the purpose of transporting, or for the purpose of turning loose, or to turn loose, or to cause to be turned loose, any live wolf within this State.

Sec. 3. It shall not be unlawful for a State or County Official, in the performance of any official duty, to transport a live wolf, or for the owner or agent of any licensed circus, zoo or menagerie, to have, possess or transport any live wolf for exhibition or scientific purposes, only.

Sec. 4. Any person who violates any provision of the preceding Sections of this Act shall be guilty of a felony and shall upon conviction be confined in the penitentiary for not less than six months nor more than five years. [Acts 1930, 41st Leg., 4th C. S., p. 87, ch. 46.]

[Art. 923qa—4. Trapping fur bearing animals, exception of certain counties]

Sec. 2. It shall be unlawful to take the pelts of any of the fur-bearing animals of this State at any time other than the open season provided therefor. The open season for taking the pelts of wild beaver, for that portion of the State of Texas lying west of the Pecos River, shall be during the month of January of each year. It shall be unlawful to take the pelts of wild beaver in any other portion of this State or to take the pelts of wild otter in any portion of this State within a period of ten (10) years following the passage of this Act. Provided that it shall be unlawful to trap any fur-bearing animal in Angelina County during any month of the year, but it shall be lawful to sell the pelts and furs of fur-bearing animals in said county during December and January.

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Sec. 3. That there be and is hereby levied a tax of five (5) cents on each pelt taken from a wild beaver which shall be payable as provided in House Bill No. 86, Acts 5th Called Session of the 41st Legislature.

Sec. 4. Any person who violates any provision of this Act shall be deemed guilty of a misdemeanor and shall be fined in any sum not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00) and his trapper's and dealer's license shall be forfeited at the time of conviction and he shall not be entitled to purchase another such license for a period of one (1) year.

Sec. 5. Provided that the provisions of this Act shall in no way apply to McLennan, Falls, Limestone, or Milam Counties nor to the Counties composing the following Senatorial Districts: eight (8), ten (10), eleven (11), fourteen (14), fifteen (15), sixteen (16), seventeen (17), twenty (20), twenty-one (21), and twenty-eight (28); except, however, it shall be effective as to Brazos County of the Fourteenth (14) Senatorial District.

Sec. 6. Provided that it shall be unlawful for any person to kill, take, or have in his possession for barter or sale within Caldwell, Williamson, Milam, or Lee Counties within a period of ten (10) years after the passage of this Act, any wild beaver, wild otter, or wild fox, or the pelts thereof. [Acts 1931, 42nd Leg., p. 440, ch. 264.]

#### [Art. 928a. Fresh water fish sanctuaries]

Sec. 1. It shall be the duty of the Game, Fish & Oyster Commission with the approval of the Commissioners' Court of any county of the State of Texas to set aside and reserve portions of each public fresh water stream or other body of water as fish sanctuaries in the said county for the propagation in their natural state of fresh water fish. The Commission shall by this means increase and preserve the supply of such fish in any and all such waters where from any cause such supply has been reduced below the maximum number of fish such waters will support in their natural state without the existence of the cause or causes of the diminished supply. Provided, that the provisions of this Act shall not apply to Wichita, Clay, Baylor and Wilbarger Counties.

Sec. 2. When the Commission shall determine that any such public fresh water has a lesser supply than it can support in its natural state, said Commission shall without delay set aside and designate one or more portions of such water as a fish sanctuary or sanctuaries. Such sanctuary or sanctuaries so set aside and designated shall be used by the Commission for the purpose of propagating fresh water fish therein in order to increase the supply of fish in this State. In no event shall a sanctuary be set aside or designated for a longer period than five (5) years. In no event shall more than fifty (50%) per cent of the public fresh waters in any county be set aside or designated as such sanctuary or sanctuaries.

Sec. 3. When a sanctuary or sanctuaries shall be set aside or designated, the Commission shall immediately give notice of such action by a proclamation, signed by the Chairman. Typewritten or printed copies of such proclamation shall be posted at the Courthouse door of each county where such sanctuary or sanctuaries are set aside or designated. Such proclamation shall describe as near as may be the area or areas which are set aside or designated as fish sanctuaries, the reason such area or areas are so set aside, the time when the same shall take effect, and the length of time the same shall be effective, and shall state that such area or areas have been set aside or designated fish sanctuaries under the provisions of this Act, and shall make special reference to this Act. In addition to the proclamation herein ordered, the Commission shall cause a brief notice of its contents to be published in any newspaper in each county or counties where such sanctuary or sanctuaries shall be set aside or designated, for five (5) consecutive issues if the same be a weekly newspaper, and once each week for five (5) weeks if the same be published more often than

once each week, and if there be no newspaper in such county, then in any newspaper in an adjoining county. The Commission shall in addition to issuing such proclamation and publishing such notice, along and around the boundaries of such areas so set aside and designated, post any number of signs, not less than six (6), bearing the following conspicuous inscription: "State Fish Sanctuary No Fishing." Said proclamation shall become effective on and after the last publication of notice of same herein ordered.

Sec. 4. It shall be unlawful for any person to fish in any fish sanctuary set aside or designated by the Game, Fish & Oyster Commission, with nets, trot lines, seines, hooks and lines, artificial bait, or otherwise or in any manner to take or catch or remove, or attempt to take or catch or remove any fish from such fish sanctuary.

Sec. 5. Any person violating any of the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than Twenty-five (\$25.00) Dollars nor more than Two Hundred (\$200.00) Dollars. [Acts 1931, 42nd Leg., p. 840, ch. 351.]

#### Art. 941. Using seines or gigs

It shall be unlawful for any person to place, set, use or drag any seine, net or other device for catching fish and shrimp other than the ordinary pole and line, casting rod and reel, artificial bait, trot line, set line, or cast net or minnow seine of not more than twenty feet in length for catching bait, or have in his possession any seine, net or trawl without a permit issued by the Game, Fish and Oyster Commissioners or by his authorized deputy in or on any of the waters of any of the bays, streams, bayous or canals of Orange, Jefferson, Chambers, Harris, Galveston and Brazoria Counties, or in or on any of the inland waters, streams, lakes, bayous or canals of Matagorda County, or within or on the waters of Agua Dulce Creek, Oso Creek, Shamrock Cove, Nueces Bay, Ingleside Cove; Red Fish Cove, Shoal Bay, Mud Flats, Shallow Bay, which are more clearly defined as beginning at the South West end of "Red Fish Cove", thence South on a line intersecting Corpus Christi Channel, and all the waters lying from this line, the said Channel, and between Harbor Island and the Mainland to Aransas Bay; all of Aransas Bay between Port Aransas and Corpus Christi Bayou and lying between Harbor Island and Mud Island; Copano Bay, Mission Bay in Refugio County, Puerto Bay, St. Charles Bay, Hynes Bay, Contec Lake, Powderhorn Lake, Oyster Lake; Sabine Pass, leading from Sabine Lake to the Gulf of Mexico; San Luis Pass, leading from Galveston West Bay to the Gulf of Mexico; Turtle Bay; Brown's Cedar Pass; Mitchell's Cut, Pass Cavallo, leading from Matagorda Bay to the Gulf of Mexico; Cedar Bayou, leading from Mesquite Bay to the Gulf of Mexico; North Pass or St. Jo Pass; Aransas Pass, leading from Aransas Bay to the Gulf of Mexico; Corpus Christi Pass, leading from Corpus Christi Bay to the Gulf of Mexico; Brazos Santiago Pass, leading from the Lower Laguna Madre to the Gulf of Mexico, or the pass on the north of Laguna Madre, leading into Corpus Christi Bay, which pass shall be defined as beginning one-fourth of a mile southwest of Peat Island and running from said point to Flour Bluff in Nueces County, or in or on the waters within one mile of the passes herein mentioned, connecting the bays and tidal waters of this State with the Gulf of Mexico or in or on or within a mile of any other such passes, or within the waters of any pass, stream or canal leading from one body of Texas bay or coastal waters into another body of such waters; providing that nothing in this article shall prevent the use of spear or gig and light for the purpose of taking flounders.

Sec. 1a. Provided that it shall be unlawful for any person to drag any seine, or use any drag seine, or shrimp trawl for catching fish or shrimp, or to take or catch fish or shrimp with any device other than with the ordinary pole and line, casting rod, rod and reel, artificial bait, trot

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line, set line, or cast net, or minnow seine of not more than twenty feet in length for catching bait, or to use a set net, trammel net or strike net, the meshes of which shall not be less than one and one-half inches from knot to knot, in any of the tidal bays, streams, bayous, lakes, lagoons, or inlets, or parts of such tidal waters of this State not mentioned in Section 1 hereof.

Sec. 1b. Provided that shrimp trawls may be used for taking shrimp in Matagorda Bay, San Antonio Bay or that part of Aransas Bay and all that part of Corpus Christi Bay not mentioned in Section 1.

Sec. 1c. Provided that it shall be unlawful to attach to any set net, strike net or trammel net used in any of the waters of any of the tidal bays, streams, bayous, lakes, lagoons or inlets of this State, any cork line or lead line of a size greater than one-fourth inch in diameter.

Sec. 1d. Provided that it shall be unlawful to take any Shrimp from any of the waters of this State of less length than five and one-half inches; provided that fifteen per cent of any cargo of shrimp may be of less size. [As amended Acts 1929, 41st Leg., p. 269, ch. 119.]

Sec. 1e. Provided, that it shall be unlawful for any person to take, or have in his possession in this State, any speckled sea trout of less length than twelve inches, any red fish of less length than twelve inches, or of greater length than thirty-two inches, or any drum of less length than eight inches or greater length than twenty inches, any flounder of less length than twelve inches, or any sheephead of less length than eight inches. [As amended Acts 1929, 41st Leg., p. 269, ch. 119, Acts 1930, 41st Leg., 5th C. S., p. 130, ch. 13, § 1.]

Sec. 1f. Any person who shall violate any of the provisions of this Article shall be deemed guilty of a misdemeanor, and on first conviction shall be fined in a sum of not less than twenty-five (\$25) dollars nor more than one hundred (\$100) dollars; and on second or more convictions shall be fined in a sum of not less than one hundred (\$100) dollars nor more than two hundred (\$200) dollars and his fisherman's license or dealer's license or both shall be automatically canceled and he shall not be entitled to receive another fisherman's license or dealer's license for one year from the date of his conviction; and provided that the Game, Fish and Oyster Commissioner of Texas or his deputy shall have the power and right to seize and hold nets, seines or other tackle in his possession as evidence until after the trial of defendant and no suit shall be maintained against him therefor. [As amended Acts 1929, 41st Leg., p. 269, ch. 119.]

Section 1g of said Acts 1929, 41st Leg., p. 269, ch. 119, repeals all conflicting laws and parts of laws. See, also, art. 9527-4 post.

#### Art. 941a. Suckers, buffalo, shad and carp

Any and all persons shall be permitted to take or catch sucker, buffalo, carp, shad and gar at any time except during the months of March, April and May, in any fresh water rivers, creeks, or lakes in the counties of Burnet, Williamson, Lampasas, Dimmit, Zavala, Medina, Uvalde, DeWitt, Brown, Hamilton, Coryell, Gonzales, Lamar, Bell, Collin, Grayson, Gillespie, Kendall, Blanco, Llano, Mason, McCulloch, San Saba, Cooke, Denton, Jefferson, Orange, Mitchell, Fisher, Nolan, Chambers, Travis, Hardin, and Fannin with a seine, or net with not less than four-inch size mesh; provided, however, that any catfish, crappie, perch, bass or any other kind of fish caught by the above methods shall be immediately released in the waters from which they are caught; and provided, further, that the owner or the one in possession of any seine or net used for the purpose of seining shall first obtain a permit to seine such fish from the Game, Fish and Oyster Commissioner of this State under the regulations prescribed by the Department, and shall within five days from and after the using of any seine or net for the purpose of catching fish make a report under oath, to the Game, Fish and Oyster Commissioner, giving in said report the

names of each and every person in the party, and showing in said report that all fish not permitted to be caught or taken with a seine or net were released in the waters from which they were taken immediately after they were caught.

Any person violating any of the provisions of this Article shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in any sum not less than Ten (\$10.00) Dollars, nor more than One Hundred (\$100.00) Dollars, and any person making a false affidavit shall be guilty of false swearing. [As Amended Acts 1929, 41st Leg., p. 109, ch. 251, § 1, Acts 1929, 41st Leg., 2nd C. S., p. 40, ch. 25, § 1.]

Acts 1929, 41st Leg., 2nd C. S., p. 40, ch. 25, makes no reference to Acts 1929, 41st Leg., 2nd C. S., p. 195, ch. 91, effective June 25, 1929, amending Pen. Code, art. 941a, to read as follows: "Any and all persons shall be permitted to take or catch suckers, buffalo, carp, shad and gar, at any time in any fresh water rivers, creeks or lakes, in the counties of Lampasas, Dimmit, Zavala, Medina, Uvalde, DeWitt, Brown, Hamilton, Coryell, Gonzales, Lamar, Bell, Collins, Grayson, Cooke, Denton, Jefferson, Orange, Mitchell, Fisher, Nolan, Chambers, Travis, Hardin, and Fannin, with a seine of not less than four inch size mesh; provided however that any cat fish, crappie, perch, bass or any other kind of fresh water fish caught by the above methods shall be immediately released in the waters from which they were caught; and provided further, that the owner or the one in possession of the seine or net used for the purpose of seining shall within five days from and after the using of any seine or net, for the purpose of catching fish, make a report, under oath, to the Game, Fish and Oyster Commission, giving in said report the names of each and every person in the party, and showing in said report that all fish not permitted to be caught or taken with a seine or net, were released in the waters from which they were taken immediately after they were caught."

"Sec. 2. Any and all persons shall be permitted to take or catch suckers, buffalo, carp, shad and gar at any time in any fresh water rivers, creeks or lakes in the counties of Williamson, Burnet, Llano, Lampasas, Mills, McCulloch, San Saba and Travis with a seine of any size mesh, or by the use of wire, rope or grab hooks, during the months of June, July and August, provided, however, that any catfish, crappie, perch, bass or any other kind of fish caught by the above methods, except suckers, buffalo, carp, shad and gar, shall be immediately released in the waters from which they are caught; and provided further, that the owner or one in possession of any seine or net used for the purpose of seining, shall within five days from and after the using of any seine or net, for the purpose of catching fish, make a report, under oath, to the Game, Fish and Oyster Commission, giving in said report the names of each and every person in the party and showing in said report that all fish not permitted to be caught or taken with a seine or net, were released in the waters from which they were taken immediately after they were caught."

"Sec. 3. Any person violating any of the provisions of this Article, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than \$10.00 nor more than \$100.00 and any person making a false affidavit shall be guilty of false swearing."

#### [Art. 941a—1. Sucker fish in Gin and Glade creeks]

Sec. 1. It shall not be unlawful for any person or persons to catch sucker fish in the streams of the Gin and Glade creeks during the months of February, March and April with any kind of trammel net.

Sec. 2. Any person catching or destroying any sucker fish in the streams named in Section 1 hereof by poisoning, trapping or dynamiting or in any manner except as provided in Section 1 hereof shall be punished in the manner provided by the General Laws of the State of Texas. [Acts 1929, 41st Leg., p. 443, ch. 203.]

#### [Art. 952aa. Fishing in Harrison and other counties]

Sec. 1. It shall be unlawful for any person to take or attempt to take any fish in the public fresh waters, creeks, lakes, bayous, lagoons, pools, or tanks in the Counties of Harrison, Marion, and Rusk, State of Texas, by any method or device other than by the ordinary hook and line, rod and reel, set hook and line, trotline, or artificial bait.

Sec. 2. Provided that nothing herein shall prohibit the use of a minnow seine not more than twenty feet in length, for the purpose of catching minnows for bait but that all fish other than minnows, sun perch for bait, not of a game fish variety, taken in such seine, shall be returned to the water immediately and while alive.

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Sec. 3. Provided that nothing herein shall prevent the use of a hoop net, set net, or trammel net, the meshes of which are not less than three and one-half inches square, for the purpose of taking or attempting to take buffalo fish, garfish, catfish, shad, and bowfin or grindle at any time except during the months of February, March, April, and May of each year; and providing that all other fish taken by such nets shall be returned to the waters from which they were taken immediately and while alive. It shall be unlawful for any person to have in possession any fish, other than those mentioned in this Section, at any time a net is being used or while engaged in the use of such a net.

Sec. 4. All seines, nets, and fish traps, except minnow seines not more than twenty feet in length and hoop nets, set nets, and trammel nets, the meshes of which are not less than three and one-half inches square are hereby declared to be a nuisance when found in the public fresh waters of the Counties of Harrison, Marion, and Rusk, State of Texas, and it shall be the duty of all Game and Fish Wardens and other officers of this State to destroy same whenever found in such waters and no suit shall be maintained against them therefor.

Sec. 5. Any person who shall set any seine, net, or fish trap or operate any seine, net, or fish trap or who is found in possession of any seine, net, or fish trap or takes or attempts to take or has in his possession any fish, contrary to the provisions of this Act, shall be deemed guilty of a misdemeanor and shall be fined in a sum not less than Fifty (\$50.00) Dollars nor more than Two Hundred (\$200.00) Dollars and shall forfeit his right to take or attempt to take fish in this State for a period of one year following date of conviction. Any person who attempts to take fish in this State within a period of one year after he has been convicted for violation of the provisions of this Act shall be guilty of a misdemeanor and shall be fined in a sum not less than One Hundred (\$100.00) Dollars and by confinement in the county jail not less than thirty (30) days nor more than ninety (90) days. [As amended Acts 1931, 42nd Leg., Spec. L., p. 204, ch. 97, § 1.]

Effective April 16, 1931. Section 2 of said 1927, 40th Leg., 1st C. S., p. 98, ch. 32, § 1; act of 1931 repeals all conflicting laws and Acts 1929, 41st Leg., p. 131, ch. 64, § 1; parts of laws. Acts 1929, 41st Leg., 3rd C. S., p. 233, ch.

This article was also amended by Acts 3, § 1 (effective July 16, 1929).

#### [Art. 952aa—2. Fishing in Cherokee and other counties]

Sec. 1. That from and after the passage of this Act it shall be unlawful for any person to take or catch, or attempt to take or catch fish in the fresh waters, rivers, creeks, lakes, bayous, lagoons or in lake or sloughs, subject to overflow from the rivers or streams in the counties of Cherokee, Nacogdoches, San Augustine, Angelina, Sabine, Newton, Jasper and Tyler, by the use of a net; provided, however, the use of a minnow seine not more than twenty feet in length shall not be unlawful.

Sec. 2. That whoever shall violate the provisions of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than Twenty-five (\$25.00) nor more than One Hundred (\$100.00) Dollars. [Acts 1929, 41st Leg., p. 369, ch. 167.]

#### [Art. 952aa—3. Fishing in Cass and other counties]

It shall be unlawful for any person to take or catch any fish in the public fresh waters, creeks, lakes, bayous, pools, lagoons or tanks in the Counties of Cass, Bowie, Morris and Titus, State of Texas, by any other means than by the ordinary hook and line, set hook and line, gig or artificial bait, and it shall be unlawful for any person to place in the public fresh water rivers, creeks, lakes, bayous, pools, lagoons, or tanks in the Counties of Cass, Bowie, Morris and Titus any seine, net or other device or trap for taking or catching fish; provided, however, that persons may use a minnow seine which is not more than twenty feet in length for the purpose of catching minnows for bait; provided, that in seining for min-

nows for bait as herein permitted, all fish and all minnows more than two and one-half inches in length shall be returned to the water at once while alive. No person shall use the minnow seine herein permitted for the purpose of taking any fish other than minnows for bait; provided, however, that nothing in this Act shall be construed to prevent the taking or catching of buffalo, carp and catfish by the use of a hoop, trammel or gill set with meshes not less than three inches square in the fresh waters of Cass, Bowie, Morris and Titus Counties, State of Texas, save and except during the months of March and April of each year, and provided, further, that pond nets are hereby entirely prohibited.

Any person violating any of the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum of not less than Ten (\$10.00) Dollars nor more than One Hundred (\$100.00) Dollars. All laws and parts of laws in conflict herewith are hereby repealed. [Acts 1930, 41st Leg., 5th C. S., p. 159, ch. 27, § 1.]

**Art. 952f—1. [Daily limit of fresh water fish]**

Sec. 1. It shall be unlawful for anyone to catch and retain in any one day, or have in his or her possession, caught in any one day in this State, more than fifteen (15) bass, fifteen (15) crappie or white perch, thirty-five (35) bream, or thirty-five (35) goggle-eyed perch from the fresh-water rivers, lakes, ponds or lagoons of this State; provided however, that a person may catch and retain or possess during any one day, an aggregate of fifty (50) of the fish mentioned herein, and provided further, it shall be unlawful for any one person to have in his or her possession at any time more than thirty (30) bass, thirty (30) crappie or white perch, seventy (70) bream, or seventy (70) goggle-eyed perch, caught or taken from the fresh-water rivers, lakes, ponds or lagoons of this State, and exempting the following counties, to-wit: Johnson, Hill, Ellis, Hood, Somervell, Wharton, Fort Bend, Matagorda, Brazoria, Galveston, Chambers, Kerr, Kendall, Bexar, Bandera, Scurry, Eastland, Callahan, Taylor, Nolan, Mitchell, Throckmorton, Fisher, Jones, Haskell, Shackelford, Stephens, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Cochran, Hockley, Lubbock, Crosby, Dickens, King, Yoakum, Terry, Lynn, Garza, Kent, Stonewall, Gaines, Dawson, Borden, Andrews, Martin, Howard, Zavala, Frio, McMullen, LaSalle, Dimmit, Webb, Duval, Jim Hogg, Zapata, Jim Wells, Kenedy, Nueces, Kleberg, Willacy, Brooks, Starr, Hidalgo, and Cameron from the provisions of this Act.

Sec. 2. Anyone taking more than the daily limit, or anyone possessing more than the possession limit of fresh-water fish as provided for herein, shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than Ten (\$10.00) Dollars, nor more than Fifty (\$50.00) Dollars, and any person convicted of violating any provision of this Act shall thereby, automatically forfeit his artificial lure license for said season. Any such person so convicted of violating any provision of this Act shall not be entitled to receive from the State a license to fish with an artificial lure for one year immediately following the date of his conviction, and it shall be unlawful for any person who is convicted of violating any of the provisions of this Act to purchase or possess an artificial lure license for a period of one year immediately following date of such conviction, and it shall be unlawful for any person so convicted of violating any of the provisions of this Act to fish in any of the fresh-water rivers, lakes, ponds or lagoons of this State for a period of one year immediately following date of such conviction. Any person violating any of the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in any sum not less than Ten (\$10.00) Dollars, nor more than Fifty (\$50.00) Dollars. [Acts 1931, 42nd Leg., p. 857, ch. 364.]

**[Art. 952g—1. Fishing in Gillespie and other counties]**

Sec. 1. It shall be unlawful for any person to fish for, take or attempt to catch any fish in the fresh waters of San Saba, Gillespie, Blanco,



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Kendall, Kerr, Comal, Llano, Mason, Kimble and Val Verde Counties, Texas, by any means or device other than by ordinary pole and line, set line or throw line equipped with not more than two hooks.

Provided, that Section 1 of this Act shall not apply to the waters of the Colorado and Rio Grande Rivers in any of the above mentioned counties.

Provided, that it shall be lawful to fish with a dowagiac or other artificial bait equipped with more than two hooks, and provided a person may use a minnow seine of not more than twenty feet in length for catching bait.

Possession of any tackle, not authorized by this Act, within two hundred yards of any stream, lake or other fresh waters in the counties named herein, shall be prima facie evidence of violation of this Act.

Sec. 2. Whoever shall barter or sell or offer for barter or sale or have in possession for the purpose of sale, any black bass, perch, crappie or catfish taken from the fresh waters within the above named counties, shall upon conviction be fined not less than fifteen (\$15.00) Dollars nor more than One Hundred (\$100.00) Dollars.

Sec. 3. No person, firm or corporation or their agents shall take, catch, seine, entrap by any means, or have in their possession any black bass, perch or crappie taken from any fresh waters in said counties from the first day of March to the first day of May of any year.

Sec. 4. It shall be unlawful for any person, firm or corporation to have in possession any black bass of less length than eleven inches; any catfish of less length than nine inches; any crappie or white perch of less length than seven inches in any of the counties mentioned in this Act.

Sec. 5. Any person violating any of the provisions in Sections 1, 3 and 4 of this Act shall be fined not less than Ten (\$10.00) Dollars nor more than Fifty (\$50.00) Dollars. [Acts 1929, 41st Leg., p. 442, ch. 202 as amended Acts 1931, 42nd Leg., 1st C. S., p. 5, ch. 3, § 1.]

#### [Art. 9521—2. Fishing in Denton County]

It shall be unlawful for any person to take in one day from the public fresh waters in Denton County, more than twenty white perch or crappie, or more than fifteen bass, or more than twenty such fish combined. Any person violating this Act shall upon conviction be fined not less than twenty-five dollars and not more than one hundred dollars. [Acts 1929, 41st Leg., 2nd C. S., p. 89, ch. 50, § 1.]

#### [Art. 9521—3. Fish and shrimp in coastal waters]

Sec. 1. It shall be unlawful for any person to place, set, use or drag any seine, net or other device for catching fish or shrimp other than the ordinary pole and line, casting rod and reel, artificial bait, trot line, set line, or cast net or minnow seine of more than twenty feet in length for catching bait, or have in his possession any seine, net or trawl in or on the waters of the Gulf shore line one-fourth mile from mean low tide from the South end of Padre Island to a point on Mustang Island two miles north of Corpus Christi Pass. Provided that nothing in this Act shall prevent the use of spear or gig and light for the purpose of taking flounders.

Sec. 2. Any person who shall violate any of the provisions of this Act shall be deemed guilty of a misdemeanor, and on first conviction shall be fined in a sum of not less than Twenty-five (\$25.00) Dollars nor more than One Hundred (\$100.00) Dollars; and on second or more convictions shall be fined in a sum of not less than One Hundred (\$100.00) Dollars nor more than Two Hundred (\$200.00) Dollars and his fisherman's license or dealer's license or both shall be automatically cancelled and he shall not be entitled to receive another fisherman's license or dealer's license for one year from the date of his conviction; and provided that the Game, Fish and Oyster Commissioner of Texas or his deputy shall have the power and right to

seize and hold nets, seines or other tackle in his possession as evidence until after the trial of defendant and no suit shall be maintained against him therefor. [Acts 1929, 41st Leg., 2nd C. S., p. 150, ch. 75.]

**[Art. 952l—4. Regulating taking of shrimp]**

Sec. 1. It shall be lawful for any person at any time to take shrimp of any size for bait from any of the tidal waters of this State with a minnow seine of not more than 20 feet in length, with a cast net of a shrimp trawl, provided that such shrimp trawl shall not be more than 10 feet in width at the mouth and not more than 25 feet in length and providing that any and all persons who offer such bait shrimp for sale shall comply with the provisions of the laws of this State requiring a license before any of the marine products of this State may be taken for the purpose of sale.

Sec. 2. The towing of any shrimp trawl of a greater size than that herein specified in any of the waters of this State in which the use of shrimp trawls is otherwise prohibited shall be prima facie evidence of guilt.

Sec. 3. Any person who shall violate any of the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than \$25.00 nor more than \$100.00. [Acts 1930, 41st Leg., 4th C. S., p. 11, ch. 11.]

**[Art. 952l—5. Fishing in Harrison and Marion counties]**

Whoever shall take or catch from the fresh waters of Harrison or Marion Counties, Texas, or have in his possession in either of these counties any crappie under the length of eight inches or any bass under the length of eleven inches, or whoever shall take or catch in either of these counties more than fifteen bass or more than twenty-five crappie or white perch in any one day or whoever shall have in his possession in either Harrison or Marion Counties more than thirty bass or more than fifty crappie or white perch shall be fined in any sum not less than Ten (\$10.00) Dollars nor more than One Hundred (\$100.00) Dollars, and each fish taken or possessed in violation of this Act shall constitute a separate offense. [As amended Acts 1930, 41st Leg., 5th C. S., p. 211, ch. 65, § 1.]

Section 1 of act cited to the text amended. crappie and bass in Harrison County and  
Acts 1930, 41st Leg., 4th C. S., p. 42, ch. 22, provided a similar penalty.  
which regulated the size and possession of

**[Art. 952l—6. Deer and turkeys in San Saba and Harrison counties]**

Sec. 1. That for three years from and after the passage of this Act, it shall be unlawful for any person to shoot at, or kill, any wild deer or wild turkey in San Saba and Harrison Counties.

Sec. 2. That whosoever shall violate the provisions of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than Fifty (\$50.00) Dollars and not more than One Hundred (\$100.00) Dollars, provided each deer or wild turkey so shot shall constitute a separate offense. [Acts 1930, 41st Leg., 4th C. S., p. 89, ch. 48.]

**[Art. 952l—7. Regulating fishing in Dimmit and other counties]**

Sec. 1. Any and all persons shall be permitted to take or catch suckers, buffalo, carp, shad or gar during the months of July, August, September and October in any of the fresh waters of Dimmit, Zavala, Medina, Uvalde, DeWitt, Brown, Hamilton, Coryell, Gonzales, Lamar, Bell, Collin, Grayson, Gillespie, Kendall, Menard, Kimble, Mills, Comanche, Blanco, Llano, Mason, McCulloch, San Saba, Cook, Denton, Jefferson, Orange, Mitchell, Fisher, Nolan, Chambers, Travis, Hardin, Lampasas, Fannin, Burnet, Williamson and Parker Counties with a seine or net, the meshes of which shall be not less than one inch square, and any and all persons shall be permitted to take or catch suckers, buffalo, carp, shad or gar

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with wire rope, or gig at any time of the year, provided, however, that any bass, crappie or white perch, catfish, perch, bream or trout caught by the above mentioned methods shall be immediately released in the waters from which they are caught.

Sec. 2. It shall be unlawful for any person to have in possession any bass, crappie or white perch, catfish, perch, bream or trout at the time that such person has in possession any suckers, buffalo, carp, shad or gar taken by methods permitted in this Act.

Sec. 3. It shall be unlawful for any person to have in possession any bass, crappie or white perch, catfish, perch, bream or trout caught while using a seine of not less than one inch square mesh or using wire rope or gig for the purpose of taking suckers, buffalo, carp, shad or gar from any of the fresh waters of the Counties mentioned in Section 1.

Sec. 4. Any person violating any of the provisions in Sections 1, 2 and 3 of this Article shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than Ten (\$10.00) Dollars nor more than One Hundred (\$100.00) Dollars. Provided that this Act shall not apply to that part of Hamilton County drained by the tributaries of the Bosque River, which shall be controlled by the provisions of House Bill No. 671. [Acts 1931, 42nd Leg., Spec. L., p. 194, ch. 90.]

Section 5 of said act repeals all conflicting laws and parts of laws.

[Art. 952l—8. Protection of deer in Marion and other counties]

Sec. 1. It shall be unlawful for any person to hunt, trap, ensnare, kill, or attempt to kill, by any means whatsoever, any wild deer, buck, doe, fawn, or wild turkey in the Counties of Marion, Harrison, Red River, Cass, Bowie, Morris, Lamar, Camp, Titus, and Upshur, in the State of Texas, for a period of five (5) years from and after the passage of this Act.

Sec. 2. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor, and shall, upon conviction, be fined in any sum of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), and shall forfeit his right and license to hunt with a gun in this State for a period of one year following the date of his conviction. [Acts 1931, 42nd Leg., 1st C. S., p. 26, ch. 13.]

[Art. 952l—9. Sale of fish from Sabine and other rivers and tributaries]

Sec. 1. That from and after the passage of this Act it shall be unlawful for any person to sell, offer for sale, or have in his possession for the purpose of sale any black bass, trout, white perch, or cat fish of less than twenty-two (22) inches in length, which shall have been taken from the waters of the Sabine, Attoyoc, Angelina and Neches Rivers or any of their tributaries or lakes through which the flood streams of said rivers or any of their tributaries flow, in the counties of Angelina, Tyler, Newton, and Jasper.

Sec. 2. It shall be lawful for any person in the counties of Angelina, Tyler, Newton and Jasper to use a net of not under three (3) inches square mesh for the purpose of catching buffalo, carp, suckers, gar fish, and cat fish over twenty-two (22) inches in length. Any use of a net of a smaller mesh than herein mentioned or for the purpose of catching fish of less than twenty-two inches in length as herein mentioned, is hereby declared illegal; provided that any net used in said counties shall first be approved by the State Game Department.

Sec. 3. Any person violating the provisions of this Act shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than Twenty-five Dollars (\$25.00) or more than Five Hundred Dollars (\$500.00), or be imprisoned in the county jail not less than ten (10) days or more than thirty (30) days or by both imprisonment and fine, and each sale or each violation of the provisions hereof shall constitute a separate offense. [Acts 1931, 42nd Leg., 1st C. S., p. 35, ch. 22.]

**[Art. 953a. Fishing in Young county]**

Sec. 1. It shall be unlawful for any person, firm or corporation, or their agent or agents, to barter or to sell, or offer for barter or for sale, or to buy any bass, crappie, perch or catfish, or any other fish except minnows taken from any river, creek, lake, slough, bayou, tank or pond, that flows or is situated within the boundary lines of Young County; provided, however, that the Brazos River be not included in these waters, and further provided that by the term Brazos River is meant the Brazos River proper, and the clear fork of the Brazos is not included in this exception.

Sec. 2: Any person who shall use any lime, dynamite, nitroglycerin, giant powder or other explosive, or shall use any poisons, drugs, substances or things deleterious to fish life, in catching, taking or attempting to catch or take any fish in any of the rivers, creeks, lakes, sloughs, bayous, tanks or ponds that flow or are situated within the boundary lines of Young County, including the Brazos River, shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than one hundred (\$100.00) dollars nor more than one thousand (\$1,000.00) dollars and in addition thereto be imprisoned in the County Jail for any term not exceeding one year.

Sec. 3. It shall be unlawful for any person to take or catch any fish in the waters described in Section One of this Act by any other means than the ordinary hook and line, or trot line or artificial baits; and it shall be unlawful for any person to place in any of the waters described in Section One of this Act any seine, net or other device or trap for taking or catching fish; provided, however, that any person may use a minnow seine which is not more than twenty feet in length, and the meshes of which are not less than one-sixth of an inch square for the purpose of catching minnows for bait, provided further that in seining for minnows for bait, as herein permitted, all bass, species of bass, crappie, white perch, calico bass and bream of whatever size that may be taken by seining shall be immediately returned to the waters uninjured and all other fish more than three inches in length except minnows, shall be immediately returned to the waters uninjured provided further that no person shall use the minnow seine herein permitted for the purpose of taking any fish other than minnows for bait.

Sec. 4. It shall be unlawful for any person to take or catch or attempt to take or catch any fish in the waters described in Section One of this Act by trolling from or in a motor boat. By a motor boat, as used in this section, is meant any boat to which is attached a gasoline motor, and electric motor or other means of propelling said boat other than by oars operated by hand, whether said motor or other means of propelling said boat is running or not; and providing further that any person desiring to troll from any boat commonly propelled by an outboard motor, shall dismount the motor or other means of power from its accustomed place, and either leave it on the shore or place it in the bottom of [or] floor of said boat.

Sec. 5. It shall be unlawful for any person, firm or corporation, or their agent or agents to take or catch from or have in their possession any bass, crappie, white perch or bream taken from any of the waters named in Section One of this Act, on and from the First of February to the First day of May of any year. Provided, however, that the owner of any private lake, tank or pond, that is stocked with fish purchased from a commercial hatchery, may take or catch any fish said waters may contain at any time during the year; and provided further that any privately owned lake, tank or pond that has been stocked with fish from a State or Federal hatchery shall be closed to the taking of any bass, crappie, white perch, or bream, except for the purpose of transferring said bass, crappie, white perch or bream to other waters for breeding purposes only, during the period between the First day of February and the First day of May of any year; and further provided that after five years from date of last

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stocking said lake tank or pond with fish from a State or Federal hatchery, said owner may catch or take, or permit to be caught or taken from said waters, any bass, crappie, white perch or bream, at any time during the year, for any purpose except to sell or barter them to any other person, firm or corporation, or their agent or agents.

Sec. 6. It shall be unlawful for any person to catch or retain, or have in his possession any bass, or other fish of the bass species, which are less than eleven (11) inches in length, or to catch or retain, or have in his possession, in any one day a total aggregate of more than eight (8) bass, or other fish of the bass species, taken from the waters described in Section One of this Act; provided that it shall be unlawful for any person to catch or retain, or have in his possession from those waters in any one day bass or other fish of the bass species, of an aggregate weight in excess of twenty (20) pounds; to catch or retain, or have in his possession any crappie or white perch or calico bass which are less than eight (8) inches in length, or catch and retain or have in his possession any bream which are less than five (5) inches in length, or to catch or retain from, or have in his possession in any one day more than a total aggregate of sixteen (16) crappie or white perch or calico bass or bream or of any or all of those fish taken from the waters described in Section One of this Act; provided that it shall be unlawful for any person to catch and retain or have in his possession from those waters in any one day crappie or white perch, or calico bass, or bream or of any or of all of those fish of an aggregate weight in excess of twenty (20) pounds; provided, further, that it shall be unlawful for any person to catch and retain or have in his possession in any one day from the waters described in Section One of this Act, bass, or any other fish of the bass species, crappie, white perch or sun fish, or calico bass, or bream, or other fish of the crappie, white perch or bream or sunfish species, of an aggregate weight in excess of thirty (30) pounds.

Sec. 7. If any person shall at any time catch or take from any of the waters described in Section One of this Act in the county named in that section by use of any means whatsoever any bass, or other fish of the bass species, of less than eleven (11) inches in length, or any crappie or white perch, or calico bass of less than eight (8) inches in length, or any bream of less than five (5) inches in length he shall immediately return the same into such water without unnecessarily injuring such fish; provided further that the owner of any private lake, tank or pond which has been stocked with fish from a State or Federal hatchery, is not exempt from this provision, except he be removing said fish to other waters for rearing or breeding purposes; and further provided, that the owner of any private lake, tank or pond that has been stocked with bass, crappie, white perch or bream purchased from a commercial hatchery, may take or catch said fish at his discretion and is exempt from this provision; and further provided that failure to return any bass, crappie, white perch or bream of less than the length set forth in this section, or the unnecessarily injuring of such fish shall be deemed an offense under this Act.

Sec. 8. It shall be unlawful for any person, or persons, knowingly to place, throw or deposit upon the banks or grounds within five hundred (500) feet of any of the waters described in Section One of this Act in the County named in Section One of this Act, any bass, crappie, white perch, bream, sunfish, drum, catfish, or other edible fish, and leave such fish to die without any intent upon the part of such person to eat such fish, or in like manner to leave any minnows without intent to use the same for bait. Any person found guilty of the violation of any provisions of this section shall be fined in any sum not less than \$2.00 nor more than \$25.00, and each fish so allowed to die shall constitute a separate offense.

Sec. 9. Any person violating any of the provisions of Sections I, IV, V, VI, VII of this Act shall be guilty of a misdemeanor and upon conviction

tion shall be fined not less than \$5.00 nor more than \$50.00 for each violation of the law, and each fish caught, held in possession, sold or purchased, in violation of this Act shall be deemed a separate violation hereof and a separate offense, and the person guilty thereof may be prosecuted either in the county where the fish are caught, where he is found with them in his possession or where the fish are sold or bartered or offered for sale or barter or bought; provided that any person guilty of using a net or other device or trap for taking or catching fish as prohibited in Section Three of this Act, shall upon conviction thereof, be fined not less than \$10.00 nor more than \$100.00 upon each conviction and in addition said seine, net or other device or trap so used for taking or catching fish or attempting to take or catch fish, shall be forfeited to the State of Texas, and shall thereupon become the property of the State of Texas to be held, used and disposed of by the Fish and Game Commission of the State of Texas. [Acts 1929, 41st Leg., 1st C. S., p. 41, ch. 12.]

Section 10 of Acts 1929, 41st Leg., 1st C. S., p. 41, ch. 12, makes it cumulative of all general laws relating to fish and the protection thereof, and section 11 provides that if any provision is held invalid such holding shall not affect the remainder. Effective May 15, 1929.

[Art. 955. Sale of fish caught in Anderson and other counties]

If any person shall sell or offer for sale any bass, white perch, crappie, channel or other catfish, caught, trapped or ensnared in the streams of the counties of Burnet, San Saba, Mills, Bell, Brown, McCulloch, Edwards, Coleman, Concho, Menard, Mason, Gillespie, Kimble, Sutton, Kinney, Uvalde, Real, Kerr, Comal, Val Verde, Bandera, Reeves, Ward, Loving, Pecos, Medina, Bexar, Hunt, Runnels, Rains, Williamson, Zavala, Dimmit, Lampasas or Llano, State of Texas, he shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than Five Dollars (\$5.00), nor more than Fifty Dollars (\$50.00). No person shall take or catch any fish in the fresh water rivers, creeks, lakes, bayous, pools or lagoons of the counties above mentioned by any other means than by ordinary hook and line or trot line, or artificial bait, and no person shall place in the fresh water rivers, creeks, lakes, bayous, pools or lagoons of the counties above named, any seine, net or other device, or trap for taking or catching fish; provided, however; that persons may use a minnow seine which is not more than twenty (20) feet in length for the purpose of catching minnows for bait; or a net, the meshes of which are not less than three (3) inches for the purpose of catching carp and suckers in the Colorado River. In seining for bait as herein permitted, all fish and minnows more than three (3) inches in length shall be returned to the water at once while alive. No person shall use the minnow seine herein permitted for the purpose of taking any fish other than minnows for bait. Any person violating any provision of this Section shall be fined not less than Five Dollars (\$5.00) nor more than One Hundred Dollars (\$100.00).

No person shall take from the fresh waters of any county mentioned more than thirty-five (35) of such fish in any one day. Any person violating this provision of this Article shall be fined not less than Five Dollars (\$5.00) nor more than One Hundred Dollars (\$100.00). The taking of such fish in excess to the number herein allowed shall be a separate offense.

No person shall knowingly place, throw, or deposit upon the banks or grounds adjacent to any of the fresh waters, creeks, lakes, bayous, rivers, pools, or lagoons, or tanks, in the counties above named any catfish, perch, crappie, white perch, bass, trout, or other edible fish, and leave such fish to die without any intention upon the part of such person either to eat such fish or use same for bait. Any person found guilty of the violation of this provision shall be fined not to exceed Twenty-five Dollars (\$25.00). The

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allowing of each fish to die shall be a separate offense. [As amended Acts 1931, 42nd Leg., 2nd C. S., p. 20, ch. 11, § 1.]

This article was amended by Acts 1929, 41st Leg., p. 111, ch. 55, § 1, effective Feb. 19, 1929, by omitting Hunt and Rains Counties from the counties enumerated and was again amended by Acts 1929, 41st Leg., p. 533, ch. 257, § 1, effective March 19, 1929,

by reincluding Hunt and Rains Counties and omitting Milam and Travis Counties from the counties enumerated.

This article was amended by Acts 1931, 42nd Leg., p. 764, ch. 304, § 1.

**Art. 955a—1.** [Repealed by Acts 1930, 41st Leg., 4th C. S., p. 77, ch. 38, § 1]

The article repealed was Acts 1929, 41st Leg., p. 534, ch. 258, as amended by Acts 1929, 41st Leg., 1st C. S., p. 219, ch. 88 re-

lating to sale of fish in Cass; Bowie, Morris and Titus Counties.

[Art. 978f. Game, Fish, and Oyster Commission; powers and duties]

Sec. 1. The office of Game, Fish and Oyster Commissioner of the State of Texas is hereby abolished. There is hereby created the Game, Fish and Oyster Commission which shall have the authority, powers, duties and functions heretofore vested in the Game, Fish and Oyster Commissioner, except where in conflict with this Act.

Sec. 2. Said Game, Fish and Oyster Commission shall consist of six members, one of whom shall be chairman. The Chairman and other members of the Commission shall be appointed by the Governor from different sections of the State, which appointment shall be with the advice and consent of the Senate, if in session, and if not in session, the Governor shall appoint such chairman and members and issue a commission to them as provided by law, and their appointment shall be submitted to the next Session of the Senate for their advice and consent in the manner that appointments to fill vacancies under the Constitution are submitted to the Senate. The chairman and one member of said Game, Fish and Oyster Commission shall be appointed for a term ending September 1, 1935. Two members shall be appointed for a term ending September 1, 1933, and two members shall be appointed for a term ending September 1, 1931, or until their successors are appointed and qualified. Thereafter, the Governor shall appoint such chairman and members for terms of six years. The chairman and each member of said Commission shall execute a bond payable to the State of Texas, in the sum of Five Thousand Dollars to be approved by the Governor and conditioned upon the faithful performance of his duties under the law. The premium on such bonds shall be paid by the State of Texas out of funds available to said Game, Fish and Oyster Commission under the law and appropriations made by the Legislature.

Sec. 3. Said Game, Fish and Oyster Commission shall hold regularly quarterly meetings in January, April, July and October of each year on dates to be specified by the Commission and may hold such special meetings at such times and places as said Commission may deem necessary and proper. It shall require two members or the chairman and one member of said Commission to constitute a quorum.

Sec. 4. Said Game, Fish and Oyster Commission is hereby authorized to make such rules and regulations for the conduct of its work and the work of the Game, Fish and Oyster Commission as may be deemed necessary, not inconsistent with the Constitution and laws of this State. Said Game, Fish and Oyster Commission shall keep a record of all proceedings and official acts.

Sec. 5. The chairman and members of said Commission shall receive as compensation for their services their actual expenses in the performance of their duties. The expense of the chairman and members shall be itemized and sworn to by said chairman or member receiving the same and shall be paid out on warrants of the Comptroller drawn against any fund available for the use of said Game, Fish and Oyster Commission.

Sec. 6. Said Game, Fish and Oyster Commission shall have power and authority to appoint an executive secretary who shall act as the chief executive officer under the direction of said Game, Fish and Oyster Commission. The Commission may perform its duties through said executive secretary and may delegate to him such executive duties as said Game, Fish and Oyster Commission shall deem proper. They shall also have power and authority to appoint an assistant executive secretary who, in the absence of the executive secretary, shall perform all the duties of the executive secretary and shall perform such other duties as may be prescribed by the Game, Fish and Oyster Commission or under its direction. Said executive secretary shall have authority to appoint such heads of divisions and such Game and Fish Wardens and other employees as in his discretion may be deemed necessary to carry out and enforce the laws of this State, which it is the duty of said Game, Fish and Oyster Commission to carry out, execute and administer, and to perform all other duties and services authorized and required to be performed by said Game, Fish and Oyster Commission, and shall have the authority, powers, duties and functions heretofore vested in Special Deputy Game, Fish and Oyster Commissioners and other employees of the Game, Fish and Oyster Commissioner. Said executive secretary and assistant executive secretary shall serve at the will of said Game, Fish and Oyster Commission. The division heads, Game and Fish Wardens and other employees shall serve at the will of the executive secretary.

Sec. 7. The executive secretary and the assistant executive secretary shall each receive such compensation as may be fixed by the Legislature in each biennial appropriation bill, to be paid to them in twelve equal monthly installments, out of any funds available to, or appropriated for the use of the Game, Fish and Oyster Commission, together with all the necessary expenses in connection with their official duties. The compensation of all division heads, Game and Fish Wardens and other employees of the Game, Fish and Oyster Commission, herein provided for, shall be fixed by the Game, Fish and Oyster Commission; provided that the Legislature in each biennial appropriation bill shall fix the maximum compensation to be paid to such division heads, Game Warden and other employees.

Sec. 8. The executive secretary and assistant executive secretary shall each enter into a good and sufficient bond in the sum of Ten Thousand Dollars payable to the State of Texas, to be approved by the Game, Fish and Oyster Commission conditioned upon the faithful performance of his duties under the law. The premium on such bonds shall be paid by the State out of funds available to the Game, Fish and Oyster Commission. The executive secretary and assistant executive secretary shall take the constitutional oath of office. Every division head, Game and Fish Warden and such other of the employees as the Commission may designate shall execute a bond in the sum of One Thousand Dollars to be approved by the executive secretary of the Game, Fish and Oyster Commission, and payable to the State of Texas and conditioned upon the faithful performance of the duties of his office. The Game, Fish and Oyster Commission may require any employee who handles funds belonging to the Department to give a bond up to as high as Ten Thousand Dollars, conditioned upon the faithful performance of his duties under the law. The chairman nor the members of the Commission, the executive secretary nor assistant executive secretary shall be liable on their respective bonds for any act of any employee of the Department but on the other hand the bond of any such employee shall cover the individual acts of each.

Sec. 9. There is hereby appropriated out of the State Treasury all moneys collected or to be collected by the Game, Fish and Oyster Commissioner or said Game, Fish and Oyster Commission, under any laws of this State relating thereto, for the purpose of carrying out this act or per-



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forming any duties or services under any laws of this State. [Acts 1929, 41st Leg., p. 265, ch. 118.]

Section 11 of said Acts 1929, 41st Leg., p. 265, ch. 118, repeals all conflicting laws and parts of laws, and provides that if any

section or provision is held unconstitutional such decision shall not affect the remainder.

Section 10 makes the act effective Sept. 1, 1929.

[Art. 978g. Deer in Live Oak and other counties]

Sec. 1. It shall hereafter be unlawful for any person to hunt, trap, ensnare, possess, or kill any wild buck deer having antlers of less than eight prongs, wild doe deer, or wild fawn deer, within the limits of the Counties of Live Oak, Frio, McMullen and LaSalle, in the State of Texas for a period of five years from and after the passage of this Act.

Sec. 2. Any persons violating any of the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than Fifty (\$50.00) Dollars, nor more than Two Hundred (\$200.00) Dollars. [Acts 1930, 41st Leg., 5th C. S., p. 242, ch. 78.]

[Art. 978h. Protection of buffalo]

Sec. 1. Buffalo are hereby declared to be game animals.

Sec. 2. It shall be unlawful for any person in this State to kill any buffalo except male buffalo ten years old or older, and existing stags or steers. Any person who kills any female buffalo or any male buffalo under ten years of age shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than One Hundred (\$100.00) Dollars nor more than One Thousand (\$1,000.00) Dollars, or confinement in the county jail for any period not less than thirty (30) days nor more than six (6) months, or both such fine and imprisonment.

Sec. 3. It shall be unlawful for any person to sell any buffalo in this State without the written consent of the State Game, Fish & Oyster Commission of this State. The State Game, Fish & Oyster Commission is hereby granted the right, power and privilege of condemning for State use any buffalo or buffaloes in this State for the purpose of conserving and protecting the same, and to this end express authority is granted said Commission to condemn said animals in the same manner and under the same procedure now granted to counties for the condemnation of land for road purposes. The said Commission shall have power to enter into any contract it may deem advisable for the purchase, conservation and protection of buffaloes within this State, and in event the said Commission is unable to agree upon a price to be paid for such animals with the owners thereof, then said Commission may, in its discretion, resort to condemnation proceedings as herein provided. The purchase of any buffalo within this State without the consent of the State Game, Fish & Oyster Commission shall be deemed a purchase for the benefit of the State, and said animals when so purchased will be held in trust by the purchasers for the use and benefit of the State for a period of six (6) months after such purchase, and said Commission shall have the right to take over said animals upon payment to the purchaser of the true consideration he may have paid therefor; provided, however, that the Commission shall not have the authority to purchase any stag buffalo nor male buffalo which at the time of sale is more than ten years of age and provided further that the herd shall not be purchased until a sufficient amount of land suitable for their maintenance and support, in the vicinity where the buffalo are located or range, shall have been donated to the Commission with a fee simple title. [Acts 1931, 42nd Leg., 1st C. S., p. 70, ch. 31.]

[Art. 978i. Trinity River bed; violation of fishing and hunting regulations]

The Game, Fish and Oyster Commission of the State of Texas is hereby vested with full control over fishing and hunting in the Trinity River in Henderson and Navarro Counties and in such abandoned beds or chan-

nels of said river that continue the property of this State and said Game, Fish and Oyster Commission is hereby directed and charged with the duty of making necessary regulations that will conserve the game and fish within this area. Any hunting or fishing or the taking of any game or fish within the areas referred to in this Act, except in accordance with the regulations made by the Game, Fish and Oyster Commission, shall be a violation of this Act. Any person violating any such regulations or any part of such regulations shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00); and after conviction shall forfeit his right to fish or to hunt with a gun in this State for a period of one (1) year following date of conviction. [Acts 1931, 42nd Leg., 2nd C. S., p. 42, ch. 23, § 3.]

Sections 1, 2, 4, 5, of said Acts 1931, 42nd Leg., 2nd C. S., p. 42, ch. 23, are published as Rev. Civil St., art. 4026a.

## TITLE 14—TRADE AND COMMERCE

[Art. 1011a. Delivering or recording conveyances of land in which person has no interest]

Sec. 1. It shall be unlawful for any person, acting for himself or as an officer or purported officer of any association, firm or corporation, to execute or deliver to any other person, association, firm or corporation, any deed, mortgage, deed of trust, or any other instrument in writing, purporting to convey any land or interest in land within this State, when such person, at the time of the execution of such instrument, knows that neither he nor the association, corporation or firm for which he is acting or purports to be acting, is the owner of or has an interest in the land described in said instrument; and it shall further be unlawful for any person, acting in his said individual capacity or in behalf of the organizations hereinbefore named, to knowingly receive such instrument or to tender for record such instrument, knowing at the time of such receiving or tendering, that the person, firm or corporation executing such instrument was not the owner of the land nor the interest therein which said instrument conveys or purports to convey.

Sec. 2. Any person violating any of the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by fine of not less than One Hundred Dollars (\$100.00) and more than Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for a period not to exceed six (6) months or by both such fine and imprisonment. [Acts 1931, 42nd Leg., p. 439, ch. 263.]

[Art. 1027a. Public cotton classers; penalties]

Sec. 9. Penalties. Hereafter no person shall be permitted to engage in the business as Public Cotton Classer, classing and stapling cotton for the public, or issuing receipts and tickets therefor, with the grade thereon, for the use of the public, as herein above provided, without complying with the provisions of this Act. Anyone violating any of the provisions of this Act, shall be deemed guilty of a misdemeanor and upon conviction, shall be punished by a fine in any sum not less than Twenty-Five (\$25.00) Dollars, and not more than Two Hundred (\$200.00) Dollars.

Sec. 10. If any person shall issue or cause to be issued, any certificate of sample, weight, grade or staple of any cotton, for commercial purposes, with intent to deceive or defraud, such person shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than Twenty-Five (\$25.00) Dollars, nor more than Two Hundred (\$200.00) Dollars, and each instrument so issued shall constitute a separate offense.

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[Acts 1931, 42nd Leg., p. 101, ch. 68, as amended Acts 1931, 42nd Leg., 2nd C. S., p. 24, ch. 13.]

Sections 1-8 and 11 of said act are published as Civ. Stat. § 5679a.

Sec. 10-A. From and after this Act takes effect, it shall be unlawful for any person to do, or cause to be done, any act or anything prohibited by this Act, or to fail to do anything required of him under it, the person so offending shall be guilty of a misdemeanor, and upon conviction therefor, shall be fined in any sum not less than Twenty-five (\$25.00) Dollars, and not more than Two Hundred (\$200.00) Dollars. [Acts 1931, 42nd Leg., p. 101, ch. 68.]

Effective 90 days after May 23, 1931, date said Acts 1931, 42nd Leg., p. 101, ch. 68 are of adjournment. Sections 1-8, 10-B of published as Rev. Civ. St. art. 5679a.

#### Art. 1037. False weights and measures

Any person who, by himself or by his servant or agent of another person, shall offer or expose for sale, sell, use or retain in his possession any false weights or measures, or weighing or measuring devices, in the buying or selling of any commodity or thing or in calculating or measuring service, or in the determination of weight or measure when a charge is made for such determination, or who shall dispose of any condemned scales, weights, measures or weighing or measuring devices contrary to law; or who shall sell or offer or expose for sale less than the quantity he represents of any commodity, thing or service, or shall take or attempt to take more than the quantity he represents of any commodity, thing or service, when, as the buyer or weigher of any commodity, he furnishes the weight, measure, or weighing or measuring device by means of which the amount of any commodity, thing, or service is determined; or who shall sell or offer for sale, or use or have in his possession for the purpose of selling or using, any device or instrument to be used to or calculated to falsify and [any] weight or measure; shall be guilty of a misdemeanor, and shall be punished by a fine of not less than \$20 or more than \$100, upon the first conviction in any court of competent jurisdiction; and upon a second or subsequent conviction in any court of competent jurisdiction he shall be punished by a fine of not less than \$50.00 or more than \$200.00. [As amended Acts 1929, 41st Leg., p. 676, ch. 303, § 1.]

#### Art. 1037a. [Definitions]

The word "person" as used in this Act shall be construed to import the plural and singular, as the case demands, and shall include corporations, companies, societies, and associations. The words "weights, measures or (and) weighing and measuring devices" as used in this Act, shall be construed to include all weights, scales, beams, measures of every kind, instruments and mechanical devices for weighing and measuring, and any appliances and accessories connected with any or all such instruments. The word "sell" or "sale" as used in this Act, shall be construed to include barter and exchange. The term "false weight or measure, or weighing and measuring devices," shall be construed to mean any weight or measure which does not conform to the United States Standards of weight or measure or any weighing or measuring device which does not give correct results or is manipulated to give incorrect results in terms of United States Standards of weight or measure. [Acts 1929, 41st Leg., p. 676, ch. 303, § 1.]

#### [Art. 1057b. License to operate milk or cream testing apparatus; penalty]

That it shall be unlawful for any person to operate a milk or cream testing apparatus to determine the percentage of butter fat in milk or cream for the purpose of purchasing same, either for himself or another, without first securing a license from the State Commissioner of Agriculture, who shall

issue such license, upon a form prepared by him, upon payment of a fee of One (\$1.00) Dollar for a period of twelve (12) months and said Commissioner or his agents are hereby authorized to make such investigation as he may deem necessary to determine whether the applicant is a reliable person and competent and qualified to operate and use such apparatus and make an accurate test with same. If the applicant is not found to be reliable, competent and qualified the Commissioner of Agriculture may refuse to license him, and said Commissioner is hereby authorized and empowered to revoke the license of any person licensed to make the Babcock test of milk or cream under the laws of the State of Texas, who shall fail to fully comply with the provisions of said laws, or with any of the rules and regulations of the Department of Agriculture relating to said Babcock test. Said money for licenses shall be turned in by Commissioner of Agriculture to the General Revenue Fund of the State. The testing of each lot of milk or cream by any unlicensed person shall constitute a separate offense under this Act; provided that any licensed person or his employer may for a valid reason, which must in every instance be reported to the Commissioner of Agriculture, appoint a substitute for a period of not to exceed fifteen (15) days, and provided further that such appointment may for a valid reason satisfactory to said Commissioner and subject to his approval be extended for an additional ten (10) days. Any person violating the requirements of this Article shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided in subsection (b), Article 5736c [Art. 1057C, Pen. Code]. [Acts 1931, 42nd Leg., p. 735, ch. 287, § 1.]

Effective 90 days after May 23, 1931, date Rev. Civ. St. art. 5736b but being a penal of adjournment. This article was added as provision is published here.

[Art. 1057c. Inaccurate samples or false determinations by Babcock test]

(a) It shall be unlawful for any person, either for himself or another or for any person, firm, association, or corporation either by himself or agent, to falsely manipulate, or under-read or over-read, take inaccurate samples or make any false determinations by Babcock test or any other contrivance used to determine the quantity of fat in milk or cream or value of milk or cream delivered to a creamery, cheese factory, condensery, ice cream plant, milk plant or milk depot, or any other place where milk or cream is purchased, or when sold or purchased. The test shall be clear butter fat, free from sediment, solids, or other foreign substance, and must be read at a temperature of 130°-140°. Cream tests must be weighed and must not be taken except from milk or cream which has been thoroughly mixed by stirring with an instrument suitable for the purpose. The scales must be accurate and sensitive to a weight of thirty (30) milligrams; the tester and owner or owners are jointly responsible for their accuracy. For the purpose of providing official supervision of the operation of the Babcock test in all creameries, cheese factories, condenseries, ice cream plants and milk depots using said test, and all receiving stations conducted for the purchase of butter fat either in the form of cream or milk, the following regulations are hereby promulgated: (1) That all individuals, corporations and partnerships authorized by license or permit to conduct the Babcock test in the State of Texas shall retain in a cool, clean, sanitary place and in tightly stopped bottles or tightly covered jars the exact, properly labelled samples of cream or milk from which the butter fat test has been conducted, until 6 P. M. of the next test day. (2) Upon such occasions as may be determined wise, the Agricultural Department or its inspectors may order any sample or samples held for a longer period than provided for by these regulations.

(b) Any person violating the provisions of these Articles shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not

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less than Fifty (\$50.00) Dollars and not more than Five Hundred (\$500.00) Dollars. [Acts 1931, 42nd Leg., p. 735, ch. 287, § 1.]

Effective 90 days after May 23, 1931, date of adjournment. This article was added as Rev. Civ. St. art. 5736c, but being a penal provision is published here.

[Art. 1057d. Commissioner shall establish tolerances; penalties]

The Commissioner shall establish tolerances and specifications for commercial weighing and measuring apparatus for use in this State, similar to the tolerances and specifications recommended by the National Bureau of Standards and he may establish a standard net weight or net count of any commodity, product, or article, and prescribe such tolerance for same as he may in his best judgment deem necessary for the proper protection of the public. "Provided, the specifications and tolerances issued by the Commissioner of Agriculture for weighing and measuring devices in conformity with this Article, or any specifications or tolerances issued to protect the public from fraud, shall have the same force and effect as if enacted into Law, and provided, further, any person, firm, or corporation who shall fail or refuse to comply with said specifications and tolerances shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than Ten (\$10.00) Dollars nor more than Two Hundred (\$200.00) Dollars. [As amended Acts 1931, 42nd Leg., p. 125, ch. 83, § 1.]

Effective 90 days after May 23, 1931, date of adjournment: This article was originally Rev. Civ. St. 1925, art. 5714. As amended it is made a penal provision.

[Art. 1112a. Removal of inspection placards]

Any person removing inspection placards from a car before it is unloaded, or any person violating any provision of this Act [Civ. art. 117a; P. C. art. 1112a] shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than One Hundred Dollars (\$100.00), or by imprisonment for not more than sixty days, or by both such fine and imprisonment. [Acts 1929, 41st Leg., 2nd C. S., p. 157, ch. 80, § 8.]

Effective 90 days after July 2, 1929, date of adjournment. Sections 1-7 of Act 1929, 41st Leg., 2nd C. S., p. 157, ch. 80, are published as Civ. St. art. 117a.

[Art. 1117a. Penalty for violation of mutual insurance law]

Any person or corporation violating the provisions of this Act [Civ. St. arts. 4860a—1 to 4860a—19; P. C. art. 1117a] shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Fifty (\$50.00) Dollars nor more than Five Hundred (\$500.00) Dollars. [Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, § 20.]

Sections 1 to 19 of Acts 1929, 41st Leg., 1st C. S., p. 90, ch. 40, are published as Rev. Civ. St. Arts. 4860a—1 to 4860a—19. See note to art. 4860a—1.

Art. 1136a—1. Appointment of agents; penalty for selling stock of unauthorized association.

Each foreign building and loan association shall within sixty days after this Act [Civ. arts. 881a—1 to 881a—68; P. C. 1136a—1 to 1136a—9] takes effect, file with the Banking Commissioner of Texas, a written statement, naming each and every other person authorized in this State to solicit stock subscriptions or to accept loan applications for such company; such statements may be added to from time to time, and shall, in addition to the name, give the post office address of such agent. It shall be unlawful for any person to act as agent for any foreign building and loan association unless he has been so designated by such foreign company and his name filed with the Banking Commissioner of Texas and it shall be unlawful for any person to act as agent for any building and loan association not authorized to do business in this state; and any person or persons acting for such association without the proper filing of his name as authorized agent, and any person or persons acting for such unauthorized association, or in any manner aiding in the transaction of the business of such association in this

State, shall be deemed guilty of misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars for each offense, and in default of payment of such fine shall be imprisoned in the county jail for a period not exceeding one year. All fines collected under the provisions of this Section shall be paid into the State Treasury. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 68.]

Arts. 1136a-1 to 1136a-9 effective 20 days 2nd C. S., p. 100, ch. 61, are published as after July 2, 1929, date of adjournment. Civ. Sts. arts. 881a-1 to 881a-68. Sections 1-69, 76, 77 of Acts 1929, 41st Leg.,

#### Art. 1136a—2. Defining foreign association

All building and loan associations, under the laws of any other state or the District of Columbia, shall be deemed a "foreign building and loan association", and shall obtain from the Banking Commissioner of Texas a permit or certificate of authority before transacting business in this state, which permit or certificate of authority shall be given only and in the same manner and under like conditions, regulations and discretion, and upon the filing of like papers, documents and statements as set out in Section 56 of this Act [Civ. art. 881a-55], requiring foreign building and loan associations to obtain certificates of authority before beginning business. A failure to procure such permit or certificate of authority before beginning or continuing business (if already engaged in such business when this act takes effect) within the time provided by Section 67 of this Act [Civ. art. 881a-66], shall be a misdemeanor and subject the offender, its or their officers, agents and representatives to a fine of not more than five hundred dollars, and each separate business transaction shall constitute a separate offense. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 69.]

#### Art. 1136a—3. Slander

Any person who shall knowingly make, utter, circulate or transmit to another, or others, any statement untrue in fact, derogatory to the financial condition of any building and loan association, in this state, with intent to injure any such financial institution, or who shall counsel, aid, procure or induce another or originate, make[,] utter, transmit or circulate any such statement or rumor, with like intent, shall be guilty of an offense and upon conviction shall be punished by a fine not more than Twenty-five hundred dollars or by imprisonment in the state penitentiary for a period not exceeding two years or both by such fine and imprisonment. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 70.]

#### Art. 1136a—4. Penalty for embezzlement, etc.

Every officer, director, member of any committee, clerk or agent of any building and loan association doing business in this State who embezzles, abstracts or misapplies any of the moneys, funds or credits of such association, who issues or puts into circulation any warrant or other orders, without proper authority, who issues, assigns, transfers, cancels or delivers up any note, bond, draft, mortgage, judgment, decree or any other written instrument belonging to such association, who certifies to or makes a false entry in any book, report or statement of or to such association, with intent in either case to deceive, injure or defraud such association, or any member thereof, or for the purpose of inducing any person to become a member thereof, or to deceive anyone appointed to examine the affairs of such association, shall be deemed guilty of a felony and on conviction thereof shall be imprisoned in the State penitentiary for a period of not less than one year nor more than ten years. Whoever, with intent to deceive, injure, or defraud a building and loan association, as provided by law, or other company, corporation or person, aids or abets any officer, member of any committee or other person in committing any of the prohibited acts enumerated herein shall be deemed guilty of a felony, and on conviction thereof shall be imprisoned in the state penitentiary for a

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period of not less than one year nor more than ten years. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 71.]

**Art. 1136a—5. Penalty for declaring greater dividends than earned**

Any member of the board of directors of a building and loan association who knowingly votes to declare or, being secretary or manager thereof; who wilfully declares or advises the board of directors thereof to declare a greater dividend than has actually been earned, or has been previously accumulated as surplus by such association, shall personally refund same and be liable to the corporation therefor jointly and severally. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 72.]

**Art. 1136a—6. Penalty for failing to comply with law**

Any building and loan association failing to comply with the provisions of this law shall pay five dollars per day for each day it so fails after notice of the delinquency by the Banking Commissioner of Texas. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 73.]

**Art. 1136a—7. Penalty for misrepresentation**

Any person who knowingly and maliciously or with intent to defraud, makes any false or fraudulent statement concerning any association or its affairs shall be guilty of a misdemeanor and fined in the sum of one thousand dollars, or be imprisoned for thirty days. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 74.]

**Art. 1136a—8. Penalty for suppressing evidence**

Every officer, director, employee or agent of any building and loan association who, for the purpose of concealing any fact or suppressing any evidence against himself or against [against] any other person, abstracts, removes, mutilates, destroys or secretes any paper, book or record of any building and loan association or of the Banking Commissioner of Texas, shall be deemed guilty of a felony, and upon conviction therefor, shall be punished by confinement in the State penitentiary for a period of not less than one year nor more than five years. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 75.]

**Art. 1136a—9. Disclosures of examiners—Penalty**

Any examiner inspector, deputy, assistant or clerk, appointed or acting under the provisions of this Act [Arts. 881a-1 to 881a-68; P. C. Arts. 1136a-1 to 1136a-9], failing to keep secret any facts or information adverse to the association obtained in the course of an examination or by reason of his official position, except when the public duty of such officer required him to report upon or take official action regarding the affairs of the association so examined, or who wilfully makes a false official report as to the condition of such association, shall be removed from his position or office and shall be fined not more than five hundred dollars, or imprisonment in the county jail for not more than one year, or both. Reports of examinations made to the Banking Commissioner of Texas shall be regarded as confidential and not for public record or inspection, except that for good reason same may be made public by the Commissioner. Nothing herein shall prevent the proper exchange of information relating to building and loan associations and the business thereof with the representatives of building and loan departments of other states, but in no case shall the private business or affairs of any individual association or company be disclosed. Any official violating any provision of this Section, in addition to the penalties herein provided, shall be liable, with his bondsmen, to the person or corporation injured by the disclosure of such secrets; provided, however, that any association shall have a hearing before the Commissioner when dissatisfied with such report and within thirty days after such hearing and the amending and change, if any, of such report, as may be directed by the Commissioner, such final report shall become

a public record open to inspection. [Acts 1929, 41st Leg., 2nd C. S., p. 100, ch. 61, § 20.]

[Art. 1137b. Aircraft licenses, definitions, penalties]

Sec. 1. In this Act "aircraft" means any contrivance now known or hereafter invented, used or designated for navigation of or flight in the air, except a parachute or other contrivance designed for such navigation but used primarily as safety equipment. The term "public aircraft" means any aircraft used exclusively in the Federal governmental service or the State governmental service. The term "civil aircraft" means any aircraft other than public aircraft. The term "airman" means any individual (including the person in command and any pilot, mechanic, or member of the crew) who engages in the navigation of aircraft while under way and any individual who is in charge of the inspection, overhauling, or repairing of aircraft.

Sec. 2. The public safety requiring and the advantages of uniform regulation making it desirable in the interest of aeronautical progress that aircraft operating within this State should conform with respect to design, construction, and airworthiness to the standards prescribed by the United States Government with respect to navigation of aircraft subject to its jurisdiction, it shall be unlawful for any person to navigate an aircraft within the State, whether for commercial, pleasure or noncommercial purposes, unless it is licensed and registered by the Departments of Commerce of the United States in the manner prescribed by the lawful rules and regulations of the United States Government then in force.

Sec. 3. No person shall serve as an airman in connection with any civil aircraft when such aircraft is flown or operated in this State until he shall have obtained a license under the provisions of the Federal Air Commerce Act of 1926 and amendments thereto and the Air Commerce Regulations and Air Traffic Rules pursuant thereto.

Sec. 4. The certificate of the license herein required shall be kept in the personal possession of the licensee when he is operating aircraft within this State, or serving in connection with any civil aircraft flown or operated in this State, and must be presented for inspection upon the demand of any passenger, any peace officer of this State, or any official, manager or person in charge of any airport or landing field in this State upon which he shall land or perform any service.

Sec. 5. The provisions of this act shall not apply to any public aircraft owned by the Government of the United States or by this State. Any person who navigates or serves as an airman in any civil aircraft which has not been licensed and registered by the Department of Commerce of the United States in the manner prescribed by the lawful rules and regulations of the United States Government in force.

Last sentence of section 5 is incomplete.

Sec. 6. Any person who navigates within this State any civil aircraft without an airman's license, or who serves as an airman in connection with any civil aircraft flown or operated within this State, without an airman's license issued in accordance with the provisions of the Air Commerce Act of 1926 and amendments thereto, shall be guilty of a misdemeanor and punishable by a fine of not more than \$500.00 nor less than \$100.00 or by imprisonment in the county jail for not more than six months nor less than thirty days, or both; provided, however, that acts or omissions made unlawful by this article shall not be deemed to include any act or omission which violated the law or lawful regulations of the United States; but it shall not be necessary to allege or prove, as part of the case of the State, that the defendant is not amenable, on account of the alleged violation, to prosecution under the laws of the United States. That he is amenable to such prosecution shall be matter of defense, un-



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less it affirmatively appears from the evidence adduced by the State.  
[Acts 1929, 41st Leg., p. 624, ch. 285.]

Effective March 26, 1929.

Section 7 of said Acts 1929, 41st Leg., p. 624, ch. 285, provides that if any provision of the Act is held invalid, such decision shall not affect the remainder.

[Art. 1137c. Repealed Acts 1929, 41st Leg., 2nd C. S., p. 16, ch. 11, § 2;  
2nd C. S., p. 203, ch. 96, § 10]

The article repealed was Acts 1929, 41st Leg., 1st C. S., p. 253, ch. 104, relating to licensing and regulating emigrant agents. See art. 1137d post.

[Art. 1137d. Acting as emigrant agent without license]

Any person, firm, association of persons or corporation who shall engage in the business of an emigrant agent in any county in this State without having first filed with the Commissioner of Labor Statistics of the State of Texas, an application for license as emigrant agent as above provided, and/or without having first paid all state and county occupation taxes and annual license fee as provided by law or without having first secured a state license as above provided, or without having first filed certified copy of his state license with the Tax Collector of such county as above provided, and/or who does not file monthly reports as provided by this Act, and/or who shall engage in the business of an emigrant agent in any county in this State without first having designated such county as one of the counties in which he proposes to do such business in his original or amended application to the Commissioner of Labor Statistics of Texas, shall be guilty of a misdemeanor, and upon conviction shall be punished by fine not exceeding \$500.00, or by imprisonment in the county jail for not exceeding six months, or by both such fine and imprisonment.  
[Acts 1929, 41st Leg., 2nd C. S., p. 203, ch. 96, § 3.]

Effective July 16, 1929. Sections 1, 2, 4-7 of Acts 1929, 41st Leg., 2nd C. S., p. 203, ch. 96, are published as Civ. Sts. art. 5221a-1. See note thereto.

[Art. 1137e. Unlawful use of long distance telephone lines]

Sec. 1. It shall be unlawful for any person, without the express consent of the person, firm, co-partnership or corporation in whose home, office or place of business any telephone instrument is located and installed for the purpose of rendering telephone service, to communicate or converse by means or by use of such telephone instrument over any long distance telephone line or lines in this State, and charge or cause to be charged to such person, firm, co-partnership or corporation in whose home, office or place of business such telephone instrument is located and installed, the fee, rate or toll fixed or imposed therefor.

Sec. 2. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than One (\$1.00) Dollar nor more than One Hundred (\$100.00) Dollars. [Acts 1931, 42nd Leg., p. 27, ch. 22.]

[Art. 1137f. Protection of aircraft and equipment]

Sec. 1. Definitions: When used in this Act:

(a) "Aircraft" means any contrivance now known or hereafter invented, used or designed for navigation of, or flight in the air, except a parachute or other contrivance designed for such navigation, but used primarily as safety equipment.

(b) "Airport" means any locality, either of land or water, which is used or which is made available for the landing and taking off of aircraft, and, as used in this Act, shall include landing fields.

(c) "Beacon" means any light, mark or signal invented, used or designed for the aid and guidance of any aircraft.

Sec. 2. It shall be unlawful for any person to willfully throw or project a stone or any other missile, or fire any gun or pistol at, against or into

any aircraft or parachute or any contrivance designed for navigation of or flight in the air, whether such aircraft, parachute or contrivance be moving or not, or whether the same be in the air or on the ground.

Sec. 3. It shall be unlawful for any person in this State to willfully use, operate, molest, damage, destroy or tamper with any aircraft, parachute or any contrivance designed for the navigation of, or flight in the air; or to willfully remove, molest or change any instrument, attachment, appliance or accessory connected with, or forming a part of such aircraft, parachute or contrivance, without the consent of the owner of such aircraft, parachute or contrivance.

Sec. 4. It shall be unlawful for any person to willfully remove, destroy, impair or tamper with any beacon, light, signal or mark erected for the purpose of indicating any airplane, airway, airport or landing field, without the consent of the owner of such beacon, light, signal or mark.

Sec. 5. It shall be unlawful for any person to willfully place any obstruction or impediment calculated or designed to make the operation of any aircraft more unsafe upon any airport, landing field or aeroplane runway, or to willfully place any false beacon, light, signal or mark, in any location with the intent to mislead or deceive the operator of any aircraft as to the true position of any airport, landing field, aeroplane runway, airplane or airway.

Sec. 6. Any person found guilty of violating any portion of Sections Two, Three, Four or Five of this Act shall be punished by confinement in the State Penitentiary for any term of years not less than one nor more than five, or by fine of not less than Twenty-five (\$25.00) Dollars nor more than One Thousand (\$1,000.00) Dollars, or by confinement in the County jail for any term not less than one year.

Provided that in the event death results from any of the Acts described in this law, the offense shall be murder and the same shall be punishable as such. [Acts 1931, 42nd Leg., p. 90, ch. 57.]

Effective April 16, 1931. Section 7 of any provision shall be held invalid, such said act repeals all conflicting laws and decision shall not affect the remainder. parts of laws. Section 8 provides that if

[Art. 1137g. Fraudulent use of vending and slot machines]

Sec. 1. Any person who shall knowingly operate or use, or cause to be operated or used, or who shall attempt to operate or use, or attempt to cause to be operated or used, any automatic vending machine, slot machine, coin-box telephone or other receptacle designed to receive lawful coin of the United States of America in connection with the sale, use or enjoyment of property or service, by means of a slug or any false, counterfeited, mutilated, sweated or foreign coin, or imitation of any coin, or by any means, method, trick or device whatsoever not lawfully authorized by the owner, lessee or licensee of such machine, coin-box telephone or receptacle; or who shall take, obtain or receive from or in connection with any automatic vending machine, slot machine, coin-box telephone or other receptacle designed to receive lawful coin of the United States of America in connection with the sale, use or enjoyment of property or service, any goods, wares, merchandise, gas, electric current, article of value, or the use or enjoyment of any telephone or telegraph facility or service, or of any musical instrument, phonograph or other property, without depositing in and surrendering to such machine, coin-box telephone or receptacle lawful coin of the United States of America to the amount required therefor by the owner, lessee or licensee of such machine, coin-box telephone or receptacle shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding Two Hundred (\$200.00) Dollars, or imprisonment in the county jail not exceeding ninety days, or both.

Sec. 2. Any person who, with intent to cheat or defraud the owner, lessee, licensee or other person entitled to the contents of any automatic vending machine, slot machine, coin-box telephone or other receptacle designed to receive lawful coin of the United States of America in connec-

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tion with the sale, use or enjoyment of property or service, or who, knowing or having cause to believe that the same is intended for unlawful use, shall manufacture for sale or sell or give away any slug, article, device or substance whatsoever intended or calculated to be placed or deposited in any such automatic vending machine, slot machine, coin-box telephone or other such receptacle, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding Two Hundred (\$200.00) Dollars, or imprisonment in the county jail not exceeding ninety days, or both.

Sec. 2-A. Provided further, however, that the provisions of this Act shall not apply to any machines or devices being operated in violation of the law.

Sec. 2-B. Provided, that any owner, operator, agent, representative or person controlling the operation of any said machine or machines, who knowingly accepts money so deposited and fraudulently fails to give to the depositor of said money the service or the thing offered for sale, shall be punished as provided herein. [Acts 1931, 42nd Leg., p. 126, ch. 84.]

[Art. 1137h. Recording maps or plats of subdivisions of real estate]

Sec. 1. No party shall file for record or have recorded in the official records in the County Clerk's office any map or plat of a subdivision or resubdivision of real estate without first securing approval therefor as may be provided by law, and no party so subdividing or resubdividing any real estate shall use the subdivision's or resubdivision's description in any deed of conveyance or contract of sale delivered to a purchaser unless and until the map and plat of such subdivision or resubdivision shall have been duly authorized as aforesaid and such map and plat thereof has actually been filed for record with the Clerk of the County Court of the county in which the real estate is situated.

Sec. 2. Any party violating any provision of Section 1 of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not less than Ten Dollars (\$10.00) nor more than Five Hundred Dollars (\$500.00), or confined in the county jail not exceeding ninety (90) days, or both such fine and imprisonment, and each act of violation shall constitute a separate offense, and in addition to the above penalties any violation of the provisions of Section 1 of this Act shall constitute prima facie evidence of an attempt to defraud. [Acts 1931, 42nd Leg., p. 266, ch. 160.]

## TITLE 15—OFFENSES AGAINST THE PERSON

Art. 1160. [1026] [605] [500] Assault with intent to murder

If any person shall assault another with intent to murder, he shall be confined in the penitentiary not less than two nor more than fifteen years; provided that if the jury find that the assault was committed without malice, the penalty assessed shall be not less than one nor more than three years confinement in the penitentiary; if the assault be made with a bowie-knife or dagger, or in disguise, or by laying in wait, or by shooting into a private residence, the punishment shall be double.

Sec. 2. Upon the trial of any person for assault with intent to murder, the Court, in its charge to the jury, shall define malice aforethought and in a proper case murder without malice, and instruct the jury touching the application of the law to the facts. [As amended Acts 1931, 42nd Leg., p. 95, ch. 61.]

Effective April 17, 1931. Section 2 of said act repealed all conflicting laws or parts of laws.

Article 1177. [1056] [626] [521] Kidnapping

When any person is falsely imprisoned for the purpose of being removed from the State, or if a minor under the age of seventeen years, for

the purpose of being concealed or taken from the lawful possession of a parent or guardian, such false [false] imprisonment is "kidnapping." If the person kidnapped to be under fifteen years of age, it is not necessary that there should be want of consent nor that there should be force in order to constitute kidnapping, and, in such a case, consent of such a minor shall be no defense. One guilty of kidnapping shall be confined in the State Penitentiary not less than Five nor more than Twenty-five years, or by fine not exceeding two thousand dollars. [As amended Acts 1929, 41st Leg., p. 543, ch. 266, § 1.]

Bracketed "[false]" inserted by compiler.

**[Art. 1177a. Kidnapping for extortion]**

Sec. 1. That every person who forcibly detains, or forcibly takes, or forcibly confines, or forcibly conceals, or fraudulently entices away any other person for the purpose or with the intent of taking or receiving or demanding or extorting from the person so restrained, or his relatives or from any other person, any money or valuable thing, or every person who by force, threats, fraud, duress, or enticement takes, confines, kidnaps, conceals, or entices away any other person for the purpose or with the intent of taking or receiving, or demanding, or extorting from the person so restrained or kidnapped, or his relatives, or from any other person, any money or valuable thing, is guilty of a capital felony and upon conviction shall be punished by death or confinement in the penitentiary for any term of years not less than five; provided, however, that in all cases where the person kidnapped, detained, or enticed away is returned by the defendant without serious bodily injury having been inflicted, the punishment shall be by confinement in the State Penitentiary for any term of years not less than five.

Sec. 2. The aforesaid penalty applies in every case regardless of whether the offense originated within or without the State and the venue of the offense shall lie in the County where the kidnapping occurred, or where the person was held or detained or in any County through which the kidnapped person was taken. [Acts 1931, 42nd Leg., p. 12, ch. 12.]

**[Art. 1257c. Instructions on issue of murder without malice]**

Sec. 3b. In all cases tried under the provisions of this Act it shall be the duty of the Court, where the facts present the issue of murder without malice, to instruct the jury that murder without malice is a voluntary homicide committed without justification or excuse under the immediate influence of a sudden passion arising from an adequate cause, by which it is meant such cause as would commonly produce a degree of anger, rage, resentment, or terror in a person of ordinary temper sufficient to render the mind incapable of cool reflection, and in appropriate terms in the charge to apply the law to the facts as developed from the evidence. [Acts 1931, 42nd Leg., p. 94, ch. 60, § 1.]

**[Art. 1268a. Threats to extort money]**

Whoever shall threaten to take the life of any human being or to inflict upon any human being any serious bodily injury, or to burn, injure or destroy any property of any person for the purpose or with the view of extorting money or anything of value from the person threatened shall be guilty of a felony. One guilty of the above offense shall be confined in the State Penitentiary not less than five nor more than twenty-five years. [Acts 1931, 42nd Leg., p. 11, ch. 10, § 1.]

## TITLE 17—OFFENSES AGAINST PROPERTY

**Art. 1316. [1212] [768] [663] Attempt at arson**

Any person who willfully attempts to set fire to or attempts to burn or to aid, counsel, or procure the burning of the buildings or property mentioned

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in Title 17, of the Penal Code of 1925, shall be guilty of an attempt to commit the offense of arson, and shall upon conviction be sentenced to the penitentiary for not less than one nor more than five years. The placing or distributing of any inflammable, explosive, or combustible material, or any substance, of whatever character or kind, or any article or device in any building or property mentioned in the foregoing Article in an arrangement or preparation with intent to eventually, willfully set fire to or burn said building or property, or cause said property or building to be burned, shall for the purpose of this act constitute an attempt to commit the offense of arson, and shall be punishable as provided. [As amended Acts 1931, 42nd Leg., p. 124, ch. 82, § 1.]

[Art. 1339a. Stench bombs; explosion]

Sec. 1. It shall be unlawful to break, open, or explode, or to abet in the breaking, opening, or exploding of any stink bomb or any stinking, offensive smelling, or injurious bomb or substance with a malicious intent wrongfully to injure, molest or coerce another, or to injure the property or business of another, or to molest another in the use, management, conduct or control of his business or property.

Sec. 2. It shall be unlawful for any person to have in his possession or to sell or manufacture in this State any stink bomb or any stinking, offensive smelling, or injurious substance, which are contained in any bomb or container, and which are so devised as to be designed to be broken or exploded for the purpose of emanating an unpleasant or injurious odor or gas for the purpose of injuring or being unpleasant to another or injuring the property of another.

Sec. 3. The provisions hereof shall not apply to any duly constituted police or military authorities or peace officers in the discharge of their duties.

Sec. 4. The provisions of Section 2 hereof shall not apply to licensed physicians, nurses, pharmacutists, and other persons licensed under the laws of this State.

Sec. 5. Any person who violates any of the provisions of this Act shall be fined in a sum not less than One Hundred (\$100.00) Dollars nor more than One Thousand (\$1000.00) Dollars, or confined in the county jail not more than twelve months, or by both such fine and imprisonment. [Acts 1931, 42nd Leg., p. 286, ch. 167.]

Art. 1377. [1235] Entering inclosed land to hunt or fish

Whoever shall enter upon the inclosed land of another without the consent of the owner, proprietor or agent in charge thereof, and therein hunt with firearms or thereon catch or take or attempt to catch or take any fish from any pond, lake, tank or stream, or in any manner depredate upon the same, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined any sum not less than \$10.00 nor more than \$200.00 and by a forfeiture of his hunting license and the right to hunt in the State of Texas for a period of one year from the date of his conviction. By "inclosed lands" is meant such lands as are in use for agriculture or grazing purposes or for any other purpose, and inclosed by any structure for fencing either of wood or iron or combination thereof, or wood and wire, or partly by water or stream, canyon, brush, rock or rocks, bluffs or island. Proof of ownership or lease may be made by parol testimony. Provided, however, that this Act shall not apply to inclosed lands which are rented or leased for hunting or fishing or camping privileges where the owner, proprietor, or agent in charge or any person for him by any and every means has received or contracted to receive more than twenty-five cents per acre per year or any part of a year for such hunting, fishing or camping privileges, or where more than \$4.00 per day per person is charged for such hunting, fishing or camping privileges. And provided further

that this exemption shall exist for a period of one year from the date of the receipt of such sum or sums of money.

Sec. 2. Any person found upon the inclosed lands of another without the owner's consent, shall be subject to arrest by any peace officer, and such arrest may be made without warrant of arrest. [As amended Acts 1929, 41st Leg., 1st C. S., p. 242, ch. 100, Acts 1929, 41st Leg., 2nd C. S., p. 41, ch. 26.]

Effective July 3, 1929. Sections 3 and 4 26, repeals Pen. Code art. 1378 and all conflicting laws and parts of laws.

Art. 1378. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 242, ch. 100; Acts 1929, 41st Leg., 2nd C. S. p. 41, ch. 26, § 3]

[Art. 1378a. Interference with traps and transportation of live predatory animals, penalties]

Sec. 10. Any person who shall maliciously or wilfully tamper with any of said traps, or any part thereof, or removes the same from the position in which the same was placed by the hunter or trapper, shall be fined not less than \$50.00 nor more than \$200.00.

Sec. 11. Any person who shall steal or fraudulently take any trap belonging to the State of Texas or United States Department of Agriculture shall be deemed guilty of a misdemeanor and shall be fined not less than \$100.00 and not more than \$200.00.

Sec. 12. Any person who shall steal or take away from any trap any animal mentioned in this Act [Civ. St. art. 192b; P. C. 1378a] that may be therein shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than \$100.00 and not more than \$200.00 and such animals shall be regarded as the property of the State of Texas and complaints alleging violations shall allege the ownership of the animal in the State of Texas and the only proof necessary for establishing ownership shall consist in proving that the animal was taken from a trap which had been set by a trapper or hunter authorized by this Act. [Civ. St. art. 192b; P. C. 1378a.]

Sec. 13. It shall be unlawful to move or transport any live predatory animals mentioned in this Act [Civ. St. art. 192b; P. C. art. 1378a] on or along any public road, thoroughfare, or street without first securing a written permit from the Chairman of the Live Stock Sanitary Commission. Any person who violates this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum of not less than \$100.00 nor more than \$200.00 for each of said live predatory animals so moved or transported. Any person who has any such live predatory animals in his possession and delivers the same to any person for the purpose of moving or transporting said live predatory animals along any public road, thoroughfare or street without said written permit, or who allows any other person to so transport or move any live predatory animals shall be deemed guilty of violating this provision and shall be punished as herein provided. The penalties provided in this section shall not apply to persons, firms or corporations that move or transport any such animals along any public road, thoroughfare or street if said animals are being moved for the purpose of exhibition or for show purposes at any menagerie, zoo, circus, show or fair; nor shall said penalties apply to any person owning or controlling any of said animals which have been tamed and domesticated, which are moved or transported along or on any public road, street or thoroughfare. [Acts 1929, 41st Leg., 1st C. S., p. 235, ch. 96.]

Sections 1-9 of Acts 1929, 41st Leg., 1st C. S., p. 235, ch. 96, are published as Rev. Civ. St. 1925, art. 192b.

[Art. 1426a. Stealing cotton and cotton seed]

Whoever shall fraudulently take cotton and cotton seed or either cotton or cotton seed under the value of Fifty (\$50.00) Dollars, shall upon conviction for the first offense be fined not less than Fifty (\$50.00)

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Dollars nor more than Five Hundred (\$500.00) Dollars and by confinement in the County Jail not less than thirty (30) days nor more than six (6) months; and for the second and subsequent offenses he shall be punished by confinement in the Penitentiary not less than one year nor more than five years. [Acts 1929, 41st Leg., p. 62, ch. 28, § 1.]

[Art. 1426b. Stealing citrus fruits]

Sec. 1. Any person who shall enter any citrus orchard or citrus grove in this State with intent to steal or carry away without the consent of the owner, or with intent to aid or assist in stealing or so carrying away any grapefruit, oranges, lemons, limes or other citrus fruit, whether growing or gathered, shall be guilty of a misdemeanor. Whoever shall violate the provisions of this Act shall be punished by a fine of not less than Ten (\$10.00) Dollars nor more than Two Hundred (\$200.00) Dollars. It shall be prima facie evidence of intent to steal or carry away without the consent of the owner or to aid or assist in stealing or so carrying away such property for any person, without the consent of the owner, and away from any established or customarily used gate or roadway, to enter with a truck, trailer, motor vehicle or other motor vehicle designed or used for transporting property, any such citrus orchard or citrus grove, or to so enter or be on, with or without any vehicle of transportation, such premises with any baskets, crates, hampers, sacks, or containers, capable of being used in transporting any such property, or in the night time to enter or be on such premises without the consent of the owner of any such grapefruit, oranges, lemons, limes or other citrus fruit, with any motor vehicle without lights fully lighted in accord with the laws of this State with respect to the operation of motor vehicles upon the public highways at night.

Sec. 2. This Act shall be cumulative of all laws of this State and any violation hereof may be prosecuted irrespective of whether or not the Acts complained of may constitute some of the essential elements of other or different offenses against the penal laws of this State; and for the purposes of this Act, the word "steal" shall mean to take wrongfully and without just claim of authority, any such property, and such word need not be defined in any indictment for the prosecution of any offense hereunder. [Acts 1931, 42nd Leg., p. 450, ch. 270.]

Effective May 28, 1931. This act was filed valid, such decision shall not affect the re-  
without the Governor's signature. Section mainder.  
3 provides that if any section is held in-

**Art. 1434. Second-hand motor vehicle—License fee receipt**

No person, acting for himself or another, shall sell, trade, or otherwise transfer any used or second-hand vehicle required to be registered under the laws of this State unless and until said vehicle at the time of delivery has been duly registered in this State for the current year under the provisions of said laws; provided, however, that a dealer may demonstrate such motor vehicle for the purpose of sale, trade or transfer under a dealer's license plate issued such dealer for demonstration purposes. Whoever, acting for himself or another, sells, trades or otherwise transfers any such vehicle shall deliver to the transferee at the time of delivery of the vehicle the license receipt issued by a Tax Collector of this State for the registration thereof for the current year and a bill of sale in triplicate. Whoever, acting for himself or another, sells, trades or otherwise transfers any second-hand or used vehicle without delivering to the transferee at the time of delivery of the vehicle the license receipt issued therefor for the current year and a bill of sale thereto in triplicate as herein required shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not exceeding Two Hundred (\$200.00) Dollars. A copy of such bill of sale may be required to be sent by such Collector to the Highway Department. [As amended Acts 1931, 42nd Leg., p. 36, ch. 29, § 1.]

**Art. 1435. Second-hand motor vehicle—Transfer**

One copy of the bill of sale required to be delivered to the transferee of a used or second-hand car under the terms of Article 1434, as amended by this Act, shall be retained by said transferee as evidence of title, and another copy shall be filed by the transferee within ten days from the date of the transfer with the County Tax Collector of the county in which the transferee resides as an application for transfer of license, together with a transfer fee of twenty-five cents; provided, that if said transferee does not file said application within said ten days, and before the expiration of twenty days, a penalty or fee of Two Dollars and fifty cents (\$2.50) shall be paid, and at the expiration of said twenty days a penalty or fee of Five (\$5.00) Dollars shall be paid upon the filing of such application, such penalty shall be collected upon each application filed by any transferee. Said penalties shall be remitted to the Highway Department on Monday of each week as chauffeur's fees are now required to be reported and remitted. The Tax Collector and his bondsmen shall be liable for the penalties herein provided in the event such penalties are not collected. Bills of sale and transfer applications shall be made out in triplicate. One copy shall be sent to the State Highway Department by the 25th of the succeeding month, as may be prescribed by said Department. The same shall be on the form prescribed by said Department, except that the following information shall be shown as follows: "State and County in which the same is executed." "That the ownership of the vehicle is transferred." "That said vehicle has been duly registered in the State for the current year." "Names and street addresses of the vendors and vendees." "Consideration." "State license number." "Engine number." "Name." "Model and year made." The same shall be sworn to by the vendor.

The Tax Collector and the Highway Department shall refer to the appropriate prosecuting attorneys, any false statements found in any bill of sale or any false certificates executed by any Notary Public or other officer.

Any person who shall transfer a motor vehicle and execute the same wholly, or partly in blank, leaving out any information that is required to be given, and can be given, shall be guilty of a misdemeanor, and shall be fined in any sum not exceeding Two Hundred (\$200.00) Dollars.

Whoever violates any provision of this Section for which no specific penalty is fixed shall be guilty of a misdemeanor, and shall be fined in any sum not exceeding Two Hundred (\$200.00) Dollars. [As amended Acts 1931, 42nd Leg., p. 36, ch. 29, § 2.]

Effective August 22, 1931. Section 3 of said act repeals all conflicting laws and parts of laws.

**[Art. 1442b. Theft of certain domestic fowl]**

Whoever shall steal any chicken, turkey, duck, goose, guinea or other domestic fowl, shall upon conviction, be guilty of a felony and shall be confined in the penitentiary for not more than two years, or shall be confined in jail for not more than one hundred days, or shall be fined not more than two hundred dollars, or be punished by both such fine and imprisonment in jail. [Acts 1929, 41st Leg., p. 247, ch. 108, § 1.]

Acts 1929, 41st Leg., p. 247, ch. 108, § 1, makes no reference to Penal Code, art. 1442a.

**[Art. 1444a. Permits for transporting live-stock]**

Any person who is the driver of any truck, automobile or other vehicle containing any livestock or domestic fowl which is upon or being driven upon any land of which said driver is not owner, lessee, renter or tenant, or which is upon or being driven upon any highway, public street or thor-



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oughfare, who fails to have in his possession and exhibit to any person or peace officer upon demand a written permit authorizing said movement, signed by the owner or caretaker of said livestock or domestic fowl or from the owner or person in control of the land from which said driver began said movement shall be fined [fined] not less than Twenty-five (\$25.00) Dollars nor more than Two Hundred (\$200.00) Dollars for each head of livestock and each domestic fowl in said movement, unless said driver upon demand of said person or peace officer makes, signs and delivers to said person or peace officer a written statement containing all the information herein required to be included in permits. Said driver shall be fined not less than Twenty-five (\$25.00) Dollars nor more than Two Hundred (\$200.00) Dollars for each head of livestock and each domestic fowl in said movement which is not covered by all the following information: Name of place of origin, including name of ranch or other place; point of destination including name of ranch, market center, packing house or other place; number of livestock or fowls with the description thereof, including kind, breed, color, and also marks and brands if there be any. Failure or refusal of such driver to exhibit to a person or peace officer said permit or to make said statement, shall constitute probable cause for any person or peace officer to search said truck or vehicle to ascertain if it contains any stolen livestock or stolen domestic fowls and to detain said movement a reasonable length of time to ascertain whether any stolen livestock or stolen fowls are contained therein. Any driver who has in his possession any false or forged permit or who makes any false written statement shall be fined not less than Two Hundred (\$200.00) Dollars nor more than Five Hundred (\$500.00) Dollars or he shall be imprisoned in the county jail not less than sixty [sixty] (60) days nor more than six (6) months, or he shall be punished by both such fine and imprisonment. It is provided that the provisions of this Act shall also apply to slaughtered livestock and fowls and butchered portions thereof. [Acts 1929, 41st Leg., 2nd C. S., p. 32, ch. 19, § 1.]

Art. 1504a. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 128, ch. 53, § 38]

Art. 1506a. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 128, ch. 53, § 38]

Art. 1507a. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 128, ch. 53, § 38]

Art. 1507b. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 128, ch. 53, § 38]

Art. 1508a. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 128, ch. 53, § 38]

Art. 1509a. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 128, ch. 53, § 38]

Art. 1510a. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 128, ch. 53, § 38]

Art. 1511a. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 128, ch. 53, § 38]

Art. 1511b. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 128, ch. 53, § 38]

Art. 1511c. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 128, ch. 53, § 38]

Art. 1517a. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 128, ch. 53, § 38]

Art. 1522a. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 128, ch. 53, § 38]

[Art. 1525b. Eradicating diseases among live stock and domestic fowls, penalties]

Sec. 1. It shall be the duty of the Live Stock Sanitary Commission provided in Article 7009 Revised Civil Statutes of 1925 to protect all cattle, horses, mules, asses, sheep, goats, hogs, and other live stock, and all domestic animals and domestic fowls of this State from infection, contagion or exposure to the infectious, contagious and communicable diseases enumerated in this Section, to-wit: Tuberculosis, anthrax, glanders, infectious abortion, hemorrhagic septicemia, hog cholera, Malta fever, foot and mouth disease, rabies and other similar and dissimilar contagious and infectious diseases of live stock recognized by the veterinary profession as infectious or contagious; also rabies among canines, and Bacillary White Diarrhea among fowls. Said Commission may at its discretion whenever it is deemed necessary or advisable also engage in the eradication and control of any disease of any kind or character that affects animals, live stock, fowls or canines regardless of whether said diseases are infectious, contagious or communicable and may establish necessary quarantines for said purpose. It shall be the duty of the Commission to establish quarantines against other States, territories and foreign countries and portions thereof whenever said Commission ascertains or is informed that any of said diseases exist therein, and to establish quarantines within the State of Texas on cattle, horses, mules, asses, sheep, goats, hogs and other live stock, domestic animals and domestic fowls, also counties, districts, areas, premises, lands, pastures, lots, ranches farms, fields, ranges, thoroughfares, buildings, barns, stables, stock yards pens and other places whenever said Commission ascertains that any of said diseases of [or] the agency of transmission thereof exist in any of said places or among any of said live stock, domestic animals or domestic fowls, or that any of said places, live stock, domestic animals or domestic fowls are exposed to any of said diseases or to the germs or agency of transmission of any of said diseases. Said Commission shall adopt rules and regulations to be proclaimed by the Governor of the State of Texas for the purpose of carrying out and enforcing the provisions of this Act. The said Commission is hereby authorized to control the sale and distribution of veterinary biologics. No provision of this Act shall relate to tick eradication; nor shall any provision hereof relate to scabies except those provisions in which scabies is expressly mentioned. When reference is made in any Section of this Act to infectious, contagious and communicable diseases, the same shall not be construed as having reference to scabies, unless said Section specifically states that scabies is included. It is hereby specifically provided that scabies eradication and tick eradication shall be conducted only by Inspectors of the Live Stock Sanitary Commission appointed and recognized by said Commission for said purposes, and all permits and certificates for certifying that cattle or sheep are free of scabies infection and exposure shall be issued only by Inspectors appointed for said purpose, and permits and certificates for certifying that live stock are free of ticks and exposure shall be issued only by Inspectors appointed for said purpose. Provisions of this with reference to issuing search warrants shall also apply to scabies inspectors for the purpose of dipping sheep or cattle under any law for eradicating scabies. Where cattle are quarantined on account

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of being tubercular reactors prosecutions for violations thereof shall be only under the penal clause for violating quarantines on tubercular reactors and no other penal clause of this Act shall apply. Wherever the word "person" is used in this Act the same shall also include firm and corporations.

Sec. 2. Whenever it is determined by Veterinarians in the employ of the Live Stock Sanitary Commission that any contagious, infectious or communicable disease exists among any live stock or domestic animals or domestic fowls, in the State of Texas, or on any land or premises or other places, or that any live stock, domestic animals or domestic fowls, premises or other places have been exposed or are exposed to the agency of transmission of any infectious contagious or communicable disease, such exposure or infection shall be considered as continuing until the Live Stock Sanitary Commission has eradicated the same through its prescribed methods under authority of law and of the rules and regulations of the Live Stock Sanitary Commission. In the trial of any case involving the compliance or non-compliance of any owner or caretaker with any provision of law requiring the treatment, vaccination, dipping, disinfecting or other methods to be applied to live stock it shall not be permissible to prove that the same was done by any one except an authorized representative of said Commission. The provisions of this Section shall apply to any and all contagious, infectious and communicable diseases of live stock, domestic animals and domestic fowls, whether said diseases are mentioned in this Act or not, and said provisions shall also include scabies infection and exposure among cattle, sheep, and goats, when a scabies inspector of said Commission determines the existence of scabies infection or exposure thereto.

Sec. 3. Notice of quarantines established by the Live Stock Sanitary Commission shall be given in the following manner: Notice of quarantines against other states, territories and foreign countries, or any part thereof, shall be given by publishing a brief statement thereof in a newspaper published in the State of Texas and said quarantine shall become and be in effect on and after the time of said publication. The expense of said publication shall be paid out of any appropriation made for office and stationery expenses of the Live Stock Sanitary Commission. Notice of quarantines established within the State of Texas shall be given either by publishing a brief statement thereof in a newspaper published in the County in which said quarantine is established or by posting said brief statement giving notice of said quarantine at the Court House door of said county or by delivering a written notice of said quarantine to the owner or caretaker or person in charge of the live stock, domestic animals, domestic fowls, or the lands, premises or other place to be quarantined. When a quarantine is established on any lands, premises or other place the same shall also quarantine all live stock, domestic animals or domestic fowls of the kind mentioned in said quarantine notice whether or not said live stock, animals or fowls are owned or controlled by the person who owns and has control of the land or other place, and said quarantine shall include all such live stock, domestic animals or domestic fowls owned by any person, if the said live stock, domestic animals or domestic fowls shall be upon or enter upon said quarantined premises, lands or other quarantined places during the existence of said quarantine. The expense of publishing or posting notice of any quarantine established within the State of Texas may be paid out of any appropriation made by the Legislature for office and stationery expenses of the Live Stock Sanitary Commission or out of any appropriation made by the Legislature for the eradication or control of contagious, infectious or communicable diseases of live stock; or the County Commissioners' Court in counties in which said quarantines are established may provide funds for publishing or posting said notices out of the general funds of said counties or out of any other available funds of said counties. All quarantine notices shall state the requirements and

restrictions under which live stock may be permitted to enter the State of Texas or to be moved from any quarantined places; or if the seriousness of the disease is such that movements of such live stock shall not be permitted, then and in that event said quarantine shall state this fact.

Sec. 4. Any person, firm or corporation that shall ship, drive, drift, lead, haul, truck, carry, or in any manner move or transport any cattle, horses, mules, asses, sheep, goats, hogs or other live stock, domestic animals or domestic fowls from any county, district, area, premises, pasture, lot, pen, yard, stockyard, field, barn, stable, building, enclosure, or other place which is under quarantine under any provision of this Act, or any person, firm or corporation that shall ship, drive, drift, lead, haul, truck, carry or in any manner transport or move any of said live stock, domestic animals, or domestic fowls which are under quarantine under any provision of this Act, from any county, district, area, premise, pasture, lot, pen, yard, stockyard, field, barn, stable, enclosure, building, or other place in which or upon which said live stock, animals or fowls are quarantined; or any person, firm or corporation that shall ship, drive, drift, lead, haul, truck, carry or in any manner transport or move any cattle, horses, mules, asses, sheep, goats, hogs or other live stock, domestic animals or domestic fowls into the State of Texas from any State, territory or foreign country against which a quarantine is established by the Live Stock Sanitary Commission under any provision of this Act, or from any quarantined part of any State, territory, or foreign country against which a quarantine is established by the Live Stock Sanitary Commission under any provision of this Act, shall be fined not less than Twenty-Five Dollars per head nor more than One Hundred Dollars per head for each head of such live stock, domestic animals or domestic fowls which are shipped, driven, drifted, led, hauled, trucked, carried or in any manner transported or moved by said person, firm or corporation in violation of said quarantine, unless said live stock, domestic animals or domestic fowls are accompanied by a written certificate or written permit from the Live Stock Sanitary Commission of Texas or a written certificate or written permit from a veterinarian or other representative authorized by said Commission to issue the same. The said certificate or permit shall be issued in conformity with the requirement stated in the quarantine notice and the same shall be issued by some one of the class of persons authorized for such purpose by said Commission in said quarantine notice. Quarantine notices shall state for what cause said quarantines are established, whether on account of infection or exposure. It shall not be necessary to describe in said notices the land or territory or premises by metes and bounds or other measures, but it will be sufficient if the said quarantine notice makes such reference to the land, territory or premises and the location thereof to reasonably identify the same. The provisions of this Section with reference to the quarantining against other States, and foreign countries and portions thereof, and assessing a penalty for the violation of same, shall apply to quarantines established on account of the diseases mentioned and referred to in this Act, and also to scabies among cattle, whenever said quarantine is established on account of said scabies, but where a quarantine is established on account of scabies among cattle, the issuance of certificates and permits for the movement of cattle which are subject to said quarantine shall be only by scabies inspectors recognized for such purpose by the Live Stock Sanitary Commission of Texas, in said quarantine notice.

Sec. 5. The Live Stock Sanitary Commission may establish necessary quarantines for prohibiting or regulating the movement of any commodity or article, live stock, animals or fowls that the said Commission may ascertain to be carriers of any of the diseases mentioned in this Act whenever any of said diseases or exposure thereto exist in the Nation, State, territory or area to be quarantined. Any person, firm or corporation who shall violate said quarantine by in any manner moving any of said designated disease carriers into the State of Texas from any state, foreign na-

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tion, territory or area, or who shall in any manner move any of said designated disease carriers from any territory, county, district, or place in the State of Texas quarantined by said Commission shall be fined not less than \$25.00 nor more than \$100.00 for each of said movements or shipments unless said movement or shipment is accompanied by a written permit or certificate provided for in said quarantine notice.

Sec. 6. The Chief Veterinarian of the Live Stock Sanitary Commission and all other veterinarians employed by said Commission, including members of said Commission, are hereby authorized to enter any public or private property for the exercise of any authority or performance of any duty authorized under this Act. If said person desires to be accompanied by a peace officer the said person may apply to any magistrate in the County wherein said property is located for the issuance of a search warrant, and it shall be the duty of the said magistrate to issue the same, but no such search warrant shall issue without describing as near as may be the premise or other place to be entered; nor without probable cause, supported by oath or affirmation. It shall not be necessary to describe said premises or place by field notes or metes and bounds, or other measures, but it will be sufficient if the search warrant contains such reasonable description as will enable the owner or caretaker of said property to know just what property is referred to therein. When said search warrant is issued it will authorize the person to whom it is issued to be accompanied by peace officers, and said search warrant will authorize the person to whom it is issued to be also accompanied by as many helpers and assistants as he may deem necessary for the performance of said duty or the exercise of said authority. Any person, firm or corporation who shall refuse to permit any person to whom said search warrant is issued to make said entry or to perform any duty or exercise any authority designated in said search warrant under authority of this Act, or who shall refuse to permit any peace officer or any helper or any assistant to said person to whom said search warrant is issued to make said entry or to exercise any authority or perform any duty designated in said search warrant under authority of this Act shall be fined not less than Twenty-five nor more than One Hundred Dollars. Each separate day upon which said refusal is made during the thirty days next succeeding the date of the issuance of said search warrant shall constitute a separate offense. Said search warrant shall permit the entry and re-entry and the performance of said duties and exercise of said authority continuously for a period of thirty days after its issuance, and additional search warrants may be issued thereafter under the provisions of this Act as often as same may be necessary. It is further provided that it shall not be necessary for veterinarians, inspectors or members of said Commission to secure said search warrants, unless they are to be accompanied by peace officers, but they are hereby authorized to make entries upon private and public lands for the performance of any duties authorized under this Act. Search warrants may also be issued to inspectors of the Live Stock Sanitary Commission engaged in the eradication of scabies among sheep, goats and cattle, whenever said inspectors are to be accompanied by peace officers in the performance of any duties in connection with said work.

Sec. 7. For all purposes of this Act, it shall be construed that any person, firm or corporation who is owner, lessee, renter or tenant of premises, pens, pastures or other places is the caretaker of and has control of all cattle, horses, mules, asses, sheep, goats, hogs and other live stock, domestic animals or domestic fowls, located thereon or therein, and subject to prosecution under provisions of this Act, penalizing owners or caretakers, whether he owns such live stock or not; provided that this shall not be construed as limiting the care and control of such mentioned live stock, animals and fowls to said owner, lessee, renter or tenant of said land, but any other person who exercises any care or control over such live

stock, animals or fowls and also the actual owner of same shall also be held liable under provisions of this Act penalizing owners and caretakers for violation. Owners of land, pastures, premises and other places shall not be considered caretakers of live stock thereon if some other person has control of said premises by virtue of any lease or rental contract, or by some other authority, unless the owner of said premises is also owner of the said live stock, domestic animals or domestic fowls located thereon, nor shall a tenant of premises be considered a caretaker of live stock, domestic animals or domestic fowls thereon unless said tenant has control of said premises or said live stock, domestic animals or domestic fowls.

Sec. 8. It shall be the duty of the County Commissioners' Courts of this State to cooperate with and assist the Live Stock Sanitary Commission in protecting the live stock, domestic animals and domestic fowls of their respective counties from all contagious, infectious and communicable diseases, whether such diseases exist within or outside of the county, and said Commissioners' Courts are hereby authorized to employ a veterinarian at the expense of the county, said veterinarian to be approved by the Live Stock Sanitary Commission.

Sec. 9. It shall be unlawful for any person, firm or corporation to ship, drive, drift, haul, lead or otherwise move from any State, territory or foreign country into any county in the State of Texas, or for any railroad company or other common carrier to haul, ship, or transport into any county in the State of Texas from any state, territory or foreign country, any cattle, horses, mules, asses, sheep, goats, hogs, domestic animals or domestic fowls, except as hereinafter provided, unless the same are accompanied by a health certificate issued by a veterinarian authorized by or recognized by the Live Stock Sanitary Commission on a health certificate form prescribed in the rules and regulations of said Commission. The said Commission shall provide in its rules and regulations for authorizing and recognizing veterinarians of this State and of other states and of Departments of the United States government, and no veterinarian shall be considered as recognized or authorized by said Commission, except as provided therein. The said certificate shall show that said live stock, domestic animals and domestic fowls were inspected by said veterinarian sometime within the preceding 10 days before they entered the State of Texas, and that he found them to be free of all infectious and contagious diseases. Any person, firm or corporation that shall ship, drive, drift, haul, lead or otherwise move into the State of Texas, or any railway or other common carrier that shall haul, ship, or transport into the State of Texas, any cattle, horses, mules, asses, sheep, goats, hogs, domestic animals or domestic fowls, in violation hereof without the same being accompanied by said certificate shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum of not less than \$25.00 nor more than \$100.00 for each head of live stock and for each domestic animal or domestic fowl which said person, firm or corporation, railway or other common carrier ships, hauls, drives, drifts, transports, leads, or otherwise moves into the State of Texas in violation hereof. Stocker or range cattle, and cattle and sheep and hogs billed and shipped for immediate slaughter purposes shall be admitted into the State of Texas without certification, treatment, vaccination or testing.

Sec. 10. Live stock shall not be considered as billed or shipped or intended for immediate slaughter purposes unless they are handled in accordance with the rules and regulations of the Live Stock Sanitary Commission and accompanied by a written statement of this fact shown on the waybill, or bill of lading, express shipping papers, or if hauled by trucks or other vehicles the driver shall have in his possession a written statement of this fact; cattle shall not be considered stocker or range cattle if they are dairy or breeding cattle or purebred cattle, nor if they are intended for milk purposes.

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Sec. 11. All cattle shipped, driven, drifted, transported, hauled or otherwise moved into the State of Texas, except range or stocker cattle, or cattle shipped for immediate slaughter in accordance with the rules and regulations of the Live Stock Sanitary Commission, in addition to being accompanied by the health certificate prescribed in this Act, shall also be accompanied by a tuberculin test chart issued by a veterinarian recognized by the Live Stock Sanitary Commission as herein provided, showing said cattle to have been tested for tuberculosis not more than sixty days previous to the date said cattle entered the State of Texas, said test chart showing that said cattle were found to be free from tuberculosis at the time of said test. Cattle from fully accredited herds and from modified accredited areas which have passed one clean test in process of accreditation which shall be accompanied by a tuberculin test chart issued by the Live Stock Sanitary officials of the State of origin or by the United States Bureau of Animal Industry Inspector in charge of tuberculosis eradication in the State of origin, shall not be subject to this requirement. Any person, firm, corporation, railway or other transportation company that shall ship, drive, drift, haul or transport or otherwise move into the State of Texas any cattle, except range or stocker cattle, or cattle shipped for immediate slaughter, in accordance with the rules and regulations of the Live Stock Sanitary Commission, unless said cattle are accompanied by the tuberculin test chart herein prescribed, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum of not less than \$25.00 per head nor more than \$100.00 per head for each head of cattle shipped, driven, drifted, hauled, transported or otherwise moved into the State of Texas by said person, firm, corporation, railway or other transportation company in violation hereof.

Sec. 12. Any person, firm or corporation that shall ship, drive, drift, haul, truck or otherwise transport into the State of Texas any hogs, except hogs shipped for immediate slaughter in accordance with the rules and regulations of the Live Stock Sanitary Commission, unless the certificate accompanying said hogs as prescribed in this Act, certifies that the veterinarian who issued same vaccinated said hogs and dipped them in a two per cent solution of cresol compound USP, prescribed in the Rules and Regulations of said Commission, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined any sum of not less than \$25.00 per head nor more than \$100.00 per head for each head of hogs shipped, driven, drifted, hauled, trucked or transported or otherwise moved by said person, firm or corporation into the State of Texas in violation hereof. Any railway company or other common carrier who shall haul, ship or transport into the State of Texas any hogs, except said immediate slaughter hogs, unless the same are accompanied by the said certificate bearing the said certification showing said vaccination and dipping, shall be deemed guilty of violating the provisions of this Section and shall be punished as herein prescribed. Provided that a certificate certifying that hogs have been vaccinated by the use of serum alone, shall become void at the expiration of thirty days after such treatment; and where hogs are accompanied by a certificate showing said hogs to have been vaccinated with the use of virus any time within the preceding thirty days or to have been vaccinated with serum alone more than thirty days previous to the said entry into Texas, the said hogs shall for all purposes of this Act be considered as not being accompanied by a certificate certifying vaccination, and the person, railway company or other common carrier who shall ship, drive, haul or otherwise transport such hogs accompanied by said invalid or void certificate, shall be considered as having violated the provisions of this Section.

Sec. 13. All cattle except range and stocker cattle, and cattle shipped for immediate slaughter in accordance with the provisions of this Act, which enter the State of Texas, are subject to testing for tuberculosis by a veterinarian authorized in writing by the Live Stock Sanitary Com-

mission, after their arrival in Texas, irrespective of whether said cattle were accompanied by the test chart prescribed in this Act, which test shall be made at the discretion of the Live Stock Sanitary Commission at any time within ninety days after the said cattle enter the State of Texas. For the purpose of carrying out the provisions of this Section the said Commission or its Chairman may establish such restrictions or quarantines on said cattle as may be necessary, to insure their being retested as herein prescribed.

Sec. 14. All cattle that show a positive reaction when tested for tuberculosis by a veterinarian recognized by the Live Stock Sanitary Commission for the performance of such testing are hereby declared to be a public nuisance and a menace to the health of other live stock with consequent and serious danger to human life and health. It shall be the duty of said veterinarian to brand or have branded all of said positive reactors "T" on the left jaw with a hot iron, which letter "T" shall be not less than three inches high. Said veterinarian shall immediately notify the Live Stock Sanitary Commission of the location, description and number of said reactors and it shall be the duty of said Commission to immediately quarantine the said reactors and the premises upon which they are located. Any person, firm or corporation who shall sell, trade, barter, give away, or loan, or drive, drift, ship, haul, lead, truck, or in any manner move, before the Live Stock Sanitary Commission has established a quarantine on said positive reactors, any of said positive reactors from the enclosure wherein they were located at the time they were so tested, or that shall so move any of said reactors from the place or enclosure where they are under quarantine by said Commission or that shall so move any cattle located in said quarantined place or enclosure during the existence of said quarantine without first securing a written permit from the said Commission shall be fined not less than \$100.00 per head nor more than \$500.00 per head for each head of said positive reactors which the said person, firm or corporation shall sell, trade, barter give or loan, or shall drive, ship, haul, lead, truck, or in any manner move in violation of any provision of this Section without first receiving said permit as aforesaid.

Sec. 15. It shall be the duty of all veterinarians in the State of Texas to file for record with the Live Stock Sanitary Commission a test certificate upon the form prescribed by the Live Stock Sanitary Commission on all tuberculin tests on cattle, hogs or fowls, showing name of owner, post office address, location of premises and animals or fowls, date of test, identification of animals or fowls, kind of test conducted, result of test, and whether interstate, accredited herd, municipal, or private test, which test certificate shall be transmitted to said Commission for record with the said Commission within two days after date of finishing such test; said veterinarians shall also file with said Commission for record a certificate of vaccination upon forms prescribed by said Commission of all hogs vaccinated by them, showing name of owner, post office address, location of premises, number of hogs, amount and serial number of the serum and virus used or other biologics used, the same to be transmitted for recording within forty-eight hours after the performance of said vaccination; veterinarians shall upon pronouncing any animal as infected with tuberculosis as evidenced by tuberculin test conducted by him or by clinical examination or by the results of laboratory examination, brand such animal as prescribed in this Act, and shall also affix on the left ear a metal ear tag bearing a number for identification of said animal and shall transmit notice of said tagging and branding to the Live Stock Sanitary Commission within forty-eight hours of the performance thereof. Any veterinarian violating any provision of this Section shall be fined not less than \$25.00 nor more than \$200.00 for each violation.



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Sec. 16. The Live Stock Sanitary Commission is hereby authorized, whenever said Commission deems it necessary, to regulate the entry into exhibitions, shows and fairs, of all live stock, domestic animals or domestic fowls and to require such treatment and certification as may be reasonably necessary as protection against infectious, contagious and communicable diseases; also to regulate the movement of live stock out of stock yards or railway shipping pens when necessary, and require such treatment and certification as may be reasonably necessary as a protection against contagious, infectious and communicable diseases. Any person, firm or corporation who shall enter any live stock, domestic animals, or domestic fowls into any show, fair, or exhibition, or upon the grounds thereof for said purpose, or who shall remove any live stock from any stock yards or railway shipping pens without a certificate as required in any regulation adopted by said Commission under authority of this Section, shall be fined not less than \$25.00 per head nor more than \$100.00 per head for each head of said live stock, or for each domestic animal or domestic fowl which is entered in said show, fair, or exhibition, or said grounds for said purpose, or from said stock yards or railway shipping pens. Owners and persons in charge of fairs, shows and exhibitions, stock yards and railway shipping pens shall also be liable under this Act for such movement and fined as herein provided whenever they permit or allow the same.

Sec. 17. The words "accompany" and "accompanied" as used in this Act with reference to certificates and permits shall be construed to mean that said certificates or permits are in the possession of the conductor of the train and attached to the waybill of the shipment of the live stock which are shipped by rail, or in possession of the person in charge of the said live stock, if the movement is made otherwise than by rail.

Sec. 18. Any person who is the owner or caretaker of any live stock, canines or fowls or of any disease carrier designated in this Act or designated by the Live Stock Sanitary Commission under authority of this Act who permits any other person to ship, drive, drift, lead, haul or otherwise move any of said live stock, canines or fowls, or disease carrier in violation of any quarantine established under provisions of this Act by the Live Stock Sanitary Commission or in violation of any provision of this Act shall be deemed guilty of a misdemeanor for permitting such movement, and upon conviction thereof shall be fined in any sum that is prescribed for punishing the person who ships, drives, drifts, leads, hauls, or otherwise moves said canines, fowls or live stock, or disease carrier.

Sec. 19. Whenever any railroad company or other common carrier or corporation violates any provision of this Act, it shall be the duty of the County Attorney of the county in which said violation occurs to file and prosecute a civil suit on behalf of the State of Texas in the Civil Court of proper jurisdiction against said railway company or other common carrier or corporation.

Sec. 20. It shall be the duty of the County Judge of any county in this State whenever any horse, mule, or ass in their respective county is found affected with glanders and has been quarantined by the Live Stock Sanitary Commission to appoint three disinterested parties to act as appraisers and fix the value of said animal, and report said appraisalment to the said County Judge; whereupon the Commissioners' Court of said County shall pass upon said written report and pay to the owner of said animal the appraised value. The County Judge upon receipt of the report from the appraisers shall issue an order to the sheriff, deputy sheriff or constable of said county commanding him to seize said diseased animal and take it to some secluded spot or place and kill it and burn the carcass until thoroughly consumed. The said appraisers and officers shall be paid reasonable compensation for their services, out of funds provided by the County Commissioners' Court under the same pro-

visions authorized by this Act for other expenditures by County Commissioners' Courts.

Sec. 21. It shall be the duty of any person owning, controlling or caring for any live stock which die with any of the contagious or infectious diseases mentioned in this Act or that own or control the land upon which said live stock die, or upon which its carcass is found, to bury the carcass of said animal, by digging a grave not less than five (5) feet deep, placing the carcass therein, covering it with lime and then filling the grave with dirt; or to burn said carcass with fire, until it is thoroughly consumed. Any person owning, controlling or caring for any live stock which die with any of the said contagious or infectious diseases or who owns or controls the land upon which said live stock dies or upon which its carcass is found who shall fail to bury or burn within twenty-four hours after the said animals die, the said carcass as herein prescribed, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum of not less than \$25.00 nor more than \$100.00, for each of said animals.

Sec. 22. The Live Stock Sanitary Commission is hereby authorized to cooperate with the Bureau of Animal Industry, United States Department of Agriculture and with County Commissioners' Courts of this State, and it is hereby made the duty of County Commissioners' Courts to cooperate with said Commission and Bureau as hereinafter provided for the eradication of tuberculosis among cattle, under the provisions of this Act and of the rules and regulations of said Commission as herein provided for the purpose of the establishment of modified accredited areas in the State of Texas. The said County Commissioners' Courts may at their discretion cooperate with said Commission and Bureau, but it shall be the mandatory duty of said County Commissioners' Courts to so cooperate upon the filing with said County Commissioners' Courts of a petition signed by at least 75% of the owners of cattle in the county as shown by the tax rolls of said county. The Live Stock Sanitary Commission shall provide in its rules and regulations the manner, method and system of testing cattle for tuberculosis in said cooperative tuberculosis eradication work. The owners of cattle which have shown a positive reaction to the tuberculin test in said cooperative tuberculosis eradication work shall sell such reactors under the direction of said Commission for immediate slaughter at public slaughtering establishments where Federal post mortem inspection is maintained; or said Commission may authorize said slaughter upon the owners' property or other place under the direction of said Commission. After such sale and slaughter the Live Stock Sanitary Commission is authorized to pay such owners out of funds appropriated by the Legislature for that purpose an amount not to exceed one-third of the appraised value of such reactors after deducting the amount of salvage received for same. In no case shall any compensation be made by the State for more than \$35.00 for any grade animal or more than \$70.00 for any purebred animal; nor shall any of such payment be made until said owner complies with the rules and regulations of said Commission; nor shall any compensation be made in excess of the amount of compensation paid said owner for said reactors by the United States Bureau of Animal Industry. The value of said animal shall be appraised by a representative of said Commission or of said Bureau and a representative of the owner of said live stock, and if they cannot agree, then a third appraiser shall be appointed by these two appraisers and then the value shall be appraised by the agreement of any two of said three appraisers. It shall be unlawful for any positive reactors to the tuberculin test, regardless of whether said animals were tested in said cooperative tuberculosis eradication work to be slaughtered or otherwise disposed of except under the direction of the Live Stock Sanitary Commission, and any person who kills or destroys or removes the carcass of any positive reactor from the place where the same is under quarantine or the place

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whereon said animal was tested, shall be fined the same as if he had violated the quarantine of said positive reactors under this Act.

Sec. 23. The Live Stock Sanitary Commission is hereby authorized to employ a Chief Veterinarian, a first assistant and as many Assistant Veterinarians as may be necessary; also, such other persons as may be necessary for the enforcement of the provisions of this Act, and other Live Stock Sanitary Acts; also, clerks, stenographers, chief clerk and all necessary clerical help.

Sec. 24. All quarantines, written notices and other written instruments signed under the authority of the Chairman of the Live Stock Sanitary Commission shall have the same force and effect as if signed by the Commission. The signature of said Commission or Chairman shall be written or stamped under authority of said Commission or Chairman on all quarantine notices, and other instruments issued by said Commission or Chairman. Any written instrument issued by said Commission or Chairman shall be admissible as evidence in any Court of this State when certified by the Chairman of said Commission.

Sec. 25. Whenever any person who is an [a] non-resident of the State of Texas violates any penal provision of this Act and is absent from the State at the time of the said violation or whenever any foreign corporation which does not have a permit under the law to do business in the State of Texas violates any provision of this Act it shall be the duty of the County Attorney in any and all counties in the State of Texas where-in said violation occurs to institute a civil suit against said non-resident person or foreign corporation for the collection of the fine provided in said penal clause, and to run an attachment upon any property which said non-resident person or foreign corporation may at any time have in the State of Texas and after final judgment to have said attached property sold under execution, for the purpose of paying said fine and cost of suit. Said suit shall be instituted in the name of the State of Texas and no cost bond or attachment bond shall be required. Service of citation in such cases may be had by having notice of the pendency of said suit served upon said non-resident person or foreign corporation in the State of their domicile by some person over the age of 21 years. The said citation shall be served upon the defendant ten days before the beginning of the term of court the same as is now required on citations from the County Court. If the suit should be filed in a district court in a county which has two or more district courts of exclusive civil jurisdiction said notice shall be issued and served under the same requirements as is now provided for the service of citations from such courts upon defendants residing in another county in this State outside the county in which said Court is located. In lieu of the above service, citation may be had by publication under the same requirements that are now provided for citation by publication upon non-resident defendants.

Sec. 26. Whenever any live stock, canines or fowls are moved or permitted to move into the State of Texas in violation of any quarantine established under any provision of this Act or of any other Live Stock Sanitary Law or in violation of any provision of this Act or of any Live Stock Sanitary Law or are moved from any place in the State of Texas in violation of any quarantine established under this Act, it shall be the duty of the Live Stock Sanitary Commission to quarantine said live stock, canines or fowls wherever found and enforce said quarantine until said live stock have been properly treated or vaccinated or tested, dipped or otherwise disposed of as may be provided for in the rules and regulations of the Live Stock Sanitary Commission. The provisions of this Section shall apply to all live stock, canines and fowls and to all diseases mentioned in this Act, including also scabies among cattle, sheep and goats.

Sec. 27. Any citizen of this State may bring an injunction suit to enforce any of the provisions of this Act or to restrain the threatened violation of any of the provisions of this Act; and the courts may hear and determine said injunction either in vacation or term time, and fully dispose of all issues involved in said injunction suit either in vacation or term time whether or not the same is a restraining or mandatory injunction. Provided reasonable notice is given the defendant under directions of the Court, where mandatory injunction is sought.

Sec. 28. Every county in the State of Texas into which any live stock, domestic animals, domestic fowls, or designated disease carriers under provisions of this Act are moved by any person, firm or corporation at any time within six months after said live stock, domestic animals, domestic fowls, or said designated disease carriers have been unlawfully moved or permitted to move from any county or part of county in the State of Texas in violation of any provision of this Act, or after having entered the state of Texas in violation of any quarantine established under authority of this Act, or in violation of any provisions of this Act, shall constitute a separate offense against said person, firm or corporation who so moves same into such other counties and against owners and caretakers thereof who permit the same to be done. [Acts 1929, 41st Leg., 1st C. S., p. 114, ch. 52.]

Section 29 of Acts 1929, 41st Leg., 1st C. S., p. 114, ch. 52, repeals articles 6900, 6901 and 6902 Rev. Civ. St. 1925. Section 30 provides that the act shall be liberally construed and if any section is declared invalid, such holding shall not affect the remainder.

#### [Art. 1525c. Tick Eradication Law]

Sec. 1. It shall be the duty of the Live Stock Sanitary Commission, provided in Article 7009, Revised Civil Statutes of 1925, to eradicate the fever-carrying tick (*Margaropus Annulatus*) in the State of Texas and to protect all lands, territory, premises, cattle, horses, mules, jacks and jennets in the State of Texas from said tick and exposure thereto, under the provisions of this Act. Said Commission shall adopt necessary rules and regulations, to be proclaimed by the Governor of the State of Texas, for carrying out the provisions of this Act. One of the members of said Commission shall be Chairman thereof, and he is hereby authorized to perform any and all acts which may be performed by said Commission.

Sec. 2. The word "Tick" as used in this Act shall be construed to mean the cattle fever-carrying tick known as *Margaropus Annulatus*. The "Free Area" is hereby defined as being composed of those counties and parts of counties in Texas which the Live Stock Sanitary Commission may designate as the Free Area and is so proclaimed by the Governor; the "Tick Eradication Area" is composed of those counties and parts of counties designated for tick eradication by the Live Stock Commission and proclaimed by the Governor of the State of Texas as provided in this Act; the "Inactive Quarantined Area" is composed of those counties and parts of counties which are designated as such in Section 3 of this Act, or that may hereafter be designated as such by the Live Stock Sanitary Commission and proclaimed by the Governor of Texas under provisions of this Act. The term "Exposed" or "Exposure" shall be construed to mean that cattle, horses, mules, jacks and jennets shall be considered as exposed to the tick if they have been in any pasture or territory or upon any premises or place which was not at said time classed by the Live Stock Sanitary Commission as being free of said tick, or if said live stock have singled or come in contact with other live stock which were not classed by said Commission at said time as being free from said ticks and exposure thereto. All premises, pastures, lots, pens, ranches and other places which are not classed by the Live Stock Sanitary Commission as being free of ticks and exposure shall be considered as being exposed to said tick. Exposure shall be considered as continuing until the said prem-

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ises and live stock have been declared free of exposure by the Live Stock Sanitary Commission. Whenever a tick is found upon any cattle, horses, mules, jacks and jennets, every head of such live stock in said herd or which are located in the same pasture, pen, lot or in the same enclosure or upon the same range or that shall thereafter be located therein or thereupon, shall be classed as tick infested and said pasture, pen, lot, enclosure or open range in which and upon which they were located shall be classed as tick infested. Said classifications to continue until changed by said Commission under the provisions of this Act. No premises, place or live stock shall be considered as free from exposure in the Tick Eradication Area unless the Live Stock Sanitary Commission has officially classed the same as free from exposure and filed in the office of the supervising inspector of the county wherein the same are located a copy of the order of said Commission making said classification, or unless the said supervising inspector under authority of said commission has made said classification in writing and filed the same in the office of said supervising inspector in said county.

Sec. 3. The following counties and parts of counties in the State of Texas are hereby declared to be the Inactive Quarantined Area and are hereby quarantined because of tick infestation therein: Anderson, Angelina, Atascosa, all of Brazoria east of the Brazos River, Burleson, Cameron, Chambers, Cherokee, Duval, Fort Bend, Frio, Galveston, Grimes, Hardin, Harris, Hidalgo, Houston, Jasper, Jefferson, LaSalle, Lee, Leon, Liberty, Madison, Milam, Montgomery McMullen, Nacogdoches, Newton, Orange, Panola, Polk, Robertson, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Starr, Trinity, Tyler, Walker, Waller, Webb, Willacy and Zapata. It is hereby specially provided that the Live Stock Sanitary Commission shall designate for tick eradication, to be proclaimed by the Governor immediately upon the taking effect of this Act, that part of Live Oak County which was heretofore designated for tick eradication by proclamation of the Governor under Chapter 122, Acts of the Regular Session of the Thirty-Ninth Legislature, and all of Live Oak County not included in said designation is hereby declared to be a part of the Inactive Quarantined Area subject to designation for tick eradication by said Commission under provisions of this Act, at any time after the taking effect of this Act. It shall be unlawful, after the taking effect of this Act, for any cattle, horses, mules, jacks, or jennets to be moved or permitted to move from or within said Inactive Quarantined Area except in accordance with the provisions of this Act, and particularly as contained in Section 27 hereof. The Live Stock Sanitary Commission is hereby authorized to designate for tick eradication any of the aforesaid counties and parts of counties and any county or part of county that may have ticks therein without an election being held for said purpose, or said Commission may designate any part of any of said counties for said purpose. Whenever the Live Stock Sanitary Commission designates any of the aforesaid counties or parts of counties for tick eradication, the same shall be proclaimed by the Governor of the State of Texas, which proclamation shall become and be in effect on and after date prescribed in said proclamation. A brief notice of said proclamation shall either be published in a newspaper in the county wherein tick eradication is to be conducted or posted at the court house door thereof. If only a part of a county is designated for tick eradication, said notice may be published in any newspaper in any part of said county, or posted at the court house door, whether or not said court house is located in said part of county. Said notice shall be either published or posted at least ten full days before the date the proclamation is to become effective. In the event the same is not published or posted ten full days before the date prescribed for said proclamation to become effective, or in the event said prescribed date has already passed, then the proclamation shall become effective upon the expiration of ten full days from the date of said publishing or posting.

The expense of the publishing or posting of such notices shall be paid by the county in which said proclamation is effective. The quarantine herein established on said Inactive Quarantined counties and parts of counties shall remain and continue in full force and effect after the taking effect of the proclamation of the Governor designating any of said counties or parts of counties for tick eradication, and in addition thereto the further effect of said proclamation with reference to quarantine shall be as provided in Section 4 of this Act. The Live Stock Sanitary Commission is hereby authorized to transfer, by proclamation of the Governor, counties and parts of counties from any area to another area whenever the same is deemed advisable or necessary and to establish[ed] necessary quarantines on lands, premises and live stock. The re-establishment of quarantine on any portion of a county in the Free Area need not be proclaimed by the Governor.

Sec. 4. Whenever any county, part of county, district or territory is designated for tick eradication by the Live Stock Sanitary Commission and proclaimed by the Governor, as herein provided, said proclamation shall contain a provision quarantining said county, part of county, district or territory, and the effect of such quarantine shall be to quarantine said county, part of county, district or territory and all lands, pastures, pens, lots, premises, and all cattle, horses, mules, jacks and jennets of each individual owner, lessee, renter, tenant and occupant in the designated county, part of county, district or territory without specifically designating said land, pasture, pen, lot and premises, and after said quarantine becomes effective it shall be unlawful for any cattle, horses, mules, jacks or jennets located therein or which may thereafter be located therein during the existence of said quarantine, to be moved or permitted to move from the land, pastures, pen, lot or premises of an owner, lessee, renter, tenant or occupant, whether enclosed or not, onto or into or through any other land owned or leased or rented, tenanted or occupied or controlled by any other person, firm or corporation or onto any open range, public street, public road or any thoroughfare, without a permit or certificate from an authorized inspector of the Live Stock Sanitary Commission. It shall be unlawful for any owner or caretaker of cattle, horses, mules, jacks or jennets located in said quarantined territory to move or permit or allow the movement of said live stock without said permit or certificate from any pasture, pen, lot, or other enclosure of which he is the owner, lessee, renter, tenant or occupant, or from any open range or street, road or thoroughfare or from land which he does not own or control into any other pasture, pen, lot, enclosure or other land of which he is the owner or caretaker or of which he is in control, if said live stock are subject to dipping under the provisions of this Act, and the pen, lot pasture, enclosure or land into which he moves or allows or permits said movement is classed in the records of the supervising inspector of said county as free of ticks or has been released from quarantine by said Commission or if said live stock are subject to dipping but are not being dipped under the provisions of this Act in the conduct of regular systematic tick eradication by said Commission, and are so moved or allowed or permitted to so move into a pasture, pen, lot, enclosure or other land owned or controlled by said owner or caretaker of said live stock where tick eradication is being conducted, under the provisions of this Act, or into a pasture or other enclosure owned or controlled by said owner or caretaker of said live stock, which said pasture or enclosure is vacated for the purpose of tick eradication by vacation methods under the direction of said Commission. Owners and caretakers are hereby permitted to move and allow the movement of cattle, horses, mules, jacks and jennets to and from dipping vats for the purpose of dipping said live stock on any regular dipping date at said vat to which they are to be moved, or on any other dipping date designated by the inspector in charge of said dipping vat, provided they are moved in accordance with the rules and

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regulations of the Live Stock Sanitary Commission. If they are moved otherwise than [as] prescribed in said rules and regulations the same will constitute a violation of the quarantine. The term "other land" means land which is separated from the land from which the movement is made by a fence or other dividing line or by land of another person, firm or corporation.

Sec. 5. It shall be the duty of the County Commissioners' Court of every County in the State of Texas in which the Live Stock Sanitary Commission is authorized to conduct tick eradication under the provisions of this Act, to cooperate with said Commission in the eradication of said tick in their respective counties, and it shall be mandatory upon said Commissioners' Courts to furnish at the expense of the county, in localities designated by the Live Stock Sanitary Commission, a sufficient number of dipping vats, pens, chutes and all necessary facilities of the kind and description designated by said Commission, for the purpose of dipping cattle, horses, mules, jacks and jennets under the supervision of inspectors of the Live Stock Sanitary Commission, the said vats, pens, chutes and other facilities to be owned or leased by the county, and said Commissioners' Court are hereby authorized, empowered and directed, and it is hereby made their duty to appropriate moneys out of the general funds of their counties, to incur indebtedness by the issuance of warrants, and to levy taxes to pay the interest thereon, and to provide a sinking fund for the payment thereof for the purpose of constructing, purchasing or leasing necessary public dipping vats in their counties, including all necessary land, property, material and labor for said purpose; provided said warrants shall draw interest at a rate not exceeding six per cent per annum and shall not run exceeding twenty years from the date hereof. It shall also be the duty of said County Commissioners' Courts to maintain said vats at the expense of the county, including all necessary repairs, changes, alterations or remodeling of any of said vats, pens, chutes or other facilities connected therewith; also to furnish at the expense of the county water for filling and refilling said vats and to bear all expense necessary in cleaning out and refilling said vats. The provisions of this Section shall apply to the County Commissioners' Court of any county in which the Live Stock Sanitary Commission is authorized by this Act to conduct tick eradication, whether all of said county or only a part thereof is designated for tick eradication. The provisions of this Section shall also apply to counties and parts of counties in the Free Area whenever it is necessary for said Commission to conduct tick eradication in any part of any county in the Free Area. County Commissioners' Courts in all counties are hereby authorized, at their discretion, to pay out of the general funds or any available funds of their county, the salaries and necessary traveling expenses of a sufficient number of inspectors for tick eradication purposes, and purchase dipping material, but in such event such inspectors shall be appointed and directed by the Live Stock Sanitary Commission, regardless of the fact that their salaries and expenses may be paid by the county. The provisions of this Section with reference to said County Commissioners' Courts furnishing, at the county's expense, said inspectors and dipping material, are only for the purpose of authorizing same at the discretion of Commissioners' Court, but are not to be construed as mandatory upon said Commissioners' Courts.

Sec. 6. The Commissioners' Court of every county in this State where tick eradication is authorized to be conducted under any provision of this Act, may nominate for appointment by the Live Stock Sanitary Commission the number of local inspectors found by the Live Stock Sanitary Commission to be necessary to carry on the work of tick eradication in such county, and when so nominated said Live Stock Sanitary Commission shall appoint them. In the event of failure or refusal of the Commissioners' Court to nominate said local inspectors the Live Stock Sanitary Commission is hereby authorized to appoint the number of local in-

spectors deemed by them to be necessary. Said local inspectors shall work under the direction and orders of the Live Stock Sanitary Commission and shall be subject to discharge by said Commission and shall be paid their salaries out of the State Treasury of the State of Texas, their compensation to be fixed by said Commission. In the event the Commissioners' Court should nominate any persons who are thereafter appointed as local inspectors and the Live Stock Sanitary Commission finds or concludes that the Commissioners' Court of said county are trying to retard tick eradication or that they are nominating men who are incompetent or negligent in the performance of their duty, then and in that event the Live Stock Sanitary Commission is hereby authorized to ignore in the future nominations or recommendations by said Commissioners' Court of such inspectors. County and district supervising inspectors shall not be nominated by Commissioners' Courts, but shall be appointed by said Commission on its own initiative.

Sec. 7. There is hereby conferred upon the County Commissioners' Court of every county in the State of Texas the right of Eminent Domain for the purpose of acquiring necessary lands, and ingress thereto and egress therefrom, for the purpose of establishing, constructing and maintaining dipping vats, pens, chutes and other facilities connected therewith, and for the purpose of acquiring dipping vats, pens, chutes and facilities that have already been constructed, with ingress thereto and egress therefrom. The right of Eminent Domain is to be exercised by said Commissioners' Court under the same provisions of law now in effect for the acquiring of land or lands for the building and maintenance of courthouses, jails and other public buildings, except that it shall be mandatory upon the County Commissioners' Court of any county in which tick eradication is authorized to be conducted under the provisions of this Act, whether in the Free Area or in the Tick Eradication Area, to institute and prosecute condemnation proceedings in the name of the county upon written application of the Chairman of the Live Stock Sanitary Commission, designating the land to be condemned and its location and the name of the owner, and also designating the easement to be acquired for the purpose of ingress thereto and egress therefrom. In acquiring said vats, pens, chutes, facilities and lands, the said Commissioners' Court may either retain the same for permanent use by making said compensation, or the said Court may acquire the temporary use of same, together with said easement, for the purpose of ingress thereto and egress therefrom by making proper compensation to the owner thereof for such period of time as said Court may find it necessary to use same.

Sec. 8. The Live Stock Sanitary Commission shall prescribe in its rules and regulations the dipping materials to be used in the dipping of cattle, horses, mules, jacks and jennets, under the provisions of this Act, and the same shall be the recognized official dipping materials for the dipping of such live stock, under the provisions of this Act, and no other dipping materials shall be used for such purposes. The same to be dipping materials of the kind that are ordinarily known as arsenical dipping material used for the dipping of livestock for the eradication of the fever-carrying tick. The said Commission shall also prescribe in its rules and regulations the manner and method by which its inspectors shall test such dipping solution after the same has been mixed with water in the dipping vat for the purpose of determining the arsenical contents of said solution. The testing of said dipping solution shall be by the use of testing outfits, testing materials and testing fluids furnished to inspectors by the Live Stock Sanitary Commission or by the United States Bureau of Animal Industry, in cooperation with said Commission, for the purpose of ascertaining said arsenical contents. When a test is made of said dipping solution by the use of the testing outfit, testing material and testing fluid furnished by said Commission or Bureau, as herein provided, the same shall be accepted as the official test of said dipping solution. In the



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dippings of cattle, horses, mules, jacks and jennets in regular tick eradication, other than for official movement of said live stock, the test of said dipping solution after being mixed with water in the vat ready for dipping shall be not less than eighteen cubic centimeters or not more than twenty cubic centimeters, as shown by the test made with said testing outfits, testing material and testing fluid. By the terms "not less than eighteen cubic centimeters and not more than twenty cubic centimeters" is meant that in making said test with said testing outfit, testing material and testing fluid in accordance with the directions contained in the rules and regulations of the Live Stock Sanitary Commission, the inspector who makes said test secures the results described in said rules and regulations, to-wit, a decided change of color of said dipping material to a light purple, as showing the completion of said test, by mixing not less than eighteen cubic centimeters nor more than twenty cubic centimeters of testing fluid with twenty five cubic centimeters of said dipping solution into which has been dissolved a test tablet furnished with said testing outfit by said Commission or Bureau. In the trial of any case in connection with the dipping or failure to dip live stock under any provision of this Act, it shall be presumed that the dipping vat in question contained a sufficient amount of said dipping solution for dipping said live stock and that said dipping solution had been properly tested and that it showed the above test, or that said dipping solution could have and would have been put into said vat and tested to show the above test if the owner or caretaker had brought his live stock to said dipping vat for the purpose of dipping; and it shall not be necessary for the State to allege and prove in any criminal prosecution for failure to dip live stock under any provision of this Act, that said vat contained said dipping solution showing said test. If it becomes necessary in any court proceeding to prove the test of said dipping solution, it shall only be necessary to prove that the dipping material used was one of the official dipping materials prescribed in the rules and regulations of the Live Stock Sanitary Commission, and that the inspector tested said dipping solution in accordance with the provisions of this Section and of the rules and regulations of the Live Stock Sanitary Commission and that the test showed not less than eighteen cubic centimeters or not more than twenty cubic centimeters, as defined and explained in this Section and in said rules and regulations. When said dipping material is mixed with water in the dipping vat and is tested by an inspector of said Commission and shows a test at any strength of not less than eighteen cubic centimeters or not more than twenty cubic centimeters, it shall be the duty of all owners and caretakers of live stock which are subject to dipping to dip said live stock in said dipping solution at said strength, as shown by said test. The twenty two cubic centimeter test elsewhere referred to in this Act shall be made in the same manner herein described by securing said change in color by mixing twenty two cubic centimeters of said testing fluid in said dipping solution in which has been dissolved said test tablet.

Sec. 9. The dipping vats, pens, chutes and other facilities as provided for in this Act, are hereby designated as "Public Dipping Facilities." Any person who shall without lawful authority damage or destroy any public dipping facilities or any part thereof by cutting, burning, tearing down, dynamiting or the use of any other explosives or means for said purpose, or who shall attempt to damage or destroy such public dipping facilities or any part thereof shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than Two Hundred Dollars nor more than One Thousand Dollars or be imprisoned in the county jail not less than thirty days nor more than one year, or by both such fine and imprisonment.

Sec. 10. The official dipping material prescribed in the rules and regulations of the Live Stock Sanitary Commission shall be furnished at the expense of the State by appropriation for that purpose. The said Com-

mission and its Chairman are hereby authorized to direct owners, part owners and caretakers of live stock which are subject to dipping under the provisions of this Act, to dip said live stock in said official dipping material. Said direction to be in writing and signed either by said Commission or said Chairman, which signature may be written or stamped thereon, under authority of either the Commission or its Chairman, and the same shall be dated and shall direct said person, firm or corporation to dip said live stock under the supervision of an inspector of said Commission at a designated dipping vat, and stating the dates on which said live stock are to [be] dipped, and the said direction may contain as many dipping dates as, in the discretion of said Commission, may be necessary for eradicating said infection or exposure from said live stock and the premises upon which they are located. Said direction shall further direct said person, firm or corporation to dip all other cattle, horses, mules, jacks and jennets of which he at any time may be the owner, part owner or caretaker, which may at any time be located upon the premises described in said written dipping direction, during the period of time covered by said written dipping direction. Said dipping direction shall further state that unless said person dips said live stock on the dipping dates therein prescribed the same will be done at said person, firm or corporation's expense, under the provisions of this Act authorizing peace officers to deputize helpers and dip said live stock under the supervision of an inspector. All cattle, horses, mules, jacks and jennets located in the Tick Eradication Area or in the Free Area shall be subject to dipping under the provision of this Act if they are infested with the tick, as the term "infested" is defined in this Act, or if they are exposed or have been exposed to said tick at any time within nine months next preceding the date of the issuance of said dipping direction. When such live stock have been in or upon any pasture, pen, lot, enclosure, land or other place and it should be ascertained by said Commission either before or after said live stock are moved therefrom that said land, pasture, pen, place or enclosure is tick infested or exposed, the said Commission shall class said live stock as exposed and said Commission is authorized to direct the dipping of said live stock which have moved therefrom, unless said Commission definitely ascertains that said infection and exposure occurred after said live stock moved therefrom and that they did not become infested or exposed while thereon or therein. Provided that where a dipping direction is issued before the expiration of nine months, as provided herein, additional dipping directions may be issued at any time thereafter if said live stock and the said premises are not freed of all ticks and exposure thereto before the expiration of the dates prescribed in said first dipping directions. The dipping directions provided in this Act shall be delivered to said person at least twelve days before the first dipping date prescribed therein and shall direct said person, firm or corporation to dip said live stock at intervals of every fourteen days,—allowing thirteen full days to intervene between dipping days, and no part of any dipping day shall be included as a part of the said thirteen days interval. Provided further that the Live Stock Sanitary Commission may, at its discretion, direct the dipping of live stock with a longer interval than said thirteen days between dipping days. Provided that the date of delivery of said dipping direction and the date of first dipping prescribed therein shall not be included as a part of said twelve days notice, but there shall be at least twelve full days exclusive of said date of delivery and said first dipping date; and provided further that in the event said twelve days do not intervene between said date of delivery and said first dipping date or if said first dipping date or other dipping dates contained in said dipping direction have passed at the time of the delivery of said written dipping direction, it shall be the duty of said owner, part owner, or caretaker to begin dipping on the first dipping date after the expiration of said twelve full days, and to thereafter dip said live stock on all succeeding dipping dates prescribed in

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said written dipping direction. It shall not be necessary for written dipping directions to describe the premises or land by field notes or metes and bounds or other measures, but it will be sufficient if the same contains such reasonable description as will inform the person, firm or corporation to whom the same are directed what premises or land are covered thereby.

Sec. 11. Whenever the Live Stock Sanitary Commission or its Chairman shall issue dipping directions in writing to any owner, part owner or caretaker of any cattle, horses, mules, jacks or jennets which are located in the Tick Eradication Area or in the Free Area, and which said live stock are infested with the tick (*Margaropus Annulatus*) or are exposed to said tick or have been exposed to said tick at any time during the nine months next preceding the date of the issuance of the said written dipping directions and said written dipping directions are served upon said owner, part owner or caretaker, as provided in this Act, shall be the duty of said owner, part owner or caretaker to dip said live stock as directed in said written dipping direction and also in addition thereto it shall be the duty of said owner, part owner, or caretaker to dip all other cattle, horses, mules, jacks, and jennets of which he may at any time be owner, part owner, or caretaker which may be located upon the premises referred to in said written dipping direction during any of the period of time covered by said written dipping direction. All of said dippings to be administered as directed in said written dipping direction. Any owner, part owner, or caretaker of any cattle, horses, mules, jacks or jennets who fails or refuses, after the expiration of the twelve days period of notice provided in this Act, to dip said livestock as prescribed in said dipping directions, on any date prescribed therein during the hours prescribed therein under the supervision of an inspector of the Live Stock Sanitary Commission in an official dipping solution prescribed in the rules and regulations of the Live Stock Sanitary Commission under the provisions of this Act, in the dipping vat designated in said written dipping direction shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than Twenty-five Dollars nor more than Two Hundred Dollars. The terms "caretaker," "exposed," and "infested" shall be construed as elsewhere defined or explained in this Act.

Sec. 12. Any person, firm or corporation that desires a hearing for the purpose of protesting against the enforcement of any dipping direction issued under the provisions of this Act, may file with the supervising inspector in the county in which said live stock are located, at least ten full days before the dipping date or dates on which he seeks to be excused from dipping said live stock, a sworn application for said hearing, which application shall be forwarded by the supervising inspector to the Live Stock Sanitary Commission. The date of the filing of said application and the first succeeding dipping date following the filing of said application shall not be included as a part of said ten days, but these shall be ten full days independent of said dates. The Commission shall set a hearing in the office of the Chairman of said Commission, and the applicant may appear at said hearing either in person or by attorney or both, and may submit such ex parte affidavits as he desires. The Commission shall also consider controverting affidavits and statements. The Commission shall render its decision in writing and transmit the same to the supervision inspector in said county, who shall thereupon either deliver the same in person to the applicant or transmit the same to him by registered mail to the address shown in said application. If the Commission overrules said application, it shall be the duty of said person to thereafter dip said live stock on all the dipping dates prescribed in said dipping direction, but he shall not be required to dip said live stock on the first dipping date following the delivery to him of copy of the decision rendered by said Commission, unless two full days intervene between the date of said service and the said next dipping date, provided that where service is by registered mail the time of depositing same in the mail with-

out regard to whether it is received, shall be regarded as the time of said service, but he shall not be required to dip said live stock on the first dipping date following said service, unless four full days intervene between the date of depositing the same in said registered mail and the first dipping date thereafter. Supervising inspectors of counties may for good cause excuse the dipping of live stock after the issuance and service of written directions from said Commission requiring the dipping of said live stock; but such supervising inspectors shall be held responsible for excusing same without good and sufficient reason.

Sec. 13. Owners and caretakers of live stock subject to dipping under provisions of this Act shall furnish all necessary labor at their own expense for gathering live stock and driving them to the dipping vat, dipping them and returning them to their premises after said dipping. Any owner, part owner, lessee, renter, tenant, occupant or caretaker of any land, ranch, pasture, farm or premises of which he has control, who is not the owner or caretaker of cattle, horses, mules, jacks and jennets that may be located upon any part of said land, ranch, pasture, farm or premises, of which he has control, who is not the owner or caretaker of cattle, horses, mules and jennets that may be located upon any part of said land, ranch, pasture, farm or premises, shall, for all purposes of this Act, be considered the caretaker of said live stock and shall be held liable and responsible for the dipping of said live stock under the provisions of this Act and subject to prosecution for failure to dip the same as if he were the owner of said live stock. The owner of said live stock and all persons who own any interest therein and all other caretakers thereof, shall also be held liable and responsible for said dipping and subject to prosecution for failure to dip. Parents are hereby declared to be the caretakers and shall be held responsible for the dipping of cattle, horses, mules, jacks and jennets owned in whole or in part by their minor children, unless some person other than a parent of said minor is the legal guardian of the estate of said minor. Administrators and executors and guardians are hereby declared to be the caretakers and shall be held responsible for the dipping of live stock belonging in whole or in part to the estate under their control by reason of said administration or guardianship, or any live stock that may be found upon any land or premises belonging in whole or in part to said estate. Husband and wife shall be held jointly and severally liable for the dipping of such cattle, horses, mules, jacks and jennets as belong to their community estate, and the husband shall be held liable for the dipping of live stock belonging to his separate estate and the wife shall be held liable for the dipping of live stock belonging to her separate estate, provided that the husband shall be held liable for the dipping of live stock belonging to the separate estate of the wife and the wife shall be held liable for the dipping of live stock belonging to the separate estate of the husband, if either is the caretaker of such live stock belonging to the separate estate of the other, as the term caretaker is defined in this Act.

Sec. 14. When an inspector ascertains that a person, firm or corporation is the owner, part owner or caretaker of any cattle, horses, mules, jacks or jennets which are subject to dipping under the provisions of this Act, and a dipping order is issued and served, as herein prescribed, it shall be presumed that at the time of said failure to dip any of said live stock said person, firm or corporation was still the owner or part owner or caretaker, as the case may be, of live stock subject to dipping located upon the premises described in said written dipping direction, and it shall only be necessary for the State to allege and prove that at the time of the service of said written dipping direction said person, firm or corporation was the owner or part owner or caretaker of live stock subject to dipping located upon said premises. If for any reason, after the service of a dipping direction, it should occur that by legal means there are no longer any live stock on said premises subject to dipping, the defendant may

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avail himself of said defense only by filing, at the beginning of the trial, a sworn statement of this fact, but in the absence of the filing of said sworn statement it shall be presumed that the defendant's status as owner, part owner or caretaker had remained unchanged since the service of said written dipping direction.

Sec. 15. Upon the failure of any owner, part owner or caretaker to dip any live stock on any date, as directed in writing by the Live Stock Sanitary Commission under the provisions of this Act, at any time and place required of said owner or caretaker in any written dipping direction issued by the Live Stock Sanitary Commission and served upon him, or where such owner, part owner or caretaker, prior to any dipping date specified in said dipping direction, states that he does not intend to dip his said live stock, it shall be the duty of the inspector in charge of tick eradication in said county to notify the sheriff or any constable in said county of said fact, and it shall thereupon be the duty of said officer to deputize a sufficient number of helpers to be designated by the supervising inspector in charge of said county to go upon the premises where said live stock are located and gather said live stock and dip them under the supervision of an inspector of the Live Stock Sanitary Commission, in accordance with said written direction, and to continue dipping them on all the succeeding dipping dates therein prescribed, unless and until said owner, part owner or caretaker begins and continues said dipping according to said directions. Said peace officers are hereby allowed the sum of Two Dollars per head for all said live stock dipped as herein provided; out of which sum the said officers shall pay reasonable wages to said helpers and retain as their fees a reasonable portion thereof. A lien is hereby given said peace officers upon all such live stock as may be dipped under these provisions for the purpose of securing the payment of the aforesaid sum, and also for the payment of an additional sum to cover expenses of holding, feeding and watering said live stock during the time said officers held them in their possession, and said officers are authorized to retain in their possession and sell at public sale to the highest bidder, at any time at the courthouse door of said county within sixty days after said dipping, a sufficient number of said live stock for paying the said sum of Two Dollars per head for each head of such live stock dipped and said expense of holding, feeding and watering said live stock, by posting a written notice at the courthouse door at least five days in advance of said sale. The residue, if any, to be paid to owner of said live stock or paid to the County Treasurer, subject to the order of the owner. Each date on which said live stock are dipped under the provisions of this Section shall authorize the collection of said sum of Two Dollars per head and said other sum for said expenses.

Sec. 16. In lieu of retaining possession of said live stock, as provided in the preceding Section, said officer may fix said lien by filing with the County Clerk of the county in which said live stock are located a sworn statement of said indebtedness and describing said live stock upon which said lien is to be placed, which shall be filed within six months after said dipping, and suit shall be filed in a court of competent jurisdiction against the owner of said live stock within twenty-four months after filing said statement for the collection of said account and the foreclosure of said lien; no cost bond shall be required of said officer filing said suit, not [nor] of any person to whom said account may be assigned. The court shall enter judgment for said debt, with interest and costs of suit and foreclosing said lien, on such number of said live stock as the court may deem necessary for defraying said expenses and paying said fees to said officer and court costs. The provisions of this Section, and also of the preceding Section, with reference to fixing of liens, foreclosures and sales, shall apply in all other Sections of this Act in which peace officers are given liens on live stock for any purpose of this Act, and said officer may proceed un-

der provisions of the preceding Section or of this Section. Said officer may file a separate statement and separate suit covering each dipping date or may wait until a number of them accrue and sue in the aggregate in one suit, and a statement may be filed covering all of said dippings within six months after the last dipping and suit filed on all of them in the aggregate within twenty-four months after filing of said statement.

Sec. 17. Where by any provision of this Act a sheriff is authorized to perform any act, the same shall also include any and all peace officers of this State who may be legally authorized by any law to perform service in such territory.

Sec. 18. Any resident or residents of any county or part of county in which tick eradication is being conducted may bring Mandatory Injunction to compel owners, part owners or caretakers to dip their cattle, horses, mules, jacks and jennets under the provisions of this Act after said owner, part owner or caretaker has failed or refused to dip them or is threatening or has threatened to refuse or fail to dip them, and the court may, in term time or vacation upon notice to defendant, hear and determine same and if the court finds that said owner, part owner or caretaker has been served with a written dipping direction from the Live Stock Sanitary Commission to dip said live stock and that said live stock are subject to dipping, and that the material allegations in plaintiff's petition are true, the court shall enter its order commanding said owner or caretaker to dip said live stock, designating the time and place of said dippings, as specified in the written dipping direction of the Live Stock Sanitary Commission, and upon failure of said person to dip said live stock at any time or place so ordered in accordance with said written dipping direction or in accordance with said order of said court, he shall be held liable for contempt of court and punished accordingly, and the court shall order the sheriff or a deputy sheriff to deputize a sufficient number of helpers to dip said live stock in accordance with the court's order, and the expense of said dipping and employment of said sheriff or deputies and helpers shall be taxed as cost against the defendant in said suit, and lien is hereby provided in favor of sheriffs and their deputies and helpers on all such live stock dipped in accordance with said court order, for the purpose of securing the payment of said expenses and costs. After the dipping of live stock under said court order, the sheriff or deputy shall file a sworn statement with the Clerk of the District Court showing the number and description of the said live stock dipped, and the court shall order a foreclosure of the lien upon said live stock or upon such number of head as may be necessary for the payment of said expenses and costs, which live stock shall be sold as under execution. The said sworn statement may be filed after each dipping and said foreclosure made after each respective dipping, or the said sheriff or deputy may wait until a number of dippings have been administered and file a sworn statement covering each dipping and secure a foreclosure on all of them in the aggregate. The said right to file said written sworn statement and secure foreclosure of said lien shall exist for a period of twelve months after each dipping. The residue, if any, after the payment of said expenses and costs, shall be paid to the Clerk of the Court in which said suit is pending, subject to the order of the owner of said live stock. In any court proceeding under this Act, for the foreclosure of any lien authorized by this Act, the residue, if any, after the payment of said expenses and costs, shall likewise be paid to the clerk of the Court, subject to the order of the owner of said live stock.

Sec. 19. Whenever any inspector ascertains that there are any cattle, horses, mules, jacks or jennets in any county or part of county in which tick eradication is being conducted, under the provisions of this Act, running at large or upon the open range, for which he can locate no owner or caretaker, said inspector shall call upon the sheriff or any constable in said county to deputize helpers and to seize said live stock and

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dip them under supervision of an inspector of the Live Stock Sanitary Commission and make such other disposition of said live stock as may be necessary for the purpose of tick eradication, including impounding them at such place as may be designated by said inspector, and the said officer is hereby given a lien on said live stock to defray the expenses of said gathering, dipping and impounding, feeding, watering and caring for said live stock, and to pay such helpers as may be necessary in carrying out the provisions of this Act. The amount allowed said officer for his services and the services of helpers, exclusive of said feeding, impounding and caring for said live stock, shall be Two Dollars per head for each head of such live stock seized by said officer or impounded or otherwise disposed of, under the provisions of this Section, out of which sum said officer shall pay reasonable wages to helpers and retain as compensation for his services a reasonable portion thereof.

Sec. 20. Owners, part owners and caretakers of cattle, horses, mules, jacks and jennets, and persons accompanying and connected with or who had accompanied and been connected with the movement of any cattle, horses, mules, jacks or jennets which are being or have been shipped or driven or drifted or led or hauled or trucked or otherwise moved, in any part of the State of Texas, at any time during the preceding sixty days, shall be required, when requested by an inspector of the Live Stock Sanitary Commission, to make a written statement of the county and name of the owner or party in control of the land where said movement originated and also the county and the particular place in said county to which they are destined, also the name and address of the person from whom said live stock were bought or obtained, if he has acquired possession of them in the preceding thirty days, and if they were not bought or obtained during said preceding thirty days, said fact shall be stated. He shall also state the territory which said live stock have traversed since leaving said point of origin, and the territory which it is expected they will traverse in reaching destination. Any owner or caretaker or person accompanying and connected with such movement or who has accompanied and been connected with such movement of said live stock who shall fail or refuse to make said written statement in compliance with this provision, or who shall make any false written statement of said matters, shall be fined not less than Fifty Dollars nor more than Two Hundred Dollars. Where an inspector discovers live stock that are being moved or have been moved in violation of any quarantine under provisions of this Act, he may call upon any peace officer to seize and impound said live stock at the expense of the owner, or if practicable return them to place of origin at the owner's expense. A lien is hereby given said peace officer upon said live stock, subject to other provisions of this Act, for the enforcement thereof to cover the expense of said peace officer and helpers for the performing of said duties, and the sum of Two Dollars is hereby allowed said peace officer for the purpose of paying his fee and said helpers, also the expense of feeding watering and holding said live stock shall be chargeable to the owner, for which a lien is also given herein.

Sec. 21. Any person, firm or corporation or transportation company who shall ship or drive or drift or lead or haul or truck or otherwise move any cattle, horses, mules, jacks, or jennets from any premises, pasture, pen, lot, yard, stock yard farm, ranch, land or enclosure, or from any county or part of county or territory which is under quarantine by virtue of this Act or by any order of the Live Stock Sanitary Commission or by a proclamation of the Governor of the State of Texas because of tick infestation or exposure as provided for in this Act, in violation of said quarantine, without a written permit or certificate of an inspector of the Live Stock Sanitary Commission of Texas or an inspector of the Bureau of Animal Industry, United States Department of Agriculture, or who shall so move into the State of Texas from any state, nation, territory or area

under quarantine for tick infestation or exposure by the said Commission, or by the United States Bureau of Animal Industry or by the Live Stock Sanitary authorities of the state or nation or territory from which they are moved, without a certificate from an inspector of said United States Bureau of Animal Industry, or that having such permit or certificate from an inspector of said Commission shall ship or drive or drift or lead or haul or truck or otherwise move said live stock from said quarantined premises, pasture, pen, lot, yard, stock yard, farm, ranch, land or enclosure, territory, county or part of county to any other place than the place designated by said inspector in said written certificates or permit shall be fined not less than Five Dollars per head nor more than Ten Dollars per head for each head of such live stock so shipped or drifted or driven or hauled or led or otherwise moved in violation of said quarantine. Any owner, part owner or caretaker of such live stock who shall permit or allow such live stock to drift or to be drifted, shipped, led, hauled or otherwise moved in violation hereof without said permit or certificate shall be deemed guilty of violating this provision the same as if he had personally drifted or driven or shipped or led or hauled or trucked or otherwise moved said live stock. Any person in charge of any movement of live stock upon which said certificate or permit is required, or who is in charge of the vehicle, truck, boat or other conveyance which hauls said live stock, who fails to have in his possession said certificate or permit from point of origin to destination, or to exhibit to an inspector of said Commission, when demanded, a certificate or permit from an inspector, as provided herein, or any railroad company, express company or other transportation company that fails to attach and keep attached said permit or certificate to the shipping papers accompanying said movement from point of origin to destination, or to exhibit to an inspector of said Commission, when demanded, a certificate or permit from an inspector, as provided herein, shall be punished as herein provided for violating the quarantine. Railroads and other transportation companies shall also be deemed as having violated this provision, subject to said penalty for each head of cattle, horses, mules, jacks or jennets which they permit to enter any stock pens under their control in the Tick Eradication Area without a written certificate or permit from an inspector of the Live Stock Sanitary Commission or of the Bureau of Animal Industry, United States Department of Agriculture.

Sec. 22. It shall be the duty of all railroad and transportation companies to clean and disinfect all cars into which any cattle, horses, mules, jacks or jennets have been loaded after the removal of said live stock, unless said live stock are clean and tick-free and are not and have not been subjected to exposure to said tick. After said live stock have been unloaded from said cars the said cars shall be removed at once to some place designated in the orders of the Live Stock Sanitary Commission for cleaning and disinfecting, and it shall be at some point where the right-of-way of said railroad is fenced. Any railroad or transportation company which shall fail or refuse to clean and disinfect cars in accordance with this provision within seventy-two hours after said unloading, Sundays and legal holidays excepted, shall be fined not less than Fifty Dollars nor more than One Hundred Dollars for each car which they shall fail or refuse to clean and disinfect. Each day, except Sundays and legal holidays, upon which said failure or refusal shall occur, after the expiration of said seventy-two hours, shall constitute a separate offense.

Sec. 23. All owners or operators in control of any stock yards in the Tick Eradication Area or in the Free Area, which stock yards are open to the public for yarding, marketing and selling cattle, horses, mules, jacks and jennets, shall maintain clean tickfree pens, alleys, chutes and facilities where such live stock, accompanied by a certificate issued by an inspector of the Live Stock Sanitary Commission showing such live stock to be free of ticks and exposure thereto, may be received, yarded, weighed and sold for intrastate purposes without being subject to exposure to tick infesta-



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tion, and such live stock shall be afforded all necessary facilities for such purposes, including in addition to tick-free scales for weighing, also tick-free entrances and tick-free exits into and from tick-free pens to the immediate territory surrounding same, and there shall be no discrimination by any stock yards company or owners or operators and persons in control of stock yards between interstate and intrastate handling of live stock in said stock yards, and the Live Stock Sanitary Commission is hereby authorized to enforce the provisions of this Act by written notice to any stock yards company, owners operators and persons in control of stock yards, designating such facilities as may be necessary for the proper handling in said stock yards of intrastate movements of live stock accompanied by said certificate of inspectors of said Commission. Any stock yards company, owners, operators or persons in charge of stock yards, that fail or refuse to provide and complete such facilities as may be directed by said Commission under authority of this Act within sixty days after the service of said written notice, shall be fined not less than Two Hundred Dollars nor more than Five Hundred Dollars, and each thirty days of such failure or refusal after the expiration of said sixty days shall constitute a separate offense for a period of twenty-four months after the service of said written notice. Additional notices may be issued after the expiration of each twenty-four months, and the penalty herein provided shall apply for failure to comply with the requirements contained in said notices. Hearings may be granted by said Commission upon application, the same as is now provided by law for granting hearings to owners and caretakers who are directed to dip live stock, and owners and operators and persons in control of stock yards are hereby granted sixty days in which to provide and complete said work after the Commission has overruled said application, in case it should be overruled. Any interested person or said Commission may bring Mandatory Injunction to compel a compliance with this provision which may be heard and determined in vacation or term time upon notice to the defendant under direction of the Court.

Sec. 24. All inspectors appointed by the Live Stock Sanitary Commission and helpers and assistants and all members of said Commission and the Chief Inspector thereof, are hereby authorized to enter upon any private or public property for the performance of any duty or exercise of any authority provided in this Act, and said entry shall be made and said duties performed and authority exercised without a search warrant; but if any of said persons desire to be accompanied by any peace officer in making said entry or performing said duty or exercising said authority, it shall be necessary to secure a search warrant from a magistrate of the county in which the said property is located, and it shall be the duty of all magistrates to issue said search warrants upon application of said person, but no warrant shall issue to enter any place or to search for or to seize and dip any live stock thereon without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation. It shall not be necessary to describe said premises by field notes or metes and bounds or other measures, but it will be sufficient if such reasonable description is contained in said search warrant as will inform the owner or person in charge of said property just what premises are covered thereby. The description of such live stock shall consist of reference to the approximate number of head of live stock, stating whether they are cattle, horses, mules, jacks or jennets, and if these facts are not known to affiant he shall state this in said application and said search warrant shall contain said statement. If it is not known to affiant whether there are any live stock thereon and he desires to be accompanied by said peace officers in making a search to ascertain whether there are any live stock thereon, he shall state the same in said application. The said search warrant shall be issued to the applicant and shall authorize him to enter said premises and to be assisted by or accompanied by peace officers and helpers for the

purpose of the performance of any duty or exercise of any authority provided for in this Act, and said peace officers and said helpers shall be authorized to perform or discharge any duty authorized under this Act. After the issuance of said search warrant, any person, firm or corporation that shall refuse to permit said person or any peace officer assisting him or accompanying him or any helpers assisting him or accompanying him, to make said entry or perform any of said duties shall be fined not less than Fifty Dollars nor more than Two Hundred Dollars. Said search warrant shall permit the entry and reentry of all said persons in the performance of said duties for a period of sixty days after the issuance thereof, and additional search warrants may be issued at any time after the expiration of the time covered by any search warrant. Each day upon which a refusal is made shall be a separate offense.

Sec. 25. The Live Stock Sanitary Commission is authorized and directed to establish quarantines in the Free Area on account of tick infestation or exposure therein whenever it becomes necessary for the purpose of regulating the handling of live stock and eradicating the tick and exposure thereto in said Free Area or to prevent the spread of tick infestation in said Area, and said Commission is authorized and directed to require the dipping of cattle, horses, mules, jacks and jennets in said Free Area whenever in the discretion of said Commission such becomes necessary for the purpose of insuring that any live stock therein are entirely free from tick infestation, and said Commission shall designate by written order the premises or territory, county or part of county in said Free Area to be quarantined or in which tick eradication is to be conducted. Tick eradication shall be conducted in said Free Area under the same provisions and penalties as provided in this Act for conducting the same in the Tick Eradication Area, and it shall be the duty of County Commissioners Courts and owners and caretakers of cattle, horses, mules, jacks and jennets located in said Free Area to cooperate with said Commission in tick eradication under the provisions of this Act the same as relate to the Tick Eradication Area whenever tick eradication is required to be conducted in the Free Area. Tick infested and exposed cattle, horses, mules, jacks and jennets and premises in the Free Area are subject to the dipping provision of this Act whether quarantined or not. All quarantines heretofore established by the Live Stock Sanitary Commission in the Free Area under authority of law shall remain in full force and effect after the taking effect of this Act subject to the penalties and provisions of this Act until released by said Commission. Notice of quarantines established in the Free Area shall be given either by delivering written notice to the owner or caretaker of the live stock or to the owner or caretaker of the premises upon which the live stock are located or by posting a written notice of said quarantine at the courthouse door of the county in which said live stock are located or by publishing said notice in a newspaper published in said county.

Sec. 26. It shall be unlawful for any inspector to issue a certificate or permit for the movement of any cattle, horses, mules, jacks or jennets from any quarantined pastures in the Tick Eradication Area or from any quarantined pasture in the Free Area unless the owner or caretaker of said live stock is cooperating with the Live Stock Sanitary Commission under the direction of said Commission in accordance with the provisions of this Act, in the regular systematic dipping of all cattle, horses, mules, jacks and jennets of which he is owner or caretaker which may be located in the pasture from which said movement is to be made, and is also cooperating in like manner with said Commission in the regular systematic dipping of all other cattle, horses, mules, jacks or jennets of which he is owner or caretaker which may be located in all quarantined pastures in the Tick Eradication Area or Free Area which connect with the pasture from which said movement is to be made, and has dipped all of said live stock in all of said pastures on the last two regular dipping dates in the

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territory in which said live stock are located next preceding the time said live stock are to be moved. If there are more than one quarantined pastures, connecting with each other, they shall all be considered as connecting with the pasture, from which said live stock are to be moved, if any one of said pastures connects with the pasture from which said movement is to be made. Pastures on opposite sides of lanes and roads shall be considered as connecting, the same as if they were separated only by a fence. If ticks are found upon any of the live stock which are submitted for movement, every head of live stock in said herd which had been so submitted shall be subjected to further dipping at intervals of not less than seven nor more than fourteen days and found free of ticks at the last dipping before said permit or certificate shall be issued. Provision of this Section with reference to "pastures" shall also apply to lots, pens, and other enclosures. Said live stock upon the quarantined open ranges in said Tick eradication Area or Free Area shall also be subject to these provisions, if the said open range connects with any of said quarantined pastures. The Live Stock Sanitary Commission may, for good cause, waive in writing the enforcement of the provisions of this Section.

Sec. 27. The Live Stock Sanitary Commission is hereby directed to adopt rules and regulations providing the conditions and manner and method of handling and moving live stock into, within and from the Tick Eradication Area and local premises and territory therein and the movement and handling of live stock into and from quarantined premises and territory in the Free Area and the handling and movement of live stock into the released part of the Free Area from other areas. Certificates and permits shall be issued by inspectors only as provided in said rules and regulations showing said live stock to be free of ticks; and when destined to the Free Area or other counties in the Tick Eradication Area or to premises or territory in the same county, which premises or territory are classed by the supervising inspector of the county in his official records as being free from ticks and exposure, said live stock shall also be certified to as being free from exposure and shall move to said destination without exposure. It shall be unlawful for any cattle, horses, mules, jacks, or jennets to be moved from any county or part of county which is designated in this Act as being in the Inactive Quarantined Area or which is designated by the Live Stock Sanitary Commission as being in the Inactive Quarantine Area, unless said live stock have been dipped in an official dipping solution showing a test of twenty two cubic centimeters, as defined and explained in this Act, at least twice at intervals of from seven to fourteen days apart, and said live stock must be found to be free of the tick at the last dipping before making said movement, unless said live stock are to be shipped to a market center where pens for handling tick infested or tick exposed live stock are maintained in accordance with the rules and regulations of the Live Stock Sanitary Commission or to Inactive Quarantined territory or to some official dipping station for official dipping, in accordance with the rules and regulations of the Live Stock Sanitary Commission. If ticks should be found at either of said dippings when the stock is destined to the Free Area or Tick Eradication Area said live stock shall be dipped a sufficient number of times thereafter at said intervals to eradicate said ticks and exposure thereto, and when said live stock are destined to the Free Area or Tick Eradication Area, said live stock must be moved to destination without exposure. Any owner or person in charge of any cattle located in the Inactive Quarantined Area in this State may ship said live stock by rail to any part of the Inactive Quarantined Area in this State, or ship same by rail for immediate slaughter to market centers where the aforesaid pens are maintained, upon one dipping in an official dipping solution showing a test of twenty two cubic centimeters under the supervision of an authorized inspector of the Live Stock Sanitary Commission, said live stock to be loaded and shipped within ten days after said dipping. Where cattle are being shipped to market centers for

immediate slaughter or to Inactive Quarantined territory on the said one dipping under provision of this Act, it shall be unlawful to unload any of said live stock en route at any point in the Tick Eradication Area or in the Free Area, except into pens maintained for the purpose of unloading such one-dipped live stock; or if they are trailed or transported otherwise than by rail, they shall not traverse or enter any territory in the Free Area or Tick Eradication Area. Where a county, part of county, district or territory is in the Inactive Quarantine Area, the movement of cattle other than by rail from premises and lands therein onto other premises and lands in any Inactive Quarantined territory shall be permitted without the necessity of inspection or certification, provided said movement is not made through any territory in the Tick Eradication Area or Free Area. Owners of live stock moving from Inactive Quarantined territory shall furnish all dipping material for dipping said live stock and paint for paint branding them, at their own expense, unless otherwise provided and said Commission shall provide in its rules and regulations for its inspectors to paint brand said live stock for identifying same.

Sec. 28. Where any corporation violates any provision of this Act, or where any agent of any corporation, acting within the scope of his authority as said agent, shall violate any provision of this Act, it shall be the duty of the County Attorney in the county in which said violation occurs to institute a civil suit on behalf of the State of Texas in a court of competent jurisdiction for the collection of said fine.

Sec. 29. Any resident of this State may bring injunction suit to compel the compliance with any provision of this Act or restrain any threatened violation of same; and any resident of any county in this State may bring Mandamus proceedings against the County Commissioners Court of said county to compel a compliance with any duty of Commissioners' Courts prescribed in this Act. Said injunctions and Mandamus proceedings may be heard in vacation or term time, and if heard in vacation the same may be as fully disposed of and all issues determined in vacation the same as in term time. Notice of said hearing to the opposite party may be given under the direction of the Court, if in the opinion of the Court the ends of Justice require such a notice.

Sec. 30. When any live stock are moved or permitted to move in violation of any quarantine established under provisions of this Act, every county which any of them enter after leaving the county of origin, without the quarantine provisions of this Act having been complied with, shall constitute a separate offense against the person, firm or corporation who moves or allows or permits such movement into other counties; and the person who illegally removed or permitted or allowed the illegal movement of said live stock from the quarantined place or territory in the county of origin shall also be held liable and punishable hereunder for each county which is entered by any of said live stock during the succeeding thirty days after leaving the county of origin, unless before entering such other county or counties the person in charge of said live stock complied with the provisions of this Act with reference to said live stock. All other persons who move or permit said illegal movement into other counties shall also be held liable.

Sec. 31. The Live Stock Sanitary Commission is hereby authorized to employ a Chief Veterinarian and as many assistant veterinarians as it may deem necessary for the eradication and control of contagious, infectious and communicable diseases of live stock, and said Commission may establish quarantines on account of said diseases and any person, firm or corporation who shall violate any quarantines established by said Commission on account of said diseases, except tick fever and scabies, shall be fined not less than Twenty Five Dollars per head nor more than One Hundred Dollars per head, for each head of such live stock moved in violation of said quarantine.

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Sec. 32. The Live Stock Sanitary Commission may establish necessary quarantines and restrictions on the movement of hay, hides and carcasses from quarantined areas and premises and restrict the use of sand for bedding stock cars except from known tick-free sand pits and regulating the removal and handling of all refuse matter from quarantined stock yards, stock pens and other quarantined places and regulating the handling or removal of dead or injured live stock in transit. Any person, firm or corporation who shall move any hay, hides or carcasses in violation thereof or who shall use any sand for bedding any cars in violation hereof or who shall remove or handle any refuse matter from any quarantined stock yards, stock pens or other quarantined place, or who shall remove from any car or other place or handle any dead or injured live stock in violation of said quarantine or restrictions shall be fined not less than Fifty Dollars nor more than Two Hundred Dollars.

Sec. 33. Copies of written instruments issued by the Live Stock Sanitary Commission or its Chairman shall be admissible as evidence in any court of this State when said copies are certified by the Chairman of said Commission. Copies of proclamations of the Governor shall be admissible in evidence when certified by the Secretary of State. In prosecutions for violating any provisions of this Act, it shall not be necessary for the State to include in complaints or informations or indictments verbatim copies of any written instruments or proclamations, but it shall only be necessary to allege the issuance thereof with necessary allegation of dates to indentify [identify] same. In the trial of any case, civil or criminal, in which any of the aforesaid written instruments or proclamations are to be introduced in evidence, it shall not be necessary to file the same with the papers of the cause, nor to give notice to the opposite party. Provided further that proclamations shall become effective as provided in Section three of this Act, with reference to publishing or posting notice thereof, but if the Live Stock Sanitary Commission has maintained in the conduct of tick eradication under the provisions of this Act, for a period of sixty days or more, one or more inspectors in a county or part of county covered by proclamation of the Governor, after the date stated in said proclamation for the same to become effective, in the dipping of cattle, horses, mules, jacks or jennets in any dipping vat or vats furnished by the county, as herein provided, all quarantines promulgated in said proclamation and also said tick eradication shall become and be in full force and effect in said county or part of county upon the expiration of said sixty days, regardless of whether said proclamation was published or posted. In prosecutions for violations which occur after the expiration of said sixty days, in cases of failure or refusal to dip or for violating any quarantine whether by illegally moving live stock from one point in said county or from other quarantined counties or parts of counties into said county or part of county, it shall not be necessary for the State to allege and prove that said proclamation was published or posted; nor shall it be necessary, after the expiration of said sixty days, in cases where said live stock are moved or permitted or allowed to move from other quarantined counties or parts of counties into said county or part of county, for the State to allege and prove that notice of the Governor's proclamation quarantining said other county or part of county was published or posted. The quarantining of all those counties and parts of counties which are designated in Section 3 of this Act as being in the Inactive Quarantined Area shall become effective upon the taking effect of this Act without the issuance of any proclamation. All proclamations heretofore issued by the Governor under provisions of any former law designating counties and parts of counties for tick eradication, and also such proclamations quarantining counties and parts of counties because of tick infestation, which are still in effect at the time of the taking effect of this Act, shall continue in full force and effect, unless otherwise provided in this Act, subject to the provisions and

penalties of this Act without the issuance of proclamations after the passage of this Act. It is hereby expressly provided that all quarantines heretofore established on counties and parts of counties listed in Section 3 of this Act are hereby released, and in lieu thereof said counties and parts of counties are hereby declared to be quarantined upon the taking effect of this Act as provided in Section 3 hereof. In counties and parts of counties in which quarantines are established or continued and tick eradication designed or continued without the issuance of a proclamation or quarantine notice, as provided in this Act, it shall only be necessary to allege and prove in prosecution that prior to the passage of this Act a proclamation was issued by the Governor for the purpose of tick eradication therein or for establishing said quarantine, and it shall not be necessary to allege and prove the publishing or posting of a notice of said proclamation. All quarantines established by this Act or by the Live Stock Sanitary Commission under the provisions of this Act may be released by the said Commission in writing whenever the same is deemed necessary or advisable.

Sec. 34. Owners, part owners and caretakers are subject to prosecution in the county in which the live stock and premises are located with reference to which prosecution is instituted, regardless of whether the defendant was in said county at the time of the said issuance and service of said dipping direction or at the time of the said failure or refusal to dip said live stock or at the time of the violation of a quarantine. Whenever the term "Live Stock" occurs in this Act the same shall be construed to mean cattle, horses, mules jacks and jennets, unless otherwise stated in the Section in which said term is used.

Sec. 35. The Live Stock Sanitary Commission is hereby authorized to employ a Chief Inspector, Chief Clerk, stenographers and all necessary clerical help, and such other persons as it may deem necessary for the performance of any duty under this Act or the enforcement of any provision of this Act, and may detail its inspectors and supervisors and other persons for any duty authorized under this Act or incidental thereto or for the purpose of gathering data with reference to violations of this Act and assisting and cooperating with county officials in the enforcement of any and all provisions hereof.

Sec. 36. The Live Stock Sanitary Commission may provide in its rules and regulations the manner and method of dipping gentle work and saddle stock and handling and certifying the same for movement, but in the absence of such provisions such stock shall be dipped and handled as is provided in this Act for the dipping and handling of all said live stock.

Sec. 37. Owners, part owners and caretakers who fail to gather their live stock for inspection at the place and time directed in writing by the Live Stock Sanitary Commission shall be fined not less than Twenty-five Dollars nor more than Two Hundred Dollars. Such written notice shall be served upon the said person at least twelve days in advance of the date of said inspection and said person is entitled to a hearing before the Live Stock Sanitary Commission under the same provision contained in this Act where dipping directions are served. [Acts 1929, 41st Leg., 1st C. S., p. 128, ch. 53.]

Section 38, Acts 1929, 41st Leg., 1st C. S., p. 128, ch. 53, repeals all conflicting laws and parts of laws and expressly repeals Rev. Civ. St. 1925, arts. 7010-7040, and Pen. Code 1925, arts. 1504a, 1506a, 1507a, 1507b, 1508a, 1509a, 1510a, 1511a, 1511b, 1511c, 1517a, 1522a. Section 39 directs that the act shall be liberally construed and if any section shall be declared invalid the remainder shall not be affected.

**[Art. 1555a. Registered seed growers, swindling]**

When any person falsely advertises or proclaims himself a Registered Plant Breeder or Certified Seed Grower, or advertises for sale State Registered Seed or State Certified Seed without first complying with the provisions of this Act [Civ. St. art. 67a; P. C. 1555a], or uses any emblem or

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wording so as to mislead the purchaser into believing he is buying State Registered Planting Seed or State Certified Seed, or who tells a purchaser that the seed sold are Registered Planting Seed or Certified Planting Seed, when they are not; or in anywise leads the purchaser to believe that the seed sold are Registered Planting Seed or Certified Planting Seed, when they are not, he shall be deemed guilty of swindling. [Acts 1929, 41st Leg., 1st C. S., p. 229, ch. 93, § 6.]

Sections 1-5 of Acts 1929, 41st Leg., 1st C. S., p. 229, ch. 93 are published as Rev. Civ. St. 1925, art. 67a.

#### Art. 1556. Removing property under lien

From Vernon's Pen. Code Supp. 1918 (Acts 1917, ch. 17, p. 28, § 6) art. 1430a, adding thereto the word "personal" before the word "property." Acts 1917, 35th Leg., ch. 17, p. 28, created a lien for labor and material furnished in the construction or operation of oil, gas and water wells, mines, quarries, and pipe lines.

#### Art. 1557. Concealing mortgaged property.

If any person shall give a mortgage or other lien, in writing, upon any personal property purchased by him, to secure the purchase price or any portion of same, and while such mortgage or lien remains unsatisfied, shall conceal the same or absents himself from the county or otherwise conceals himself so that notice cannot be given him, or shall wilfully, upon demand, fail or refuse to notify the holder of such mortgage or lien, of the location of such property, he shall be fined not less than ten dollars, nor more than one hundred dollars, or be confined in jail for not more than sixty days, or both. [As amended Acts 1929, 41st Leg., p. 237, ch. 102, § 1.]

#### Art. 1558. [1430] [950] [797] Fraudulent disposition of mortgaged property

If any person has given or shall hereafter give any mortgage, deed of trust or other lien, in writing, upon any person or movable property or growing crop of farm produce, and shall remove the same or any part thereof out of the State, or out of the county in which it was located at the time the mortgage or lien was created, or shall sell or otherwise dispose of the same with intent to defraud the person having such lien, either originally or by transfer, he shall be confined in the penitentiary for not less than two nor more than five years. Proof that the mortgagor removed such property out of the county in which it was located at the time the mortgage or lien was created or that he sold or otherwise disposed of the same either originally or by transfer and that the mortgagor failed to pay the debt or any part thereof when due for which the mortgage or lien was given, or shall fail to deliver possession of said property upon demand of the mortgagee, shall be prima facie evidence that such property was removed or disposed of with intent to defraud as provided in this Act. [As amended Acts 1929, 41st Leg., 2nd C. S., p. 85, ch. 48, § 1.]

### TITLE 18—LABOR

#### Art. 1571. Exceptions

The two preceding Articles shall not apply to stenographers and pharmacists, nor to mercantile establishments or telegraph or telephone companies in rural districts and in cities or towns or villages of less than three thousand inhabitants, as shown by the preceding Federal census, nor to superintendents, matrons, nurses and attendants employed by, in, and about such Orphans' Homes as are charitable institutions, not run for profit, and not operated by the State. In cases of extraordinary emergencies, such as great public calamities or where it becomes necessary for the protection of human life or property, longer hours may be worked. [As amended Acts 1929, 41st Leg., 1st C. S., p. 218, ch. 87, § 1.]

**Art. 1573. Children under fifteen**

Any person, or any agent or employee of any person, firm or corporation who shall hereafter employ any child under the age of fifteen years to labor in or about any factory, mill, workshop, laundry, or in messenger service in towns and cities of more than fifteen thousand population, according to the preceding Federal census, shall be fined not less than Twenty-five Dollars nor more than Two Hundred Dollars, or be imprisoned in jail for not more than sixty days. [Acts 1929, 41st Leg., p. 391, ch. 180, § 1.]

Section 8 of said Acts 1929, 41st Leg., p. 391, ch. 180, repeals all conflicting laws and parts of laws. Section 9 provides that if any section is held invalid, such decision shall not affect the remaining sections.

**Art. 1574. Under age of seventeen**

Any person, or agent, or employee of any person, firm or corporation who shall hereafter employ any child under the age of seventeen years to labor in any mine, quarry or place where explosives are used, or who, having control or employment of such child, shall send or cause to be sent, or who shall permit any person, firm or corporation, their agents or employees to send any such child under the age of seventeen years to any disorderly house, bawdy house, assignation house, or place of amusement conducted for immoral purposes; the character or reputation of which could have been ascertained upon reasonable inquiry on the part of such person, firm or corporation having the control of such child, shall be fined not less than Fifty Dollars nor more than Five Hundred Dollars, or be imprisoned in jail not to exceed sixty days. [As amended Acts 1929, 41st Leg., p. 391, ch. 180, § 1.]

Section 1 of said Acts 1929, 41st Leg., p. 391, ch. 180, included without change section 8 of Acts 1925, 39th Leg., p. 175, ch. 42, which repealed all conflicting laws and parts of laws and section 9 which provided that if any section was held invalid such decision should not affect the remainder.

**Art. 1575. Messengers**

It shall be the duty of every person, firm, or corporation, their agents or employees, doing a messenger or delivery business, or whose employees may be required to deliver any message, package, merchandise or other thing, having in their employ or under their control, any child under the age of seventeen years, before sending any such child on such errand, to first ascertain if such child is being sent or is to be sent to any place prohibited in Section 2 of this Act [Art. 1574]. Failure or refusal to comply with this Section shall subject any person, or the agents or employees of any person, firm or corporation, having the control of such child or children, to the penalties provided in Section 2 of this Act [Art. 1574]. [As amended Acts 1929, 41st Leg., p. 391, ch. 180, § 1.]

See note to Art. 1574.

**Art. 1576. Limitation of hours**

Any person, firm or corporation, their agents or employees, having in their employ or under their control any child under the age of fifteen years, who shall require or permit any such child to work or be on duty for more than eight hours in any one calendar day, or for more than forty-eight hours in any one week, or who shall cause or permit such child to work between the hours of ten P. M. and five A. M. shall be fined not less than Twenty-five Dollars nor more than Two Hundred Dollars, or be imprisoned in jail not to exceed sixty days. [As amended Acts 1929, 41st Leg., p. 391, ch. 180, § 1.]

See note to Art. 1574.

**Art. 1577. Exemptions**

Upon application being made to the County Judge of any county in which any child over the age of twelve years shall reside, the earnings



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of which child are necessary for the support of itself, its mother when widowed or in needy circumstances, invalid father, or of other children younger than the child for whom the permit is sought, the said County Judge may upon the affidavit of such child or its parents or guardian, that the child for whom the permit is sought is over twelve years of age, that the said child has completed the fifth grade in a public school, or its equivalent, and that it shall not be employed in or around any mill, factory, workshop, or other place where dangerous machinery is used, nor in any mine, quarry or other place where explosives are used, or where the moral or physical condition of such child is liable to be injured, and that the earnings of such child are necessary for the support of such invalid parent, widowed mother or mother in needy circumstances, or of younger children, and that such support cannot be obtained in any other manner, and that suitable employment has been obtained for such child, which affidavit shall be accompanied by the certificate of a licensed physician showing that such child is physically able to perform the work or labor for which the permit is sought, issue a permit for such child to enter such employment. Every person, firm or corporation employing any such child between the ages of twelve years and fifteen years shall post in a conspicuous place where such child is employed, the permit issued by the County Judge; provided that no permit shall be issued for a longer period than twelve months, but may be renewed from time to time upon satisfactory evidence being produced that the conditions under which the former permit was issued still exists, and that no physical or moral injury has resulted to such child by reason of its employment. In every case where a permit is sought for any child between the ages of twelve years and fifteen years, the parent, guardian or other person in charge or control of such child shall appear before the County Judge in person with such child for whom a permit is sought before such permit shall be issued. Nothing in this Act shall prevent the working of school children of any age from June 1 to September 1 of each year except that they shall not be permitted to work in factory, mill, workshop, and the places mentioned in Sections 2 and 5 of this Act [Article 1574 and 1577]; nor shall their hours of labor conflict with Section 4 of this Act [Article 1576]. [As amended Acts 1929, 41st Leg., p. 391, ch. 180, § 1.]

See note to Art. 1574.

#### Art. 1578. Inspectors to have access

The Commissioner of Labor Statistics, or any of his deputies or inspectors shall have free access during working hours to all places where children or minors are employed, and any owner, manager, superintendent, foreman or other person in authority, who shall refuse to admit, or in any way hinder or deter the said Commissioners or any of his deputies or inspectors from entering or remaining in such place, or from collecting information with respect to the employment of children as provided in this Act [this chapter], shall be fined not less than Twenty-five Dollars, nor more than One Hundred Dollars. [As amended Acts 1929, 41st Leg., p. 391, ch. 180, § 1.]

See note to Art. 1574.

#### Art. 1578a. Exceptions

Provided that nothing in this Act [this chapter] shall be construed as prohibiting the employment by any person of nurses, maids, yard-servants, or others for private homes and families, regardless of their ages, nor apply to those engaged in agricultural pursuits. Nothing in this Act [this chapter] shall apply to the employment of children for farm labor, or to hours which children may work on farms, nor shall anything in this Act [this chapter] be construed as affecting the employment of children on farms, ranches, dairies, or other agricultural or stock-raising pursuits, nor shall any person be guilty under this Act [this chapter]

where the child employed is permitted to work under the provisions of this Act [this chapter]. [As amended Acts 1929, 41st Leg., p. 391, ch. 180, § 1.]

See note to Art. 1574.

## CHAPTER 10

### INTERFERENCE WITH LABORER OR TENANT

#### [Art. 1621a. Removing tenant or laborer]

Sec. 1. That it shall be unlawful for any person or persons to go on the premises or plantation of any citizen of this State, in the night time, or between sunset and sunrise, and move or assist in moving any laborer or tenant or the effects or property of any laborer or tenant therefrom, without the consent of the owner or proprietor of said premises or plantation.

Sec. 2. That the provisions of this Act shall not be construed to apply to the discharge of a Civil or Military order.

Sec. 3. That any person found guilty of violating the provisions of this Act shall upon conviction be punished by a fine of not less than Fifty Dollars nor more than One Thousand Dollars, or imprisonment in the county jail for a term of not less than ten days nor more than six months, or both by such fine and imprisonment. [Acts 1929, 41st Leg., p. 408, ch. 189.]

Section 4 of said Acts 1929, 41st Leg., p. 408, ch. 189, repeals all conflicting laws and parts of laws.

## TITLE 19—MISCELLANEOUS OFFENSES

#### [Art. 1631a. Pipe lines for loading water-craft in Gulf]

Sec. 1. That from and after the passage of this Act, it shall be unlawful for any person, firm, corporation, trust or association of persons to build, construct, extend, operate or maintain any pipe lines leading into the waters of the Gulf of Mexico, which pipe line is used or designed to be used for transporting, handling, loading, unloading, or discharging oil, gas, or any derivative of oil or gas, or any product or commodity susceptible of transportation by pipe line, into tanks, ships, vessels, barges, water-craft, or any agency for loading water-craft, provided, however, that the terms of this Act do not include any inlet, inland water bays, or arm of the Gulf of Mexico, lying between any of the islands and mainlands of the coast of Texas, or on the inside of any pass connecting the waters of the Gulf of Mexico with any bay, inlet, inland waters or arm of the Gulf of Mexico, or connecting any of the bays, inlets or arms with each other, nor shall the terms of this Act apply to the waters of any harbor or port lying within the territorial jurisdiction of the State of Texas; provided that pipe lines, as described in this Section, may be extended into the Gulf of Mexico for loading any of the oil or products as described in this Section into tanks, ships, vessels, water-craft or any agency for loading water-craft whenever an emergency arises, by the destruction, through a storm, of the loading facilities within any harbor. This emergency can only be construed to exist in the event of a storm and after a determination by the Railroad Commission, and shall continue for only three months after the construction of such pipe lines.

Sec. 2. That any person, firm, corporation, trust or association or persons violating the terms of this Act shall be guilty of a misdemeanor, and upon conviction thereof, be fined in the amount of one thousand (\$1,000.00) Dollars for each day that such person, firm, corporation, trust or association of persons shall violate or be engaged in violating the terms of this Act, and each day's commission of the act or acts prohibited by the terms of this Law, shall be and constitute a separate offense.

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Sec. 3. That it shall be the duty of the Attorney General of the State of Texas to institute timely legal proceedings by injunction or otherwise against any person, firm, corporation, trust or association of persons violating the terms of this Act for the purpose of restraining the commission or continuance of such prohibited act or acts, and the Attorney General of Texas shall institute such proceedings immediately his attention is called to any violation of this Act, provided that jurisdiction and venue of all proceedings instituted by the Attorney General under this Law shall lie in the District Court of Travis County, Texas, and that this provision as to jurisdiction and venue shall be superior to any other law relating to jurisdiction and venue. [Acts 1929, 41st Leg., p. 487, ch. 230.]

[Art. 1658a. Prohibiting collecting of fare from state by officer or employee using free pass]

Sec. 1. No officer or employee of the State of Texas, any county, city, town, or village, or of any municipality or political subdivision, using or accepting the benefits of any free pass or franking privilege of any railroad, interurban, motor bus or other transportation line, shall charge, or collect from the State of Texas, or from any county, city, town, village, municipality or political subdivision, the fare or charge which, otherwise, he would have paid to such railroad, interurban, motor bus or other transportation line, by reason of the trip for which such free pass or frank was used.

Sec. 2. Any officer or employee violating any provision of this Act shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding One Thousand (\$1,000.00) Dollars. [Acts 1931, 42nd Leg., p. 267, ch. 161.]

Art. 1672. [1524] Failure to ring bell and blow whistle

Any engineer having charge of a locomotive engine while such engine is approaching a place where two lines of railway cross each other who shall before reaching such railway crossing fail to bring such engine to a full stop, or who shall fail to blow the whistle and ring the bell on such engine at the distance of at least eighty (80) rods from the place where the railroad shall cross any public road or street, or who shall fail to keep said bell ringing until such engine shall have crossed said road or street or stopped, shall be fined not less than Five (\$5.00) Dollars nor more than One Hundred (\$100.00) Dollars, provided that the full stop at such crossings may be discontinued when the railroads crossing each other shall put into full operation at such crossing an interlocking switch and signal apparatus, or shall have a flagman in attendance at such crossings; provided however, that the governing bodies of every city or town having a population of five thousand (5,000) or more inhabitants according to the last Federal Census may regulate by ordinance the ringing of bells and blowing of whistles within their corporate limits, and a compliance with said ordinance, will be full compliance with the terms and provisions of this Act and a sufficient warning to the public at such crossings as such ordinance may affect. [As amended Acts 1931, 42nd Leg., p. 184, ch. 107, § 2.]

Effective May 5, 1931. Section 1 of said Act published as Rev. Civ. St. art. 637L. Acts 1931, 42nd Leg., p. 184, ch. 107 is pub-

[Art. 1690a. Violation of orders]

(a) Any officer, agent, servant, 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 provisions of this Act [Civ. St. art. 911a; P. C. 1690a] shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed Five Hundred (\$500.00) Dollars, or by imprisonment in the county jail not exceeding one year, or

by both such fine and imprisonment; and the violations occurring on each day shall each constitute a separate offense.

(b) Any officer, agent, servant, or employee of any motor bus company as heretofore defined, and any motor bus company, as heretofore defined and/or the owner or operator, officer, servant, agent or employee, or any such owner or operator of any bus terminal who violates or fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement of the Commission shall be subject to and shall pay a penalty not exceeding Five Hundred (\$500.00) Dollars, for each and every day of such violation. Such Penalty to be recovered in any court of competent jurisdiction in Travis County, Texas, or in the County in which the violation occurs. Suit for such penalty or penalties shall be instituted and conducted by the Attorney General of the State of Texas, or by the county or district attorney of the county in which the violation occurs, in the name of the State of Texas, and by direction of the Railroad Commission of Texas.

(c) Upon the violation of any provisions of this Chapter, or upon the violation of any rule, regulation, order or decree of the Commission, promulgated under the terms of this Act [Civ. St. art. 911a; P. C. 1690a], any district court of Travis County, Texas, or any district court of any county where such violation occurs, shall have the power to restrain and enjoin the person, firm or corporation so offending from further violating the provisions of this Act [Civ. St. art. 911a; P. C. 1690a], or from violating the rules, regulations, orders and decrees of the Commission. Such injunctive relief may be granted upon the application of the Commission, or upon the application of any person authorized by it to act, or upon the application of any "motor bus company" holding a certificate of convenience and necessity over the route affected, and against any "motor bus company" violating the provisions of this Act [Civ. St. art. 911a; P. C. 1690a] and not holding a certificate over such route and attempting to operate or operating over said route. Such relief may be granted in suits for penalties as provided in sub-division (b) of this Section, but a suit for penalty shall not be a condition precedent to the injunctive relief provided by this Section.

(d) Any authorized inspector for the Commission shall have the power and authority to make arrests for the violation of this Act [Civ. St. art. 911a; P. C. 1690a], coming under his observation, but such authority to make arrests shall be confined solely to the violations of this Act [Civ. St. art. 911a; P. C. 1690a], provided, further that it shall be the duty of all law enforcement officers of this State to enforce the provisions of this Act. [Civ. St. art. 911a; P. C. 1690a.] [As amended Acts 1929, 41st Leg., 1st C. S., p. 196, ch. 78, § 5.]

Section 7 of Acts 1929, 41st Leg., 1st C. S., p. 196, ch. 78, repeals all conflicting laws and parts of laws and section 8 provides that if any provision is held unconstitutional, such decision shall not affect the remainder.

**[Art. 1690b. Motor carriers, violation of orders, penalties]**

(a) Every officer, agent, servant or employee of any corporation and every other person who violates or fails to comply with or procures, aids or abets in the violation of any provision of this Act or who violates or fails to obey, observe or comply with any lawful order, decision, rule or regulation, direction, demand, or requirement of the Commission shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two Hundred Dollars (\$200.00) and the violations occurring on each day shall each constitute a separate offense.

(b) Every officer, agent, servant or employee of any corporation and every other person who violates or fails to comply with or procures, aids or abets in the violation of any provision of this Act or who violates or fails to obey, observe or comply with any lawful order, decision, rule or

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regulation, direction, demand or requirement of the Commission shall in addition be subject to and shall pay a penalty not exceeding One Hundred Dollars (\$100.00), for each and every day of such violation. Such penalty shall be recovered in any Court of competent jurisdiction in the county in which the violation occurs. Suit for such penalty or penalties shall be instituted and conducted by the Attorney General of the State of Texas, or by the County or District Attorney in the county in which the violation occurs, in the name of the State of Texas.

(c) Upon the violation of any provision of this Act, or upon the violation of any rule, regulation, order or decree of the Commission promulgated under the terms of this Act, any District Court of any county where such violation occurs shall have the power to restrain and enjoin the person, firm or corporation so offending from further violating the provisions of this Act or from further violating any of the rules, regulations, orders and decrees of the Commission. Such injunctive relief may be granted upon the application of the Commission, the Attorney General or any District or County Attorney. No bond shall be required when such injunctive relief is sought upon the application of the Commission, Attorney General or any District or County Attorney. Such relief may be granted in suits for penalties as provided in subdivision (b) of this Section, but a suit for penalty shall not be a condition precedent to the injunctive relief provided by this subdivision.

(d) Any authorized inspector for the Commission shall have the power and authority to make arrests for any violations of this Act and it shall be the duty of all judges, prosecuting attorneys and peace officers of the counties and municipalities of this State to assist in the enforcement of this Act.

(e) The Commission shall prescribe an identification card which must be displayed within the cab of each motor vehicle, setting out the certificate or permit number and the route or territory over which the vehicle is authorized to operate, giving the name and address of the owner of said certificate or permit. It shall be unlawful for the owner of said certificate or permit, his agent, servant or employee, or any other person to use or display said identification card after said certificate or permit has been cancelled or disposed of. The identification card provided for herein may be in such form and contain such information as required by the Railroad Commission.

(f) It shall be unlawful for any owner of a certificate or permit, his agent, servant or employee to display upon any motor vehicle the certificate or permit number, or other insignia of authority from the Railroad Commission after said certificate or permit has expired, or has been cancelled.

(g) It shall be unlawful for any motor carrier (common or contract), or the owner of a certificate or permit, or his agent, servant or employee, directly or indirectly, to offer, permit or give to any person, directly or indirectly, any commission or other consideration to induce such person to deliver to such motor carrier or certificate or permit owner, property to be transported; and it likewise shall be unlawful for any shipper or consignee or his agent, servant or employee, to receive from such motor carrier, directly or indirectly, any such commission or consideration as an inducement to secure the transportation of any such property. Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and shall, upon conviction, be punished by a fine not to exceed Two Hundred (\$200.00) Dollars, and each such transaction shall constitute a separate offense.

(h) Any common carrier motor carrier, his agent, servant or employee who directly or indirectly gives to any shipper any rebate, or any shipper, his agent, servant or employee who directly or indirectly receives any rebate, shall be guilty of a misdemeanor and shall be punished by a fine not

to exceed Two Hundred (\$200.00) Dollars for each offense, in any court of competent jurisdiction in this State. It being the intention of this Act that such motor carriers shall in every instance collect and receive, and the shipper shall pay, only the rate or fee prescribed or approved by the Commission.

(i) If any motor carrier, or any officer, agent, clerk, servant, or employee, or receiver, or his agents, servants, or employee, of any motor carrier operating as a contract carrier in this State, shall, directly or indirectly, or by any special rate, rebate, draw-back, or other device, for or on behalf of such contract carrier, knowingly charge, demand, or contract for, collect or receive from any person, firm or corporation a less compensation for any service rendered or to be rendered by any such contract carrier than is prescribed for said service by said Commission, such contract carrier or any officer, clerk, servant, or employee, or receiver, his agents, servants, or employee, of such contract carrier shall be guilty of a misdemeanor and, upon conviction, shall be fined in a sum not to exceed Two Hundred (\$200.00) Dollars for each offense; and every person who violates or fails to comply with, or procures, aids, or abets any contract carrier in the violation of the provisions hereof shall likewise be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than Two Hundred (\$200.00) Dollars for each offense. [Acts 1929, 41st Leg., p. 698, ch. 314, § 16, as amended Acts 1931, 42nd Leg., p. 480, ch. 277, § 17.]

Effective May 28, 1931. Sections 1-16, ch. 277 are published as Rev. Civ. St. 911b. 18-22 of said Acts 1931, 42nd Leg., p. 480,

## [CHAPTER TEN A]

### PLANT DISEASES AND PESTS

Art. 1700a. [Repealed by Acts 1929, 41st Leg., 2nd C. S., p. 21, ch. 15, § 9]

[Art. 1700a—1. Quarantine and insect and plant disease control]

When rules and regulations, promulgated by the Commissioner of Agriculture pursuant to any quarantine order authorized in this Act [Civ. Art. 135a-1; P. C. Art. 1700a-1], shall provide for the prevention of the selling, moving, transporting of any plants, plant products, things or substances from any area quarantined or declared infested as provided for herein, or shall provide for the destruction of trees or fruits, or for the cleaning of orchards or treatment of orchards, or methods of storage, or shall provide for the prevention of the entry into any pest-free zone of any plants, plant products, things or substances found to be dangerous to the agricultural and horticultural interests of such pest-free zone, or shall provide for the maintenance of a host-free period in which certain fruits are not to be allowed to be ripened, or shall provide for any specific treatment of a grove or orchard, any person or persons found guilty of selling, carrying or transporting such plants or plant products from a quarantined area or area declared infested or into an area declared to be a pest-free zone, as the case may be, or who shall maintain any ripening fruit during the host-free period on any tree declared to be a nuisance in such quarantine order, or fails or refuses to administer the treatment provided for, including specific methods of spraying, removing diseased parts, removing and destroying fallen or culled fruits, or removing such weeds or plants as may be hosts or carriers of insect pests or plant diseases, or failing to store products in manner as may be required, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not to exceed One Hundred (\$100.00) Dollars, and each thing, sold or transported, and each act

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in violation hereof, shall be considered a separate offense. [Acts 1929, 41st Leg., 2nd C. S., p. 21, ch. 15, § 9.]

Effective 20 days after July 2, 1929, date of adjournment. Sections 1-8, 10-12 of Acts 1929, 41st Leg., 2nd C. S., p. 21, ch. 15, are published as art. 135a-1 Civ. Sts. Section 13 makes the act cumulative of all laws

providing for quarantine regulations and inspection of plants, fruits and shrubs, except Civ. Sts. arts. 135a to 135d and Pen. Code art. 1700a, which are expressly repealed.

[Art. 1700a—2. Describing and declaring a citrus zone]

Sec. 1. The counties of Cameron, Willacy, Hidalgo, Starr, Zapata, Jim Hogg, Brooks, Kenedy, Kleberg, Nueces, Jim Wells, Duval, Webb, San Patricio, Refugio, Bee, Live Oak, McMullen, La Salle, Dimmit, Maverick, Zavala, Frio, Atascosa, Wilson, Karnes, DeWitt, Victoria, Goliad, Calhoun, and Aransas, are hereby designated and declared to be the Citrus Zone of the State of Texas and shall so be referred to in the future.

Sec. 2. It shall hereby be decreed the policy of the State to recognize the Citrus industry as a valuable asset, and the crop highly susceptible to the ravages of insects, pests, and plant diseases, and to use all measures sanctioned by constitutional means to protect this industry from destruction by any and all pests.

Sec. 3. Scaly bark, *Cladosporium herebarum* var. *citricolum*; Wither-tip of lime, *Gloeosporium limeticolm*; White fly, *Aleyrodes*, *nubifera*; Woolly white fly, *Aleurothrixus howardii*; Flocculent white fly; *Aleurothrixus floccosa*; Guava white fly, *Trialeurodes floridensis*; Bay white fly, *Paraleurodes perseae*; Inconspicuous white fly, *Bemesia inconspicua*; Florida citrus aphid, *Aphis spirecola*; Citrus root weevil, *Pachnaeus litus* Germar; Meleanose, *Phomopsis Citri*; Rufous scale, *Selenaspis articulatus*; Snow scale; *Chionaspis citri*; 6-spotted mite, *Tetranychus citri*; Purple mite, *Tetranychus citri*; Orange sawyer, *Elaphidion inerne*; Spiny black fly, *Aleurocanthus woglumi*; Citrus scab; Black scale, *Saissetia oleae*; Citrus mealy bug; Cottony cushion scale; Citrus thrips, Barnacle scale; California red scale; Oyster shell scale; Citrus red spider; Citrus fruit and storage rots, are hereby declared a public nuisance and menace to the citrus industry. The prevention of the transportation of any nursery stock infected with any of the above pests and plant diseases, is hereby declared to be a public necessity.

Sec. 4. That the shipment of any nursery stock infected with any of the above named pests or plant diseases into the above designated Citrus Zone of this State, is hereby prohibited; and any person, firm, association, or corporation knowingly violating any provision of this Act shall be guilty of a misdemeanor and upon conviction therefor shall be fined any sum not less than One Hundred Dollars (\$100.00) or more than One Thousand Dollars (\$1,000.00) or sentenced to imprisonment in the county jail not less than ten (10) days or more than one (1) year, or by both such fine and imprisonment. [Acts 1931, 42nd Leg., p. 838, ch. 350.]

[Art. 1708a. Regulating sale of agricultural seeds, prosecutions, venue, penalty]

Whoever offers or exposes for sale within this State any agricultural seed, defined in Section 1 of this Act, without complying with the requirements of Sections 2, 3, 4, 5, and 6, of this Act, or whoever falsely marks or labels any agricultural seeds under Section 2 of this Act, or "mixture" under Section 3 of this Act, or whoever shall prevent the Commissioner of Agriculture, or his duly authorized agents from inspecting said seed and collecting samples as provided in Section 7 of this Act, shall be guilty of a misdemeanor and upon conviction shall be fined not more than Fifty (\$50.00) dollars for the first offense and not more than Two Hundred (\$200.00) dollars for each succeeding offense; provided, however, that no prosecution for violation of this Act shall be instituted except in the manner following:

When the Commissioner of Agriculture believes, or has reason to believe, that any person has violated any of the provisions of Sections 2, 3, 4, 5, 7, 8, 9, 10 and 11 of this Act, he shall cause notice of such fact together with full specification of this Act or omission constituting the violation, to be given to said person, who either in person or by agent or attorney, shall have the right under such reasonable rules and regulations as may be prescribed by said Commissioner of Agriculture to appear before said Commissioner of Agriculture and introduce evidence, and said hearing shall be private. If, after said hearing or without such hearing, in case said person fails or refuses to appear, said Commissioner of Agriculture shall decide and decree that any or all of said specifications have been proven to his satisfaction, he may at his discretion so certify to the proper prosecuting law officer for violation of this Act, transmitting with said certificate a copy of the specifications and such other evidence as he shall deem necessary and proper, whereupon said prosecuting attorney shall prosecute said person according to law.

Venue in cases arising under this Act shall be in the county where said seed are sold or offered for sale. [Acts 1929, 41st Leg., p. 678, ch. 304, § 11.]

Sections 1-10, 12-14 of said Acts 1929, 41st Leg., p. 678, ch. 304, are published as Rev. Civ. St. art. 93a. Section 15 provides that if any section is held invalid, such judgment shall not affect the validity

of any remaining section. Sections 16 and 17 repeal all conflicting laws and parts of laws and expressly repeals Rev. Civ. St. 1925, ch. 4, but makes no direct reference to Penal Code, articles 1701-1707.

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SUPPLEMENT  
TO THE CODE  
OF  
CRIMINAL PROCEDURE

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TITLE 1—INTRODUCTORY

Art. 4a. [Repealed by Acts 1929, 41st Leg., 2nd C. S., p. 78, ch. 44, § 1]

Art. 4b. [Repealed by Acts 1929, 41st Leg., 2nd C. S., p. 78, ch. 44, § 1]

[Art. 10a. Waiver of trial by jury]

The defendant in a Criminal prosecution for any offense classified as a felony less than a capital offense, shall have the right, upon entering a plea of guilty, to waive the right of a trial by a Jury, conditioned, however, that such waiver must be made in person by the defendant in open Court with the consent and approval of the Court and the duly elected and acting Attorney representing the State. Provided, that said consent and approval by the Court shall be entered of record on the Minutes of the Court and the consent and approval of the Attorney representing the State shall be in writing, duly signed by said Attorney and filed in the papers of the Cause before the defendant enters his plea of guilty.

Provided, that before a defendant who has no Attorney can agree to waive a Jury, the Court must appoint an Attorney to represent him. [Acts 1931, 42nd Leg., p. 65, ch. 43, § 1.]

Art. 11. [22] [23] Waiver of rights

The defendant in a Criminal prosecution for any offense, may waive any right secured him by Law except the right of a trial by a Jury in a felony case when he enters a plea of not guilty. [As amended Acts 1931, 42nd Leg., p. 65, ch. 43, § 2.]

Art. 12. [21] [22] Jury in felony

No person can be convicted of a felony except upon the verdict of a Jury duly rendered and recorded, unless in felony cases less than capital, the defendant upon entering a plea of guilty has in open Court in person and with the approval and consent of the Court and the State's Attorney, as provided in Section 1 of this Act, (Article 10a of Code of Criminal Procedure of the State of Texas), waived his right of a trial by Jury. Provided, however, that it shall be necessary for the State to introduce evidence into the record showing the guilt of the defendant and said evidence shall be accepted by the Court as the basis for its verdict, and in no event shall a person charged be convicted upon his plea of guilty without sufficient evidence to support the same. [As amended Acts 1931, 42nd Leg., p. 65, ch. 43, § 3.]

Art. 29. [35] [36] When complaint is made

If the offense be a misdemeanor, the attorney shall forthwith prepare an information based upon such complaint and file the same in the Court

having jurisdiction; provided, that in counties having no County Attorney, misdemeanor cases may be tried upon complaint alone, without an information, provided, however, in counties having one or more criminal district courts an information must be filed in each misdemeanor case. If the offense be a felony, he shall forthwith file the complaint with a magistrate of the county. [As amended Acts 1931, 42nd Leg., p. 128, ch. 85, § 1.]

## TITLE 2—COURTS AND CRIMINAL JURISDICTION

[Art. 52—159. County Criminal Court of Dallas County, creation, jurisdiction, etc.]

Sec. 10. The Judge of the County Criminal Court of Dallas County, Texas, shall collect the same fee provided by law for County Judges in similar cases, all of which shall be paid by him monthly into the County Treasury, and the Judge of said Court shall receive a salary of Five Thousand Dollars, (\$5,000.00) annually, to be paid monthly out of the County Treasury by the Commissioners' Court; such Judge shall devote his entire time to the duties of his office, and shall not engage in the practice of the law while in office. [As amended Acts 1929, 41st Leg., 1st C. S., p. 61, ch. 27.]

[Art. 52—160. Criminal District Court of Jefferson county, creation, jurisdiction, etc.—]

Sec. 1. That there is hereby created and established at the County Seat of Jefferson County, a criminal District Court to be known as "Criminal District Court of Jefferson County," which court shall have and exercise, from and after the taking effect of this Act, original and exclusive jurisdiction over all criminal cases of the grade of felony in the County of Jefferson of which district courts, under the Constitution and laws of this State, have original and exclusive jurisdiction, and shall have and exercise such concurrent jurisdiction with the county court of Jefferson County at law over misdemeanor cases as is hereinafter provided by this Act.

Sec. 2. From and after the time this Act shall take effect the County Court of Jefferson County at law and the Criminal District Court of Jefferson County created by this Act, shall have and exercise concurrent jurisdiction with each other in all misdemeanor cases of which the County Court of Jefferson County at Law may now, or may hereafter have exclusive jurisdiction; and of such misdemeanor cases as shall be filed in said County Court on appeal from Justices' or Recorders' Courts; and either the Judge of said Criminal District Court, or the Judge of said County Court of Jefferson County at Law may upon motion of the County Attorney of Jefferson County, or other officer representing the State in said Courts, in his discretion transfer any cause or causes that may at any time be pending in his court to the other court by an order or orders entered upon the minutes of his court; and where such transfer or transfers are made, the Clerk of the Court making such transfer shall certify to the Clerk of the Court to which such transfer is made, a statement of the cause or causes so transferred, giving the style and number of the same to the Clerk of the Court to which such transfer is made and shall accompany such statement with all the papers in said cause or causes so transferred and upon receipt of such statement and the papers in such cause or causes so transferred, the Clerk of the Court to which such transfer is made shall enter such cause or causes upon the docket of the court to which such transfer or transfers are made, and when so entered upon the docket, the Judge of the Court to which such transfer or transfers are made, shall dispose of said cause or causes in the same manner as if such cases were originally instituted in said Court.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Sec. 3. Said Court shall have jurisdiction over all bail, bond and recognizances taken in proceedings had before said court, or that may be returned to said court from other courts, and may enter forfeitures thereof and final judgments and enforce the collection of the same by proper process in the same manner as is provided by law in District Courts.

Sec. 4. The said Criminal District Court of Jefferson County shall have a seal similar to the seal of the District Court with the words "Criminal District Court of Jefferson County" engraved thereon, an impression of which seal shall be attached to all writs and other processes, except subpoenas, issuing from said court, and shall be used in the authentication of the official acts of the Clerk of said Court.

Sec. 5. The practice in said court shall be conducted according to the laws governing the practice in the District Court, and the rules of pleading and evidence in the District Court shall govern in so far as the same may be applicable.

Sec. 6. All laws regulating the selecting, summoning and impaneling of grand and petit jurors in the District Court shall govern and apply in the Criminal District Court in so far as the same may be applicable.

Sec. 7. All rules of criminal procedure governing the District and County Courts shall apply to and govern said Criminal District Court.

Sec. 8. Said Criminal District Court of Jefferson County shall try all misdemeanor cases coming before it with six jurors instead of twelve jurors, unless a jury be waived by the defendant.

Sec. 9. Said Court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday of April, one Term beginning the first Monday of July, one term beginning the first Monday of October, one term beginning the first Monday of January. Each term shall continue until the term ends by operation of law or the business is disposed of. The grand jury shall be impaneled in said Court for each term thereof, unless otherwise directed by the Judge of said Court.

Sec. 10. Whenever the Criminal District Court of Jefferson County shall be engaged in the trial of any cause when the time for expiration of the terms of said court as fixed by law shall arrive, the Judge presiding shall have the power, and may if he deems it expedient, continue the term of said court until the conclusion of such pending trial; in such case, the extension of such term shall be shown on the minutes of the Court before they are signed.

Sec. 11. The Sheriff, County Attorney, and the Clerk of the District Court of Jefferson County shall be the sheriff, County Attorney and Clerk, respectively, of said Criminal Court under the same rules and regulations as are now, or may hereafter be prescribed by law for the government of sheriffs, county attorneys and clerks of the District Courts of this State; and said Sheriff, County Attorney and Clerk shall respectively receive such fees as are now, or may hereafter be prescribed for such officers in the District Courts of the State, to be paid in the same manner.

Sec. 12. In all such matters over which said criminal District Court has jurisdiction, it shall have the same power within said District as is conferred by law upon the District Court, and shall be governed by the same rules in the exercise of said power.

Sec. 13. Appeals and writs of error may be prosecuted from said Criminal District Court to the Court of Criminal Appeals and to the Courts of Civil Appeals in the same manner and form as from the District Courts in like cases.

Sec. 14. From and after the taking effect of this Act, the District Courts of Jefferson County as now constituted, shall be, and they are hereby deprived and divested of all jurisdiction in all criminal cases, and of all jurisdiction given the Criminal District Court of Jefferson County by this Act, and all criminal cases pending in said District Courts

at the time of the taking effect of this Act, and all matters pertaining to criminal cases pending therein over which the Court herein created is given jurisdiction, shall be, by the Clerk of the District Courts transferred to and entered upon the docket of said Criminal District Court, and when so entered upon the docket, the judges of said Criminal District Court shall try and dispose of same in the same manner as if such cases were originally instituted therein.

Sec. 15. The Judges of said Criminal District Court of Jefferson County shall be elected by the qualified voters of Jefferson County for a term of four years, and shall hold office until his successor shall have been elected and qualified. He shall possess the same qualifications as are required of the Judge of the District Court, and shall receive the same salary as is now, or may hereafter be paid, to the District Judges, to be paid in like manner. He shall have and exercise all the powers and duties now or hereafter to be vested in and exercised by District Judges of this State in criminal cases. Provided, that the Governor, by and with the consent of the Senate, if in session, shall appoint a Judge of said Court who shall hold the office until the next general election after the passage of this Act, and until his successor shall have been elected and qualified.

Sec. 16. The Judge of said Criminal District Court may exchange Districts with or hold court for any District Judge, as provided by law in cases of District Judges, and in case of disqualification or absence of a Judge, a special Judge may be selected. [Acts 1929, 41st Leg., p. 374, ch. 170.]

Section 17 of said Acts 1929, 41st Leg., p. 374, ch. 170, repeals all conflicting laws and parts of laws.

## TITLE 5—ARREST, COMMITMENT AND BAIL

### [Art. 271—a. Corporation as surety]

Wherever in this Chapter, any person is required or authorized to give or execute any bail bond or recognizance, such bail bond or recognizance may be given or executed by such principal and any corporation authorized by Law to act as surety, subject to all the provisions of this Chapter regulating and governing the giving of bail bonds and recognizances by personal surety insofar as the same is applicable. [Acts 1929, 41st Leg., p. 422, ch. 193, § 1.]

Section 2 of said Act 1929, 41st Leg., p. 422, ch. 193, repeals all conflicting laws and parts of laws.

### [Art. 271—b. Corporation to file with county clerk power of attorney designating agent]

Any corporation authorized by the Law of this State to act as a surety, shall before executing any bail bond or recognizance as authorized in the preceding Article, first file in the office of the County Clerk of the county where such bail bond or recognizance is given, a power of attorney designating and authorizing the named agent, agents or attorney of such corporation to execute such bail bonds and recognizances, and thereafter the execution of such bail bonds and recognizances by such agent, agents or attorney, shall be a valid and binding obligation of such corporation. [Acts 1929, 41st Leg., p. 422, ch. 193, § 1.]

Section 2 of said Act 1929, 41st Leg., p. 422, ch. 193, repeals all conflicting laws and parts of laws.

## TITLE 7—AFTER COMMITMENT OR BAIL AND BEFORE THE TRIAL

### Art. 463. [526-529] Subpoena and application therefor

Before the clerk or his deputy shall be required or permitted to issue a subpoena in any felony case pending in any District or Criminal District Court of this State of which he is clerk or deputy, the defendant or his attorney or the State's attorney shall make written, sworn application to such clerk for each witness desired. Such application shall state the name of each witness desired, the location and vocation, if known, and that the testimony of said witness is material to the State or to the defense. As far as is practical such clerk shall include in one subpoena the names of all witnesses for the State and for defendant, and such process shall show that the witnesses are summoned for the State or for the defendant. When a witness has been served with a subpoena, attached or placed under recognizance at the instance of either party in a particular case, such execution of process shall inure to the benefit of the opposite party in such case in the event such opposite party desires to use such witness on the trial of the case, provided that when a witness has once been served with a subpoena, no further subpoena shall be issued for said witness. [As amended Acts 1931, 42nd Leg., p. 239, ch. 143, § 4.]

### Art. 540. [605] [594] For sufficient cause shown

Continuance for attendance on Legislature, see art. 2168a, Civil Statutes.

### Art. 570. [635-636] Clerk's duties on change of venue

Where an order for a change of venue of any Court in any Criminal cause in this State has been made the Clerk of the Court where the prosecution is pending shall make out a certified copy of the Court's order directing such change of venue, together with a certified copy of the defendant's recognizance, if any, together with all the original papers in said cause and also a certificate of the said Clerk under his official seal that such papers are the papers; and all the papers on file in said Court in said cause; and he shall transmit the same to the Clerk of the Court to which the venue has been changed. [As amended Acts 1929, 41st Leg., 2nd C. S., p. 10, ch. 8, § 1.]

## TITLE 8—TRIAL AND ITS INCIDENTS

### [Art. 591. Special venire in certain counties]

In all counties having a population of at least fifty-eight thousand, or having therein a city of twenty thousand or more population, as shown by the preceding Federal Census, whenever a special venire is ordered, the District Clerk, in the presence of and under the direction of the Judge, shall draw from the wheel containing the names of the jurors the number of names required for such special venire, and prepare a list of such names in the order in which drawn from the wheel, and attach said list to the writ and deliver same to the sheriff. The cards bearing such names shall be sealed in an envelope and kept by said Clerk for distribution, as herein provided. If from the names so drawn, any of the men are impaneled on the jury and serve as many as four days, the cards bearing their names shall be put by the Clerk in the box provided for that purpose, and the cards bearing the names of the men not impaneled shall again be put by the Clerk in the wheel containing the names of eligible jurors. [As amended Acts 1931, 42nd Leg., p. 786, ch. 315, § 1.]

Effective April 9, 1931. This article was ch. 41, § 1 (effective 90 days after March 4, also amended by Acts 1929, 41st Leg., p. 84, 1929, date of adjournment.)

Art. 593. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 176, ch. 67 § 17, as to counties of 16,775 and not more than 17,000 population]

Art. 595. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 176, ch. 67, § 17, as to counties of 16,775 and not more than 17,000 population]

Art. 629. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 176, ch. 67, § 17, as to counties of 16,775 and not more than 17,000 population]

Art. 638. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 176, ch. 67, § 17, as to counties of 16,775 and not more than 17,000 population]

Art. 640. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 176, ch. 67, § 17, as to counties of 16,775 and not more than 17,000 population]

Art. 658. [735-736] Charge of court

In each felony case the Judge shall before the argument begins, deliver to the Jury, except in pleas of guilty where a Jury has been waived; a written charge, distinctly setting forth the Law applicable to the case; not expressing any opinion as to the weight of the evidence, not summing up the testimony, discussing the facts or using any argument in his charge calculated to arouse the sympathy or excite the passions of the Jury. Before said charge is read to the Jury, the defendant or his Counsel shall have a reasonable time to examine the same and he shall present his objections thereto in writing, distinctly specifying each ground of objection. [As amended Acts 1931, 42nd Leg., p. 65, ch. 43, § 5.]

Effective 90 days after May 23, 1931, date of adjournment. Section 6 of said act repeals all conflicting laws and parts of laws. Section 7 provides that if any provision is held invalid, such decision shall not affect the remainder.

Art. 698. [777-778] Judgment on verdict

On each verdict of acquittal or conviction, the proper judgment shall be entered immediately. If acquitted the defendant shall be at once discharged from all further liability upon the charge for which he was tried; provided that, in misdemeanor cases where there is returned a verdict, or a plea of guilty is entered and the punishment assessed is by fine only, the Court may, on written request of the defendant and for good cause shown, defer judgment until some other day fixed by order of the Court; but in no event shall the judgment be deferred for a longer period of time than six (6) months. On expiration of the time fixed by the order of the Court, the Court or Judge thereof, shall enter judgment on the verdict or plea and the same shall be executed as provided by Chapter 4, Title 9, of the Code of Criminal Procedure of the State of Texas. Provided further, that the Court or Judge thereof, in the exercise of sound discretion may permit the defendant where judgment is deferred, to remain at large on his own recognizance, or may require him to enter into bond in a sum at least double the amount of the assessed fine and costs, conditioned that the defendant and sureties, jointly and severally, will pay such fine and costs unless the defendant personally appears on the day set in the order and discharges the judgment in the manner provided by Chapter 4, Title 9 of the Code of Criminal Procedure of the State of Texas; and for the enforcement of any judgment entered, all writs, processes and remedies of the Code of Criminal Procedure are made applicable so far as necessary to carry out the provisions of this Article. [As amended Acts 1931, 42nd Leg., p. 59, ch. 39, § 1.]

Art. 727a. Evidence not to be used

No evidence obtained by an officer or other person in violation of any provisions of the Constitution or laws of the State of Texas, or of the



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Constitution of the United States of America, shall be admitted in evidence against the accused on the trial of any criminal case. [As amended Acts 1929, 41st Leg., 2nd C. S., p. 79, ch. 45, § 1.]

## TITLE 9—PROCEEDINGS AFTER VERDICT

### Art. 760. [844-5-6] Statement of facts and bills of exception

1. Where the defendant in a criminal case appeals, he is entitled to a statement of facts certified by the trial judge and sent up with the record; provided that said statement of facts shall be in narrative form. [As amended Acts 1931, 42nd Leg., 1st C. S., p. 75, ch. 34, § 7.]

2. To accompany Transcript.—The Statement of Facts in felony or misdemeanor cases shall not be copied in The Transcript of the Clerk, but when agreed to by the parties and approved by the Judge, shall be filed in duplicate with the Clerk, and the original sent up as a part of the record of the cause on appeal; and like procedure shall be followed if the Statement of Facts is prepared by the parties or by the Judge, on the failure of the parties to agree. [As amended Acts 1931, 42nd Leg., p. 12, ch. 11, § 1.]

### Art. 768. [855] [833] Time of judgment and sentence

If a new trial is not granted, nor the judgment arrested, in a felony case, the sentence shall be pronounced in the presence of the defendant at any time after the expiration of the time allowed for making the motion for a new trial, or the motion in arrest of judgment; provided, that in all Criminal cases the Judge of the Court in which the defendant was convicted may, within his discretion, give the defendant credit on his sentence for the time or any part thereof which said defendant has spent in jail in said cause since his arrest and confinement until his sentence by the trial Court. [As amended Acts 1931, 42nd Leg., p. 129, ch. 86, § 1.]

### Art. 775. Indeterminate sentence

If the verdict fixes the punishment at confinement in the penitentiary for more than the minimum term, the Judge in passing sentence shall pronounce an indeterminate sentence, fixing in such sentence as the minimum the time provided by law as the lowest term in the penitentiary and as the maximum the term stated in the verdict. In cases where no appeal is taken, the sentence shall begin to run on the day same is pronounced, but where an appeal is taken and the defendant is in jail or the penitentiary his sentence shall begin to run with the date of the mandate, and in every such case the commitment shall so state. Where an appeal is taken and the defendant is at large on bond or recognizance, when the case is affirmed the clerk of the trial court, on receipt of the mandate from the Clerk of the Court of Criminal Appeals, shall issue a commitment, and when the defendant is taken into custody under such commitment, the officer executing same shall endorse thereon the date the defendant was taken into custody, and the endorsement on this commitment shall constitute the date on which the sentence shall begin to run, and such defendant named in the commitment shall be admitted to the penitentiary by virtue of such commitment. [As amended Acts 1931, 42nd Leg., p. 349, ch. 207, § 1.]

### [Art. 776a. Additional provision as to suspended sentence]

When a defendant has entered a plea of guilty and has waived his right of a trial by Jury, and has consented to be tried by the Court and there is a conviction of any felony, except murder, perjury, burglary of a private residence at night, robbery, arson, incest, bigamy, seduction and abortion, and the punishment assessed by the court shall not exceed five years, the Court shall have the right and power to suspend the sentence of the defendant during his good behavior; provided, however, that in no case shall the sentence be suspended except when the proof shall show that the

defendant has never before been convicted of a felony in this or in any other State. The Court shall permit testimony as to whether or not the defendant has theretofore been convicted of any felony in this or in any other State, and testimony as to the general reputation of the defendant; such testimony, however, shall be heard only upon the request in writing by the defendant, in which he shall be required to state upon oath that he has never before been convicted of a felony in this or in any other State, and that his general reputation is good. When the defendant has no Counsel, it shall be the duty of the Court to inform him of his right to make such application and shall appoint Counsel to prepare and present the same if requested by the defendant.

This Act is not to be construed as repealing what is now known as the Suspended Sentence Act, but is to be construed as in addition thereto; and in the event this Act or any part thereof is held to be invalid, such invalidity shall not in any manner affect what is now known as the Suspended Sentence Act. [Acts 1931, 42nd Leg., p. 65, ch. 43, § 4.]

**[Art. 781a. Satisfaction of judgment as in misdemeanor convictions]**

When a person is convicted of a felony, and the punishment assessed is only a fine or a term in jail, or both, the judgment may be satisfied in the same manner as a conviction for a misdemeanor is by law satisfied. [Acts 1929, 41st Leg., p. 236, ch. 101, § 1.]

## TITLE 12—MISCELLANEOUS PROCEEDINGS

**Art. 921. [1017-19] Insanity after conviction**

If at any time after conviction and by the manner and method as hereinafter provided, it be made known to the Judge of the Court in which the indictment has been returned, that the defendant has become insane, since his conviction, a jury shall be empaneled as in ordinary Criminal cases to try the question of insanity. [As amended Acts 1931, 42nd Leg., p. 82, ch. 54, § 1.]

**Art. 922. [1018] [983] Affidavit of insanity**

Information to the Judge of the Court as provided in Article 921 of the Code of Criminal Procedure of the State of Texas as to the insanity of a defendant, shall consist of the affidavit of the Superintendent of some State Institution for the treatment of the insane, or the affidavit of not less than two licensed and regularly practicing physicians of the State of Texas, or the affidavit of the prison physician or warden of the Penal Institution wherein the defendant is in prison, or the County Health Officer of the County where the defendant was finally convicted, which affidavits, if made, shall state that after a personal examination of the defendant, it is the opinion of the affiant that the defendant is insane, and said affidavits shall, in addition thereto, set forth the reasons and the cause or causes which have justified the opinion. [As amended Acts 1931, 42nd Leg., p. 82, ch. 54, § 2.]

Effective April 16, 1931. Section 3 of said act repeals all conflicting laws and parts of laws.

**Art. 951. [1194] [1144] Commissions to other officer**

Amended by inserting "except a justice of the peace or his clerk," after "other officer." [Acts 1929, 41st Leg., p. 240, ch. 105, § 1.]

**TITLE 15—COSTS IN CRIMINAL ACTIONS****Art. 1019. [1124–1135] Conviction for misdemeanor**

If the defendant is indicted for a felony and upon conviction his punishment is by fine or confinement in the county jail, or by both such fine and confinement in the county jail or convicted of a misdemeanor, no costs shall be paid by the State to any officer. All costs in such cases shall be taxed, assessed and collected as in misdemeanor cases. [As amended Acts 1931, 42nd Leg., p. 338, ch. 205, § 1.]

**[Art. 1019a. Fees in felony cases against same defendant]**

In all felony cases where any officer is allowed fees payable by the State for services performed either before or after indictment including examining trials before magistrates and habeas corpus proceedings, no officer shall be entitled to fees in more than five cases against the same defendant. [Acts 1931, 42nd Leg., p. 338, ch. 200, § 1.]

**Art. 1027. [1123–1130] Officers to repay State**

In all cases where the defendant is indicted for a felony and shall be finally convicted of a misdemeanor or when his punishment is assessed by a fine or county jail sentence or by both such fine and jail sentence, the Sheriff, District Clerk, Constable, and Justice of Peace shall, each, return to the State Treasurer a sum of money equal to the amount he received from the State in such case and the bondsmen of each of such officers shall be responsible to the State for such sum. [As amended Acts 1931, 42nd Leg., p. 338, ch. 205, § 1.]

**Art. 1034. [1133] [1088] Judge to examine bill, etc.**

The District Judge, when any such bill is presented to him, shall examine the same carefully, and inquire into the correctness thereof, and approve the same, in whole or in part, or disapprove the entire bill, as the facts and law may require; and such approval shall be conditioned only upon, and subject to the approval of the State Comptroller as provided for in Article 1035 of this Code, and the Judge's approval shall so state therein; and such bill, with the action of the Judge thereon, shall be entered on the minutes of said Court; and immediately on the rising of said Court, the Clerk thereof shall make a certified copy from the minutes of said Court of said bill, and the action of the Judge thereon, and send same by registered letter to the Comptroller. Provided the bill herein referred to shall before being presented to such District Judge, be first presented to the County Auditor, if such there be, who shall carefully examine and check the same, and shall make whatever recommendations he shall think proper to be made to such District Judge relating to any item or the whole bill.

Fees due District Clerks for recording sheriff's accounts shall be paid at the end of said term; and all fees due District Clerks for making transcripts on change of venue and on appeal shall be paid as soon as the service is performed; and the Clerk's bill for such fees shall not be required to show that the case has been finally disposed of. Bills for fees for such transcripts shall be approved by the District Judge as above provided, and with the same conditions, and when approved shall be recorded as part of the minutes of the last preceding term of the Court. [As amended Acts 1931, 42nd Leg., p. 239, ch. 143, § 1.]

**Art. 1035. [1134] [1089] Duty of Comptroller**

The Comptroller upon the receipt of such claim, and said certified copy of the minutes of said Court, shall closely and carefully examine the same, and, if he deems the same to be correct, he shall draw his warrant on the State Treasurer for the amount found by him to be due, and in favor of the

officer entitled to the same. If the appropriation for paying such accounts is exhausted, the Comptroller shall file the same away, if found to be correct, and issue a certificate in the name of the officer entitled to the same, stating herein the amount of the claim and the character of the services performed. All such claims or accounts not sent to or placed on file in the office of the Comptroller within twelve (12) months from the date the same becomes due and payable shall be forever barred. [As amended Acts 1931, 42nd Leg., p. 239, ch. 143, § 2.]

**Art. 1036. [1138] [1003] Witness fees**

Sec. 2. Witness fees shall be allowed only to such witnesses as may have been summoned on the sworn written application of the State's attorney or the defendant or his attorney as provided in Article 463, Code of Criminal Procedure, which sworn application must be made at the time of the procuring of the subpoena, attachment for, or recognizance of, the witness. The judge to whom an application for attachment is made, may, in his discretion, grant or refuse such application, when presented in term time. [As amended Acts 1931, 42nd Leg., p. 239, ch. 143, § 3.]

Sec. 3. Before the close of each term of District Court, the witness shall make an affidavit stating the number of miles he will have traveled going to and returning from the court, by the nearest practical conveyance, and the number of days he will have been necessarily absent in going to and returning from the place of trial; which affidavit shall be filed with the papers of the case. No witness shall receive pay for his services as a witness in more than one case at any one term of the court. Fees shall not be allowed to more than two witnesses to the same fact, unless the judge before whom the cause is tried shall, after such case has been tried, continued, or otherwise disposed of, certify that such witnesses were necessary in the cause.

No witness subpoenaed, recognized, or attached for the purpose of proving the general reputation of the defendant shall be allowed the benefits hereof, provided the trial judge may in his discretion, allow pay to not more than two character witnesses for the State and to not more than two character witnesses for the defendant. [As amended Acts 1931, 42nd Leg., p. 239, ch. 143, § 3.]

Sec. 4. The district or criminal district judge, when any such claim is presented to him, shall examine the same carefully, and inquire into the correctness thereof, and approve same, in whole or in part, or disapprove the entire claim, as the facts and the law may require; and such approval shall be conditioned only upon and subject to the approval of the State Comptroller, as provided for in Article 1035 of the Code of Criminal Procedure; and said claim with the action of the judge thereon shall be entered on the minutes of said court; and upon the approval of said claim by the judge, the clerk shall make a certified list of said claim, upon forms prescribed by the Comptroller, furnishing such information as required by him, and send the same by registered letter to the Comptroller at such times as he may require, for which service the clerk shall be entitled to a fee of twenty-five (25) cents which shall be paid by the witness. [As amended Acts 1931, 42nd Leg., p. 239, ch. 143, § 3.]

Sec. 5. The Comptroller, upon receipt of such claim and the certified list provided for in the foregoing section, shall carefully examine the same and if he deem said claim correct, and in compliance with, and authorized by law in every respect, draw his warrant on the State Treasury for the amount due in favor of the witness entitled to same, or to any person such certificate has been assigned by such witness, but no warrant shall issue to any assignee of such witness' claim unless the assignment is made under oath and acknowledged before some person duly authorized to administer oaths, certified to by the officer and under seal. If the appropriation for paying such account is exhausted, the Comptroller shall file the same away and issue a certificate in the name of the witness en-

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titled to same, stating therein the amount of the claim. All such claims not filed in the office of the Comptroller within twelve (12) months from the date same becomes due and payable, shall be forever barred. [As amended Acts 1931, 42nd Leg., p. 239, ch. 143, § 3.]

**Art. 1052. [1154-1155] Fees of judge and justice of the peace**

Three Dollars shall be paid by the county to the County Judge, or Judge of the Court at Law, and Two Dollars and fifty cents shall be paid by the county to the Justice of the Peace, for each criminal action tried and finally disposed of before him. Provided, however, that in all counties having a population of 20,000 or less, the Justice of the Peace shall receive a trial fee of Three Dollars. Such Judge or Justice shall present to the Commissioners' Court of his county at a regular term thereof, a written account specifying each criminal action in which he claims such fee, certified by such Judge or Justice to be correct, and filed with the County Clerk. The Commissioners' Court shall approve such account for such amount as they find to be correct, and order a draft to be issued upon the County Treasurer in favor of such Judge or Justice for the amount so approved. Provided the Commissioners' Court shall not pay any account or trial fees in any case tried and in which an acquittal is had unless the State of Texas was represented in the trial of said cause by the County Attorney, or his assistant, Criminal District Attorney or his assistant, and the certificate of said Attorney is attached to said account certifying to the fact that said cause was tried, and the State of Texas was represented, and that in his judgment there was sufficient evidence in said cause to demand a trial of same. [Acts 1929, 41st Leg., p. 239, ch. 104, § 1, as amended Acts 1929, 41st Leg., 1st C. S., p. 155, ch. 55, § 1.]

**Art. 1058. [1161] Pay of bailiffs**

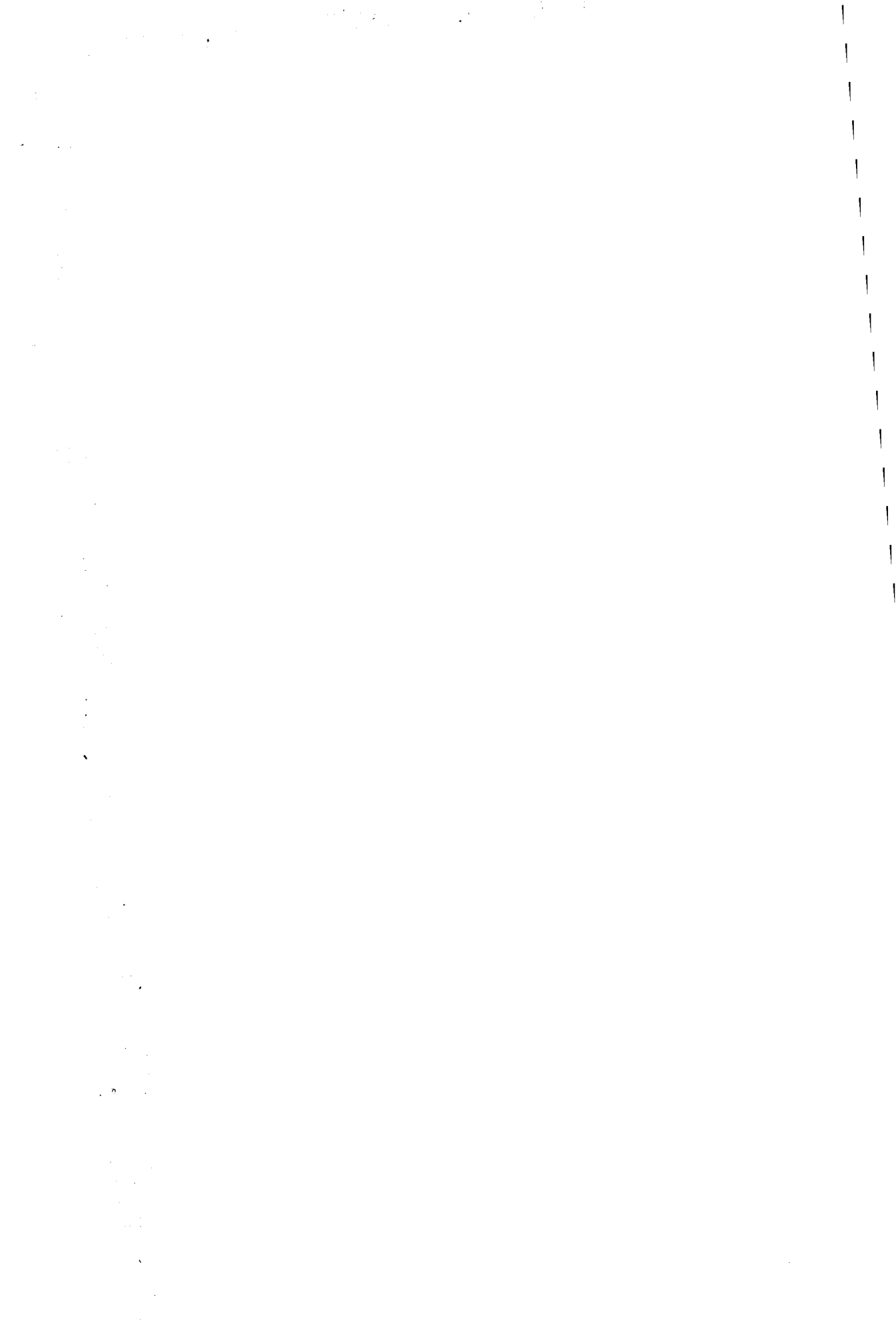
Each walking grand jury bailiff appointed as such bailiff shall receive as compensation for his services the sum of Four (\$4.00) Dollars for each day he may serve, and each riding grand jury bailiff appointed in counties of a population of 150,000 or more, according to the last Federal Census, shall receive as compensation for his services the sum of Six (\$6.00) Dollars for each day he may serve, and shall further receive One (\$1.00) Dollar per day for automobile expense and upkeep; provided, however, that not more than ten (10) such bailiffs shall be employed at any one time. [As amended Acts 1931, 42nd Leg., p. 222, ch. 130, § 1.]

**Art. 1066. [Repealed by Acts 1929, 41st Leg., 1st C. S., p. 154, ch. 54, § 1]**

**Art. 1074. [1184] [1134] Trial fee**

In each case of conviction in a county Court, or a County Court at Law, whether by a jury or by a Court, there shall be taxed against the defendant or against all defendants, when several are held jointly, a trial fee of Five Dollars, the same to be collected and paid over in the same manner as in the case of a jury fee, and in the Justice Court the trial fee shall be the sum of Four Dollars. [Acts 1929, 41st Leg., p. 496, ch. 236, § 1, as amended Acts 1929, 41st Leg., 1st C. S., p. 156, ch. 56, § 1.]

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TO

## CIVIL STATUTES, PENAL CODE AND CODE OF CRIMINAL PROCEDURE

AS CONTAINED IN THIS SUPPLEMENT

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